

False Claims Laws and Whistleblower Protections

Seven Counties Services holds all employees, agents and contractors responsible for complying with federal and state laws that prohibit the making of false claims and for otherwise conducting SCS affairs lawfully. SCS is providing you with detailed information about these laws in order to further guide you in recognizing and/or reporting suspected false claims activity. This information is not intended to outline every law that concerns healthcare providers. It is intended, however, to highlight certain wrongful activity that the federal and state governments have specifically targeted in the healthcare profession. Unlawful activity, such as false claims, could jeopardize SCS's ability to continue to serve our clients, patients, and customers.

The Unlawful Conduct

The Federal False Claims Act, imposes liability on persons, companies, facilities, or institutions, that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These laws apply to Medicare and Medicaid reimbursement. Kentucky law, similarly prohibits such conduct in the Medicaid program. Our contracts with managed care providers and other third-party payers also may contain similar prohibitions on false claims.

The following activities are examples of conduct prohibited by the false claims laws:

- Billing for services not actually provided;
- Billing for undocumented services;
- Making false entries in medical and other records used to support reimbursement;
- Billing for medically unnecessary services;
- Characterizing non-covered services or costs in a way that leads to reimbursement from a government program;
- Assigning incorrect codes in order to obtain a higher reimbursement;
- Making inaccurate, false or inappropriate entries on cost reports;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks, bribes, or rebates in exchange for referring goods, facilities, services, or items that are reimbursed by government programs.

Federal Law

A violation of the Federal False Claims Act may result in penalties of up to \$11,000 per false claim plus three times the amount of damages the government sustains, and exclusion from the Medicare and Medicaid programs. Individuals, including employees, can bring a civil action on behalf of the Federal government for violations of the Federal False Claims Act. In return, the individual may share a percentage of any monetary recovery or settlement.

The Federal False Claims Act prohibits employers from retaliating against any employee by discharging, demoting, harassing, or otherwise discriminating against him because he has reported violations of the Federal False Claims Act. This prohibition is what is generally referred to as "whistleblower" protection. If an employee experiences prohibited retaliation, he or she is entitled to all relief necessary to make the employee whole such as reinstatement, two times back pay, interest, emotional distress damages, costs, and attorney's fees.

Kentucky Law

A violation of Kentucky false claims laws may result in civil penalties of up to \$500 per false claim, three times the amount unlawfully received plus interest, payment of the government's legal fees and costs to pursue reimbursement, and exclusion from the Medicaid program for up to five years. Any licensed medical provider found guilty of the criminal false claims provisions must forfeit his or her license to practice his or her profession for at least five years. Anyone charged with Medicaid fraud also could face criminal misdemeanor or felony charges depending on the type of fraud involved and/or the amount of money unlawfully received.

Currently, the Kentucky false claims laws do not give individuals or employees a right to file a civil action on behalf of the government and share in recoveries. Only the Attorney General of the Commonwealth may file civil or criminal proceedings against an individual, company, facility or institution in order to enforce the Kentucky false claims laws. This limitation under Kentucky law on civil actions by individuals could change as a result of certain incentives the federal government has given to states to enact false claims laws more like the Federal False Claims Act.

Kentucky law requires any person who knows or has reasonable cause to believe that a violation of the Kentucky false claims laws has been or is being committed by any person, corporation or entity, to report such information to the Kentucky Medicaid Fraud Control Unit, or to the Medicaid Fraud and Abuse hotline, 1-800-372-2970.

Like federal law, Kentucky law also provides protection for whistleblowers. Specifically, employers are prohibited from retaliating, discriminating or harassing any employee because of his or her good faith participation in a false claims disclosure.

Seven Counties Services Policy & Procedure for Detecting Fraud, Waste & Abuse

Every employee is responsible for reporting suspected violations of the false claims laws or any other suspected unlawful conduct or violations of our Corporate Compliance Plan or Ethical Principles and Ethical Practice Standards. Employees may follow the open door policy as described in the employee handbook to address their concerns. Or, if you feel the open door policy is inappropriate or you desire anonymity in seeking information or reporting a concern, call the Seven Counties Corporate Compliance Hotline ((502) 589-8615, ext. 81265). Further information about Seven Counties' policies and procedures concerning fraud, waste and abuse, can be found in our Corporate Compliance Plan and in our Ethical Principles and Ethical Practice Standards. The Compliance Plan is available on the Intranet. The Ethical Principles and Ethical Practice Standards are contained in the packet of new employee forms you received as a new employee. Specific questions about either of these documents can be directed to the Compliance Office at 589-8615 ext. 1171.

Copies of False Claims Laws

The laws summarized above include the Federal False Claims Act, 31 U.S.C. §§ 3279-3733, and Kentucky statutes related to fraudulent acts and unlawful referral practices, Ky. Rev. Stat. §§ 205.8451 to 205.8483.