

ARNOT OGDEN MEDICAL CENTER CORPORATE COMPLIANCE PROGRAM SUMMARY

The Arnot Ogden Medical Center has a reputation for conducting itself in accordance with the highest level of business and community ethics and in compliance with applicable governing laws. The Board of Managers and Management have voluntarily adopted a detailed Corporate Compliance Plan to establish a framework in accordance with applicable law to promote and assure ethical business practice and provide guidance to each employee and contactor regarding his or her conduct. The complete document is available for review on the Medical Center's intranet or in the office of the Vice President of Finance.

The plan in conjunction with the code of conduct and the Medical Center's Policies and Procedures describe the organizations expectations regarding compliance. The Medical Center is also committed to developing and maintaining internal controls that will prevent or detect errors. To accomplish this goal, staff will perform reviews and audits of areas of concern as identified by the OIG, State Agencies and professional organizations.

It is important that all employees and individuals associated with the Medical Center 1) comply with the standards contained in the plan , 2) immediately report any suspected violations and 3) assist compliance personnel in investigating allegations of wrongdoing. While there will be no retaliation allowed on those who raise issues, failure to observe the provisions of the plan and associated policies and procedures of the Medial Center can result in serious consequences to both the employee and the Medical Center in the form of termination, criminal charges and substantial monitory fines. Of equal consequences is the risk of loosing the Medical Center's reputation for integrity and compliance.

The programs goals are to 1) prevent the occurrence of unethical or unlawful behavior, 2) halt such behavior as soon as reasonably possible after discovery, 3) make restitution, and 4) educate and discipline individuals appropriately. Individuals encountering situations not specifically addressed in the plan should apply the overall philosophy and concepts of the plan to the situation along with the highest ethical standards observed by honorable people everywhere. Questions or concerns should be reported to your immediate supervisor, or may be made anonymously to the Corporate Compliance Officer (Cathleen Mathey) or the Hotline (607-737-4347). Employees are informed at orientation and reminded annually as part of the annual training that the Medical Center does not permit any form of retaliation or intimidation regarding the reporting of situations or concerns. Furthermore, the Medical Center will promptly investigate reported concerns and take appropriate action for correction and reporting.

FEDERAL AND NEW YORK STATE STATUTES FILING FALSE MEDICAID CLAIMS

I. Federal Laws

False Claims Act, 31 USC §§ 3729-3733

The federal False Claims Act imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from Medicare, Medicaid or other federal health programs. There are significant per claim penalties and recoverable damages for filing a false claim. The False Claims Act also allows private individuals to file lawsuits in federal court, just as if they were federal prosecutors and potentially recover a portion of the payments back to the government

Administrative Remedied for False Claims, 31 USC Chapter 38, §§ 3801-3812

This statute allows for administrative recoveries by federal agencies if a person submits a claim that the person knows is false or contains false information, or omits material information. Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

II. New York State Laws

New York false claims laws fall into two categories: administrative and civil laws; and criminal laws. Many of them overlap. Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the "common law" crimes apply to all walks of life.

A. Administrative and Civil Laws

1. Social Services Law § 145-c If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's family's needs are not taken into account for 6 months if a first offense, 12 months if a second (or once if benefits received are \$1,000-3900), 18 months if a third (or once benefits received are over \$3900) and five years for 4 or more offenses.

2. Social Services Law § 145-b False Statements It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may cover three times the amount incorrectly paid and the Department of Health may impose a civil penalty per violation.

Repeat violations occurring within 5 years may be imposed higher penalties if they involve more serious violations of Medicaid rules, billing for services not rendered or providing excessive services.

B. Criminal Laws

1. Social Services Law § 145, Penalties Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.
2. Social Services Law § 366-b Penalties for Fraudulent Practices
 - a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a Class A misdemeanor.
 - b. Any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A Misdemeanor.
3. Penal Law Article 155, Larceny The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. It has been applied to Medicaid fraud case. The degree of larceny and class of felony depend upon the property value.
4. Penal Law Article 175, False Written Statements Four crimes in this article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions.

§ 175.05, Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a Class A misdemeanor.

§ 175.10, Falsifying business records in the first degree includes the elements of the § 175.05 offense and includes the intent to commit another crime or conceal its commission. It is a Class E felony.

§ 175.30, Offering a false instrument for filing in the second degree involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information. It is a Class A misdemeanor.

§ 175.35, Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a Class E felony.
5. Penal Law Article 176, Insurance Fraud, applies to claims for insurance payment, including Medicaid or other health insurance and contains six degrees and class of misdemeanor or felony depending upon the insurance claim amounts. .
6. Penal Law Article 177, Health Care Fraud, applies to claims for health insurance payment, including Medicaid, (similar to Article 176 above).

III. Whistleblower Protection

1. New York Labor Law § 740 An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorney's fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.
2. Federal False Claims Act (31 USC § 3730(h)) An employee who is "discharged, demoted, suspended, threatened, harassed or in any manner discriminated against" because of the employees lawful acts under the False Claims Act is entitled to full compensation.

This document is provided in compliance with the Deficit Reduction Act of 2005 Education Requirement (section 6032). Any questions or additional informational needs can be sent by contacting the Corporate Compliance Hotline at 607-737-4347. See the Medical Center's intranet for complete Corporate Compliance Plan.