

PHILADELPHIA CORPORATION FOR AGING

False Claims Act Policy

(Preventing and Detecting Fraud, Waste and Abuse in Federal Health Care Programs)

Introduction: Philadelphia Corporation for Aging (“PCA”) is subject to federal and state laws and regulations relating to Medicare and Medicaid programs benefiting PCA consumers. This policy addresses certain provisions in those laws that are intended to benefit PCA’s consumers by preventing and detecting fraud, waste and abuse in those programs.

Specifically, Section 6032 of the Deficit Reduction Act of 2005 (“DRA”), entitled “Employee Education About False Claims Recovery,” mandates the amendment of Medicaid State Plans to require certain entities, including PCA, to implement written policies that describe: (1) the prevention and detection of fraud, waste and abuse; (2) false claims laws; and (3) whistleblower protection. Accordingly, without in any way limiting any other policy, procedure or other requirement, including any requirement dealing with related matters, the following shall apply:

Policy: The purpose of this policy is to comply with requirements set forth in Section 6032 of the DRA regarding federal and state false claims laws. Entities covered under this provision of the DRA must ensure that all employees, including management, and their contractors and agents who furnish health care services or authorize health care services under those programs on behalf of the entity, are educated regarding federal and state false claims laws and the role of these laws in preventing and detecting fraud, waste, and abuse in federal health care programs, including Medicaid and Medicare.

Because PCA arranges for health care services and provides social services funded by federal health care programs, it is important to assure that PCA’s directors, employees, and contractors and agents who furnish or authorize the furnishing of Medicare or Medicaid health care items or services on behalf of PCA (“PCA Workforce”) understand and comply with the compliance requirements for such programs.

False Claims Laws: False claims laws are intended to combat fraud and abuse against the government, including fraud and abuse in federal health care programs. The laws allow the government, and in some cases, private individuals, to bring civil actions against healthcare providers to recover damages and penalties when providers submit fraudulent or false claims to the government. There are many different types of false claims. Examples include:

- overcharging the government program
- charging for services that were never performed
- providing less than what was promised
- providing unnecessary services
- misrepresenting the services provided
- billing for services provided by an unlicensed or unqualified provider

Federal Laws: There are both federal laws and Pennsylvania laws that address false claims and protections for individuals who report fraud and waste to the government (commonly referred to as “whistleblowers”). The Federal False Claims Act prohibits any person or entity from knowingly submitting or causing the submission of a false or fraudulent claim for payment to the federal government. For purposes of the Act, the term “knowingly” means having actual knowledge or acting in reckless disregard or deliberate ignorance of the truth or falsity of the information. Violators of the Act may be liable for up to three times the amount of the fraud, plus a civil penalty of not less than \$10,957 and not more than \$21,916 for each claim. The Federal False Claims Act authorizes private individuals to bring false claims actions on behalf of the government, for which the individual may receive between 15 and 30 percent of any recovery depending in part upon whether the government intervenes in the action. The Act applies to federally funded programs, including Medicare and Medicaid.

The Federal False Claims Act also prohibits an employer from retaliating against an employee for attempting to uncover or report fraud on the federal government. Any employee who is discharged, demoted, suspended, threatened, harassed or in any other way discriminated against in his or her employment as a result of the employee’s lawful acts in furtherance of a false claims suit may bring an action against the employer in federal district court. An employee who is retaliated against as set forth in the Act is entitled to reinstatement at the same level, two times the amount of back pay plus interest, and compensation for any special damages sustained as a result of the discrimination, such as litigation costs and reasonable attorneys’ fees.

The Program Fraud Civil Remedies Act of 1986 (“PFCRA”) is another federal law that provides administrative remedies for the knowing submission of false claims and false statements. For purposes of the PFCRA, a false claim or false statement includes a claim or written statement submitted to the federal government which asserts a material fact that is false, omits a material fact, or is for services that were not provided. Penalties for a violation of the PFCRA include a civil penalty of up to \$10,957 per claim, plus an assessment of up to twice the amount of each false claim.

Pennsylvania Laws: The Commonwealth of Pennsylvania has not yet enacted a false claims statute like the Federal False Claims Act. However, it does have anti-fraud laws that impose criminal and civil penalties for false claims and false statements. The law applicable to Medicaid providers prohibits the submission of false or fraudulent claims to Pennsylvania’s medical assistance programs as well as the payment of kickbacks in connection with services paid in whole or in part by a medical assistance program. A violation of the law is a criminal felony offense that carries with it penalties of imprisonment of up to 7 years, fines, and mandatory exclusion from Pennsylvania’s medical assistance programs for five years. Beyond criminal penalties, the law authorizes the Pennsylvania Department of Human Services (formerly known as the Pennsylvania Department of Public Welfare) to institute a civil action against a provider for two times the amount of excess benefits or payments paid plus interest.

Pennsylvania has another anti-fraud law that prohibits beneficiaries of medical assistance programs from making false claims or false statements in connection with an application for medical assistance benefits or payments. Depending upon the nature of the violation, criminal penalties range from felony to misdemeanor offenses. In addition, the Department of Human Services may institute a civil action against a beneficiary.

Pennsylvania also has a Whistleblower Law that prohibits an employer from discharging, threatening or otherwise discriminating or retaliating against an employee of a public body because the employee in good faith reports or is about to report wrongdoing or waste to the employer or appropriate authority. While the Law applies only to employees of a “public body,” Pennsylvania courts have interpreted the phrase “public body” to refer to entities that receive money from the Commonwealth. This includes Medicaid providers.

How to Report Concerns Regarding Fraud, Abuse and False Claims: PCA is committed to conducting its business in a lawful and ethical manner. The PCA Workforce must comply with all applicable laws, regulations, policies, procedures and other requirements. PCA requires all PCA Workforce members to identify and report immediately any issues regarding fraud, waste, abuse and false claims, including any suspected issues or concerns involving PCA, to PCA’s Manager of Auditing Services or Vice President of Business and Finance. Any questions about this policy should be directed to PCA’s Compliance Officer, the Vice President of Business and Finance.

Reports may be made on an anonymous basis. Any reported matters that suggest substantial violations of applicable laws, regulations, policies, procedures and other requirements shall be documented and investigated promptly.

References: Deficit Reduction Act of 2005, §§ 6031 and 6032
Federal False Claims Act, 31 U.S.C. §§ 3729-3733
Program Fraud Civil Remedies Act of 1986, 31 U.S.C. §§ 3801-3812
Pennsylvania Whistleblower Law, 43 P.S. §§ 1422-23
Pennsylvania Public Welfare Fraud and Abuse Control Laws, 62 P.S. § 1407, § 1408

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