

Compassionate Care Hospice

FALSE CLAIMS ACT POLICY Policy No: 1028

PURPOSE

To inform Compassionate Care Hospice employees, contractors, vendors and agents of the federal False Claims Act and to identify established CCH policies and procedures for preventing detecting and reporting fraud, waste and abuse in accordance with contractual, regulatory and statutory requirements.

POLICY

Compassionate Care Hospice engages in specific compliance efforts to detect and prevent fraud, waste, and abuse. These include:

- Requiring mandatory annual compliance training for all employees, officers and agents of the organization consisting of the CCH Compliance Program Standards of Conduct and Policies and Procedures.
- Establishing a confidential disclosure program that requires immediate reporting of any suspected or known fraudulent or criminal activity without fear of retaliation.
- Conducting searches of the Federal Government's Excluded Parties Lists to ensure Compassionate Care does not employ or engage individuals or entities that are excluded from participating in the feral healthcare programs.
- Developing policies for conducting business in compliance with relevant rules and regulations.
- Auditing and monitoring functions.

Reporting Fraud, Waste or Abuse: All employees, contractors, vendors and agents of CCH must immediately report to their immediate supervisor, or to a Compliance Officer, any suspicion of wrongdoing, fraud, waste, or abuse in connection with the business of CCH. The Compliance Hotline number is: Toll Free – **1-855-234-8147** 24 hrs/day, 7days/week. Reports of suspected misconduct may be made anonymously.

The Director of Quality and Compliance (DQC) in consultation with the General Counsel has the responsibility for receiving and acting upon all information suggesting the existence of possible fraud, abuse or wrongdoing; and for directing all investigations arising from this information.

Federal False Claims Act Information:

The False Claims Act (FCA) is a federal statute that covers fraud involving any federally funded contract or program, including the Medicare and Medicaid programs. The FCA imposes liability on any person who:

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- Knowingly presents or causes to be presented a false or fraudulent claim to the government.
- Knowingly uses a false record or statement to obtain payment on a false claim paid by the government.
- Engages in a conspiracy to defraud the government by improper submission of a false claim for payment.

In the context of the FCA the term “knowingly” means that the person or entity committing the act:

1. Has actual knowledge of the information;
2. Acts in deliberate ignorance or the truth or falsity of the information; or
3. Acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud the government is required.

The FCA applies to Medicare and Medicaid reimbursement and prohibits, among other things;

- Billing for services not rendered.
- Billing for undocumented services.
- Making improper entries on cost reports.
- Billing for medically unnecessary services
- Assigning incorrect codes to secure higher reimbursement.
- Characterizing non-covered services or costs in a way that secures reimbursement
- Failing to seek payment from beneficiaries who may have other primary payment sources.
- Participating in kickbacks.

Enforcement:

1. The US Attorney General may bring civil actions for violations of the FCA. An action must be brought within three years of the date when material facts are known or should have been known to the government, but no event more than ten years after the date on which the violation was committed.
2. A private person may file a FFCA suit in the name of the US for false or fraudulent claims submitted by individuals or entities. Commonly known as “qui tam” actions, such lawsuits by a private person are commenced when a “whistleblower” files a civil complaint in federal court, under seal, and discloses material evidence to the U.S. Attorney General. A qui tam action must be brought within six years after a violation. “Whistleblowers” who file a qui tam action may receive a reward of 15-30 percent of the monies recovered for the government, plus attorneys’ fees and costs. (This amount may be reduced, however, if, for example, the court finds the whistleblower planned and initiated the violation.) If the civil action is frivolous, clearly vexatious, or brought primarily for harassment, the “Whistleblower” may have to pay the defendant its fees and costs.

Damages and penalties of violating the FCA include:

- Civil penalties of not less than \$5,500 and not more than \$11,000 per violation, plus

- Three times the amount of damages which the government sustains because of the violation, and the costs of any civil action brought to recover such penalties or damages.

“Whistleblower” Protections:

The FCA provides for protection for employees from retaliation. If an employee is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms of conditions of employment because of lawful acts conducted in furtherance of an action under the FCA, that employee may bring an action in federal court seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages, and fees.

Federal Program Fraud Civil Remedies Act of 1986

The Federal Program Fraud Civil Remedies Act of 1986 (the “Act”) establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know, is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

The term “knows or has reason to know” is defined in the Act as a person who has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

With regard to this Act, the term “claim” includes any request or demand for property or money, e.g., grants, loans, insurance or benefits, when the United States Government provides or will reimburse any portion of the money.

The Act allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of \$5,000 per claim and an assessment, in lieu of damages, of not more than twice the amount of the original claim.

State False Claims Act

Individual State specific False Claims Act can be found on the Compassionate Care Hospice Website at: <http://cchnet.net/hospice/>

New Jersey Employees are required to review the statutes found on pages four through nine of the following:

<http://www.state.nj.us/humanservices/ddd/news/publications/divisioncirculares.html>

PROCEDURES

1. All employees will receive education related to the provisions of the FCA and the ACT, during the annual compliance training.
2. This education will include:
 - Detailed information on the FCA, the Act, and the other administrative remedies for false claims and statements;
 - State laws pertaining to civil or criminal penalties;
 - Whistleblower rights;
 - CCH provisions for preventing, detecting and reporting fraud, waste and abuse.
3. All employees, contractors, vendors and agents with knowledge of potential fraud and abuse situations must report them through any of the following methods, as applicable:
 - Notifying their immediate supervisor, Program Director, General Counsel or COO;
 - Contacting the Director of Quality and Compliance (DQC) or a Compliance Officer directly either in person or by phone;
 - Calling the confidential Compliance Hotline Toll Free – **1-855-234-8147**
4. Any management personnel receiving a report of fraud should immediately inform the DQC before any action is taken.
5. It is the responsibility of the DQC to direct or conduct fraud and abuse investigations and to determine when incidents should be reported to an appropriate law enforcement agency. If incidents of fraud and abuse are identified, systematic changes and corrective action plans will be put into place as appropriate to prevent further offenses.
6. Complaints, allegations, and concerns reported through the Compliance Hotline and/or directly received by the Compliance department concerning fraud and abuse will be handled under the direction and coordination of the DQC.
7. In the case where the allegation is a criminal violation of law, the DQC will confer with General Counsel as needed for determination as to whether there is sufficient evidence to support referral to a duly authorized law enforcement agency.
8. To report any probable violation of the False Claims Act, whether civil or criminal to the OIG as a reportable event.
9. To the extent practical or allowed by law, the DQC must maintain the confidentiality or anonymity of an employee or other individual reporting questionable activity when requested.

10. CCH will fully cooperate with federal and state agencies that conduct healthcare fraud and abuse investigations.
11. CCH will take appropriate disciplinary and enforcement action (i.e., corrective action plans, employment termination or contract termination) against employees, providers, contractors, consultants, and agents found to have committed fraud and abuse violations.
12. Retaliation or retribution for reporting issues “in good faith” is prohibited.
13. CCH will report to the OIG any probable violation of the False Claims Act, whether civil or criminal as a reportable event

Reference Authority /Citations

False Claims Act, 31 U.S.C. §§ 3729-3733

Federal Program Fraud Civil Remedies Act of 1986, 38 U.S.C. §3801 *et seq.*

Section 6032 of the Federal Deficit Reduction Act of 2005.