

**ARCHBOLD MEDICAL CENTER
CORPORATE COMPLIANCE MANUAL**

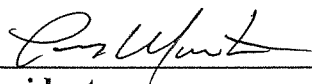
STANDARD NUMBER: 016

EFFECTIVE: January, 2007

**SUBJECT: Education About False Claims
Recoveries**

EXPIRES: When Superseded

REVIEWED: September, 2018

APPROVED: 

President

REVISED: September, 2018

I. PURPOSE

To provide educational information regarding federal and state statutes and regulations related to false claims recoveries.

II. STANDARD

The Medical Center provides employees, contractors and agents with educational information as per Section 6032 of the Deficit Reduction Act of 2005. It is the policy of the Medical Center to obey the law and endeavor to eliminate waste, fraud and abuse with respect to payments to Archbold Medical Center from federal or state programs providing payment for patient care. This standard applies to all employees, management, contractors, and agents of Archbold Medical Center, Inc.

III. EDUCATION

In addition to the Medical Center's Corporate Compliance Program, employees, contractors and agents are to be informed of the following regulatory information:

A. Federal False Claims Act (31 U.S.C. Section 3729)

1. Summary

The False Claims Act ("FCA") prohibits knowingly making false claims against the government. False claims include:

- (1) Knowingly presenting or consenting to be presented a false or fraudulent claim for payment or approval;
- (2) Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim allowed or paid;
- (3) Conspiring to get a false or fraudulent claim allowed or paid;
- (4) Having possession, custody or control of property or money used, or to be used by the government and, delivering less than the promised amount of property;

- (5) Making or delivering a receipt for property used or to be used by the government without completely knowing that the information on the receipt is true;
- (6) Knowingly buying, or receiving as a pledge of an obligation or debt, public property from a government officer or employee who lawfully may not sell or pledge the property; or
- (7) Knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay, repay, or transmit money or property to the United States.
- (8) Knowingly concealing or knowingly and improperly avoiding an obligation to pay money or property to the Government.

The FCA imposes civil penalties of \$11,181 - \$22,363 for each false claim, plus interest, damages and expenses and is not a criminal statute.

2. Whistleblower Provisions – Qui Tam Lawsuits

Any person (a whistleblower or “qui tam relator”) may bring an action under the FCA in federal court within 6 years of the filing of the false claim.

The lawsuit is sealed for 60 days and then the government may pursue the matter or decline to proceed. If the government declines, the individual bringing the actions can proceed on their own in federal court. If the government (or individual) proceeds in the action and is successful in recovery of monies, the whistleblower receives a portion.

A whistleblower may not be discriminated or retaliated against in any manner by their employer by virtue of bringing the claim. A whistleblower who is discriminated against by his or her employer because of lawful acts done by the whistleblower on behalf of the whistleblower or others in furtherance of an action under the FCA, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, is entitled to all relief necessary to make the whistleblower whole.

Whistleblowers who prosecute clearly frivolous qui tam claims can be held liable to the defendant for its attorney’s fees and costs.

B. Federal Program Fraud Civil Remedies Act (31 U.S.C. Section 3801-3812)

The Federal Program Fraud Civil Remedies Act (PFCRA) addresses lower dollar frauds and generally applies to claims of \$150,000 or less.

PFCRA provides that any person who makes, presents or submits, or causes to be made, presented or submitted a claim that a person knows or has reason to know is false, fictitious, or fraudulent is subject to civil monetary penalties of up to \$11,181 per false claim and up to twice the amount claimed in lieu of damages.

Penalties may be recovered through civil actions or through administrative offsets against current claims payments.

C. Georgia Medicaid False Claims Act (O.C.G.A. Section 49-4-168-168.6)

1. Summary

The Georgia Medicaid False Claims Act (“Medicaid Act”) provides that persons who make false or fraudulent Medicaid claims are subject to civil penalties and damages.

False or fraudulent Medicaid claims include:

- (1) Knowingly presenting or consenting to be presented a false or fraudulent claim for payment or approval.
- (2) Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim allowed or paid;
- (3) Conspiring to get a false or fraudulent claim allowed or paid;
- (4) Having possession, custody or control of property or money used, or to be used by GA Medicaid and, delivering less than the promised amount of property;
- (5) Making or delivering a receipt for property used or to be used by the GA Medicaid program without completely knowing that the information on the receipt is true;
- (6) Knowingly buying, or receiving as a pledge of an obligation or debt, public property from a GA Medicaid officer or employee who lawfully may not sell or pledge the property; or
- (7) Knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay, repay, or transmit money or property to the State of Georgia.

2. Civil Penalties & Damages

The State of Georgia civil penalty is consistent with the civil penalties provision of the federal False Claims Act as adjusted for inflation, plus 3 times the amount of the damages which the GA Medicaid program sustains because of such acts.

3. Attorney General Action

The Attorney General is authorized to: (i) investigate suspected, alleged and reported violations of the Medicaid Act; and (ii) bring a civil action against a person who the Attorney General finds has or is violating the Medicaid Act.

4. Whistleblower Provisions – Qui Tam Lawsuits

Any person (a whistleblower or a “qui tam relator”) may bring an action under the Medicaid Act in state court within 6 years of the filing of the false or fraudulent claim or 4 years after the date when facts material to the right of civil action are known or reasonably should have been known

by the state official charged with the responsibility to act, but in no event later than 10 years after the date the violation occurred.

The lawsuit is sealed for 60 days to allow the Attorney General to investigate the allegations and to elect to intervene and proceed with the civil action or decline to proceed.

If the Attorney General declines to bring a civil action, the whistleblower bringing the action can proceed on his/her own in state court, and if the action is successful, receive a portion of the proceeds of the civil action or settlement of the claim. If the whistleblower is not successful in such civil action, the court may order the whistleblower to pay the defendant's attorney's fees and expenses.

If the Attorney General (or individual) proceeds in the action, the whistleblower may continue to participate in the civil action, subject to the Attorney General's and the Court's limitations, if any, and receive a lesser portion of the proceeds of the civil action or settlement of the claim.

A whistleblower who is convicted of criminal conduct arising from his/her role in the violation of the Medicaid Act shall not receive any share of the proceeds.

5. No Discrimination Against Employee Whistleblower

If an employee whistleblower is discriminated against (demotion, suspension, threatened, harassed, etc.) by his/her employer because of lawful acts of the whistleblower on behalf of the employee or others in furtherance of an action under the Medicaid Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under the Medicaid Act, the employee is entitled to bring a civil action against the employer for all relief necessary to make the whistleblower whole, including reinstatement, two times back pay and interest, and any special damages and expenses resulting from the discrimination.

Whistleblowers who prosecute clearly frivolous qui tam claims can be held liable to the defendant for its attorney's fees and costs.

D. Georgia Civil & Criminal Medicaid Fraud Law (O.C.G.A. Section 49-4-146.1)

1. Unlawful Acts

a. Abuse

"Abuse" means "knowingly obtaining or attempting to obtain Medicaid assistance, benefits or payments to which a provider knows he/she is not entitled and which assistance, benefits or payments are greater than the amount the provider would have been entitled if paid in accordance with Medicaid policies and procedures."

The following are not "abuse:"

- Isolated unintentional billing, coding and cost report errors

- Miscoding, if there is a good faith basis for the use of the codes under Medicaid policies & procedures and no deceptive intent

b. Claims

It is unlawful in Georgia for any person or provider to obtain or attempt to obtain Medicaid benefits or reimbursement to which he/she is not entitled or in an amount greater than the amount the person is entitled to receive by:

- knowingly and willingly making a false statement or representation;
- deliberately concealing a material fact; or
- a fraudulent scheme or device.

c. Assistance

It is also unlawful for any person or provider to knowingly and willfully accept medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled, or to knowingly and willfully falsify any report or document for Medicaid assistance.

2. Penalties

A provider who commits abuse shall be liable for payment of a civil monetary penalty equal to two times the amount of any excess benefit or payment, plus interest.

Persons who violate sections (b) or (c) above are subject to civil penalties equal to the greater of:

(i) three times the amount of the excess benefit or payment, plus interest; or (ii) \$1,000 for each excess claim for assistance, benefits or payment, plus interest.

IV. JOHN D. ARCHBOLD MEMORIAL HOSPITAL, INC. (INCLUDING OPERATIONS D/B/A GRADY GENERAL HOSPITAL, BROOKS COUNTY HOSPITAL, MITCHELL COUNTY HOSPITAL, MITCHELL CONVALESCENT CENTER, PELHAM PARKWAY NURSING HOME, GLENN-MOR NURSING HOME)/ ARCHBOLD FOUNDATION, INC./ARCHBOLD HEALTH SERVICES, INC./ARCHBOLD MEDICAL ENTERPRISES, INC./ARCHBOLD MEDICAL GROUP, INC.

A. No changes.