

**MedStar Family Choice
MD and DC**

Subject: Compliance with Applicable Federal and State False Claims Acts

Purpose: To provide information regarding federal and state laws described in the Deficit Reduction Act of 2005, as well as information regarding MedStar Family Choice's policies and procedures for detecting and preventing fraud, waste, and abuse.

Scope: This policy applies to MedStar Family Choice associates, management, physicians, consultants, contractors, workforce members and other agents.

Policy: It is the policy of MedStar Family Choice and its subsidiaries and affiliated entities that all personnel (including associates, management, physicians, consultants, contractors and other agents) shall comply with all applicable federal and state False Claims Act laws and regulations. MedStar Family Choice has instituted various procedures, which are set forth in the MedStar Health Code of Conduct to ensure compliance with these laws and to assist MedStar Family Choice in preventing fraud, waste, and abuse in federal health care programs. As part of MedStar Family Choice's Compliance Program, personnel shall receive training on these laws, which are summarized below, and should consult the Office of Corporate Business Integrity (who may confer with the MedStar Legal Department, as needed) if they have questions about the applications of these laws to their job.

It is the policy of MedStar Family Choice that retaliation will not be tolerated, in any form, by management or non-management staff against an associate who reports in good faith an actual or potential violation of the Code of Conduct or other type of compliance program violation.

Procedure:

Definitions

1. Federal False Claims Act.

The federal False Claims Act, 31 U.S.C. §§ 3729-3733, applies to persons or entities that knowingly and willfully submit, cause to be submitted, or conspire to submit a false or fraudulent claim, or that use a false record or statement in support of a claim for payment to a federally funded program. The phrase "knowingly and willfully" means that the person or entity had actual knowledge of the falsity of the claim or acted with deliberate ignorance or reckless disregard of the truth or falsity of the claim.

Persons or entities that violate the federal False Claims Act can be liable for:

- Up to three times the amount of damages caused the government
- As of June, 2020, FCA civil monetary penalties range from \$11,665 to \$23,331 per violation. (this amount may be adjusted periodically for inflation) Exclusion from Medicare and Medicaid.

Under the federal False Claims Act, any person with knowledge of false claims or statements submitted to the federal government may bring a lawsuit under seal on behalf of the United States government (a *qui tam* lawsuit) against the person or entity that submitted the false claim.

Depending on the outcome of the case and other facts, a whistleblower may be entitled to a portion of the judgment or settlement. Any potential award may, however, be reduced or barred if the person who brought the lawsuit was involved in the violation. The federal False Claims Act also provides protection to whistleblowers who are retaliated against by an employer for actions taken in furtherance of a False Claims Act investigation or lawsuit.

2. Federal Program Fraud Civil Remedies Act.

The federal Program Fraud Civil Remedies Act imposes penalties on persons or organizations who:

- deliberately submit false statements or claims to certain federal agencies or
- who submit such claims in deliberate ignorance or reckless disregard of their truth or falsity.

Anyone who violates the Program Fraud Civil Remedies Act is subject to civil monetary penalties of:

- up to \$5,000 per false claim or statement and
- assessments of up to twice the amount of such claim in lieu of damages sustained by the government.

3. State Laws.

A number of states have enacted false claims acts in an attempt to prevent the filing of fraudulent claims to state-funded programs.

District of Columbia (Washington, D.C.)

The District of Columbia has established such an Act under Title 2, Chapter 3 of the District of Columbia Code, which provides that any person who knowingly presents, or causes to be presented, a false claim, record, or statement for payment by the District, or conspires to defraud the District by getting a false claim paid, can be liable to the District for penalties and damages. District of Columbia law allows individuals to bring claims under certain circumstances and protects associates from retaliation by employers for actions taken in furtherance of a false claims investigation or lawsuit.

Virginia

Virginia has a similar law, known as the Taxpayers Against Fraud Act, established under Title 8.01, Chapter 3 of the Virginia Code. Virginia law permits individuals to bring actions in the name of the Commonwealth of Virginia and also protects associates from retaliation by employers for opposing the submission of false claims or statements or for participating in any investigation or lawsuit under the Act.

Maryland

Maryland has a false claims act in place in an attempt to prevent the filing of fraudulent claims to state-funded programs. The Maryland False Health Claims Act of 2010, was originally enacted as Maryland Senate Bill 279. The Maryland law prohibits actions constituting false claims against state health plans or programs, permits whistleblowers to bring actions under the law, and provides protection for whistleblowers from retaliation.

Responsibilities

The Chief Compliance Officer, Office of Corporate Business Integrity (OCBI), in conjunction with the MedStar Health Legal Department, has the responsibility for maintaining, revising and communicating this Policy to MedStar Health and its subsidiaries. Implementation and enforcement will be at the entity level.

What Constitutes Non-Compliance

Presenting or causing to be presented, a false claim, record, or statement for payment by federally funded health care programs. Retaliation against an associate, who reports in good faith an actual or potential violation of the Code of Conduct or other type of compliance program violation.

Consequences of Non-Compliance

Failure to comply with this Policy may result in disciplinary action consistent with entity policies, up to and including termination of employment.

Requirements and Guidelines for Implementing This Policy

Every MedStar Family Choice associate is required to report any situation that he or she believes is unethical and/or illegal if it involves another associate or anyone acting on behalf of MedStar Family Choice. An associate's failure to report regulatory violations or false claims of which the associate is aware can lead to discipline. Any potential issue should be reported to your supervisor, through the normal chain of command. If you do not feel comfortable reporting this matter to your supervisor or if you are concerned that the matter is not being handled appropriately, you may call the MedStar Health Integrity Hotline at 1-877-811-3411 or the Office of Corporate Business Integrity at 410-772-6606. Your call to the MedStar Health Integrity Hotline may be made anonymously if you wish. Associates can also email OCBI at compliance@medstar.net or contact the MedStar Family Choice MD or DC Directors of Medicaid Contract Oversight. In addition, associates may report a complaint through the MedStar Health intranet by using Starport.

Related Policies

MedStar Health Code of Conduct

MedStar Family Choice Distribution of False Claims Act Information

Legal Reporting Requirements

Any suspected violation of this policy must be reported to the MedStar Family Choice MD or DC Director of Medicaid Contract Oversight and the Vice President/Chief Compliance Officer which, in consultation with the MedStar Health Legal Department, will determine the need for additional reporting.

Reference to Laws or Regulations of Outside Bodies

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

Deficit Reduction Act of 2005

Right To Change or Terminate Policy

MedStar Family Choice reserves the right to alter or revise this policy as necessary.

Requirements Pertaining to False Claims and Statements

This is intended to provide you with information on laws pertaining to the prevention and detection of fraud, waste and abuse, in accordance with the requirements of the federal Deficit Reduction Act of 2005. This document also describes the procedures in place within MedStar Health and MedStar Family Choice MD & DC for detecting and preventing fraud, waste and abuse.

The MedStar Office of Corporate Business Integrity (OCBI) provides all MedStar facilities with compliance oversight, billing integrity support, occurrence reporting and resolution, and training and education. In addition, MedStar Health's Internal Audit department conducts routine independent audits of business practices, and all financial managers are required to attend training on the Financial Manager's Code of Ethics and reporting obligations.

Associates (employees), physicians, contractors and patients are encouraged to report privacy, financial reporting, and other compliance concerns by calling the MedStar Health Integrity Hotline toll-free at 877-811-3411. The hotline is available 24 hours a day and calls will be confidential. Associates (employees), physicians, contractors and patients can also email OCBI at Compliance@medstar.net. Providers may also call MedStar Family Choice Provider Services at 888-404-3549. Retaliation for reporting an actual or potential violation or problem in good faith, or for cooperating in compliance, legal, or other investigation, is expressly prohibited by MedStar Health policies.

Federal False Claims Act

The federal False Claims Act, 31 U.S.C. §§ 3729-3733, applies to persons or entities that knowingly and willfully submit, cause to be submitted, or conspire to submit a false or fraudulent claim, or that use a false record or statement in support of a claim for payment to a federally-funded program. The phrase "knowingly and willfully" means that the person or entity had actual knowledge of the falsity of the claim or acted with deliberate ignorance or reckless disregard of the truth or falsity of the claim. Persons or entities that violate the federal False Claims Act are subject to civil monetary penalties (42 U.S.C. § 1320a-7a) and payment of damages due to the federal government.

Under the False Claims Act, those who knowingly submit, or cause another person or entity to submit, false claims for payment of government funds are liable for three times the government's damages plus civil penalties per false claim.

The False Claims Act civil penalties may periodically be adjusted for inflation and as of 1/11/21 the range for penalties was increased to between \$11,803 and \$23,607 per claim, plus three times the amount of damages that the federal government sustains because of the false claim.

The federal False Claims Act provides that any person with actual knowledge of false claims or statements submitted to the federal government may bring a False Claims Act action in the government's name against the person or entity that submitted the false claim. This is known as

the False Claims Act's "qui tam" or whistleblower provision. Depending on the outcome of the case, a whistleblower may be entitled to a portion of the judgment or settlement. The federal False Claims Act provides protection to whistleblowers that are retaliated against by an employer for investigating, filing, or participating in a False Claims Act lawsuit.

State False Claims Acts

A number of states have enacted false claims acts in an attempt to prevent the filing of fraudulent claims to state-funded programs. The District of Columbia has established such an Act under Title 2, Chapter 3 of the District of Columbia Code. The District of Columbia law provides that any person who knowingly presents, or causes to be presented, a false claim, record, or statement for payment by the District, or conspires to defraud the District by getting a false claim paid can be liable to the District for penalties and damages. District of Columbia law allows whistleblowers to bring claims under certain circumstances and protects whistleblowers from retaliation by employers.

Maryland has a similar law, entitled the Maryland False Health Claims Act of 2010, originally enacted as Maryland Senate Bill 279. The Maryland law prohibits actions constituting false claims against state health plans or programs, permits whistleblowers to bring actions under the law, and provides protection for whistleblowers from retaliation. In Maryland, the civil penalty can be up to \$10,000 for each violation. There can be an additional penalty of up to three times the amount of the damages that the State sustains. Depending on the outcome, the whistleblower may be entitled to a portion of the judgment or settlement.

Virginia also has a similar law, known as the Taxpayers Against Fraud Act, established under Chapter 3 of Title 8.01 of the Virginia Code. Virginia's law also permits whistleblowers to bring actions in the name of the Commonwealth of Virginia and protects whistleblowers from discrimination by employers.