

DEFICIT REDUCTION ACT AND FALSE CLAIMS POLICY INFORMATION FOR ALL MASSACHUSETTS WORKFORCE MEMBERS

The Company is committed to preventing health care fraud, waste and abuse and complying with applicable state and federal fraud, waste and abuse laws. To ensure compliance with such laws, the Company has mechanisms in place to detect and prevent fraud, waste and abuse. It also supports the efforts of federal and state authorities in identifying fraud, waste and abuse.

I FRAUD, WASTE AND ABUSE LAWS:

A. FEDERAL LAWS

1. ***Federal False Claims Act*** - The Federal False Claims Act ("FCA") imposes liability on any person who submits a claim to the federal government that he/she knows (or should know) is false. The FCA also imposes liability on an individual who: i) knowingly submits a false record to obtain payment from the government; or ii) obtains money from the government to which he/she may not be entitled, and then uses false statements or records in order to retain the money.

In addition to having actual knowledge that the claim is false, a person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information can also be found liable under the FCA. Proof of specific intent to defraud is not required. However, honest mistakes or mere negligence are not the basis of false claims. The FCA provides for civil penalties of five thousand five hundred dollars and eleven thousand dollars per false claim plus three times the amount of damages that the government sustains.

2. ***Federal Program Fraud Civil Remedies Act of 1986*** - The Federal Program Fraud Civil Remedies Act of 1986 is a statute that 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 Centers for Medicare and Medicaid Services). The word "claim" in the statute 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 Federal Government may investigate and, with the Attorney General's approval, commence proceedings if the claim is less than one hundred and fifty thousand dollars. The Act provides for civil monetary sanctions to be imposed in administrative hearings, including penalties of five thousand five hundred dollars per claim and an assessment, in lieu of damages, of two times the amount of the original claim.

B. STATE LAWS

1. ***Massachusetts False Claims Act (M.G.L. c. 12 §§ 5A-5O)***

The Massachusetts False Claims Act contains a provision that imposes liability on a person who, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval. Under the Massachusetts False Claims Act, "knowing" or "knowingly" means "possessing actual knowledge of relevant information, acting with deliberate ignorance of the truth or falsity of the information or acting in reckless disregard of the truth or falsity of the information; . . . and no proof of specific intent to defraud shall be required."

2. *Massachusetts False Claims Act Penalties (M.G.L. c. 12 § 5B(a))*

The Massachusetts False Claims Act provides for civil penalties of not less than \$5,500 and not more than \$11,000 per false claim, plus treble damages and costs.

3. *Massachusetts False Claims Act Whistleblower Protections (M.G.L. c. 12 § 5JA-5O)*

The Massachusetts False Claims Act prohibits employers from adopting or enforcing any policy that prevents an employee, contractor or agent from disclosing information to a government or law enforcement agency or from acting to further efforts to stop violations of the Massachusetts False Claims Act.

4. *Massachusetts Anti-Kickback Statute (M.G.L. c. 175H §3)*

The Massachusetts Anti-Kickback Statute contains a provision that imposes liability on a person who, among other things, solicits or receives any remuneration, directly or indirectly, overtly or covertly, in cash or in kind in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering of any good, facility, service, or item for which payment is or may be made by a health care insurer. The liability also extends to any person who offers or pays any such remuneration. Penalties for violating the Massachusetts Anti-Kickback Statute include fines of not more than \$10,000 and imprisonment.

II WHISTLEBLOWER PROTECTION:

A. FEDERAL LAWS

Employees may bring a civil action in the name of the government for a violation of the federal False Claims Act. These individuals, known as "*qui tam* relators," may share in a percentage of the proceeds from a False Claims Act action or settlement. The FCA provides for protection for employees from retaliation. Any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance of an action under the False Claims Act may bring an action seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages and fees. However, if the employee brings an action against an employer that has no basis in law or fact, or is primarily for harassment, the employee bringing the lawsuit may have to pay the employer its fees and costs.

B. STATE LAW

Massachusetts Whistleblower Protections (M.G.L. c. 149 §185)

Massachusetts laws make it unlawful for an employer to take any retaliatory action against an employee because the employee discloses or threatens to disclose an activity, policy or practice that the employee reasonably believes is in violation of law; provides information to any public body investigating any violation of law; or objects to or refuses to participate in any activity that the employee reasonably believes is in violation of law. Unless certain exceptions are satisfied, the whistleblower protections do not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and has afforded the employer a reasonable opportunity to correct the activity, policy or practice.

III DETECTION AND PREVENTION OF FRAUD, WASTE AND ABUSE:

The Company has personnel dedicated to conducting periodic internal audits of our compliance with state and federal fraud and abuse laws. Issues identified on audit are reported to the Compliance Officer and may be elevated to regulatory agencies.

The Company maintains an anonymous compliance hotline to accept calls from employees and contractors concerning suspected fraud, waste and abuse. Employees and contractors are encouraged to report any issue of concern to the compliance hotline at 1-855-663-0144.

Some examples of reportable fraudulent activity may include:

- Offers of free gifts, services or care in exchange insurance information or for agreeing to get medical care.
- Billing insurance for services that are not provided or cost more than customary or expected.
- Providing services that are less than billed such as when a newly filled prescription bottle has less pills in it than what is indicated on the label.
- Persuading people to get healthcare services they do not need or billing for services that are not medically necessary.
- A person using someone else's insurance card information to get healthcare.
- Misuse or abuse of insurance paid medical services such as reselling drugs or medical supplies.
- Providing misleading information and forging or altering a medical records or prescriptions.
- Bribes or kickbacks for referrals, services or orders.
- Any violation of our Code of Conduct or business practice that does not seem right.

IV WHAT TO DO IF AN EMPLOYEE SUSPECTS FRAUD, WASTE OR ABUSE HAS OCCURRED:

The Company has a policy of non-intimidation and non-retaliation for good faith reporting of compliance concerns.

If an employee or contractor observes or suspects a violation of the previously listed laws and/or fraudulent activity, the employee is required to report the matter by:

- a) Contacting the supervisor or Compliance Officer
- b) Calling the anonymous reporting compliance hotline at 1-855-663-0144
- c) Reporting directly to the EAS Compliance Director at 716-633-3900.
- d) Completing an on line report at www.elderwoodadministrativeservices.ethicspoint.com
- e) Clicking the report form link in the compliance section of our website

V PHARMACY AND PRESCRIPTION PROGRAM TO CONTROL FRAUD, WASTE AND ABUSE: Examples of potential fraud, waste and abuse include but are not limited to:

A. INAPPROPRIATE BILLING PRACTICES: Inappropriate billing practices at the pharmacy level occur when pharmacies engage in the following types of billing practices:

- 1) Incorrectly billing for secondary payers to receive increased reimbursement.
- 2) Billing for non-existent prescriptions.
- 3) Billing multiple payers for the same prescriptions, except as required for coordination on benefit transactions.
- 4) Billing for brand when generics are dispensed.
- 5) Billing for non-covered prescriptions as covered items.
- 6) Billing for prescriptions that are never picked up (i.e., not reversing claims that are processed when prescriptions are filled but never picked up).
- 7) Billing based on "gang visits", e.g., a pharmacist visits a nursing home and bills for numerous pharmaceutical prescriptions without furnishing any specific service to individual patients.
- 8) Inappropriate use of dispense as written ("DAW") codes.
- 9) Prescription splitting to receive additional dispensing fees.
- 10) Drug diversion.

B. PRESCRIPTION DRUG SHORTING

Pharmacist provides less than the prescribed quantity and intentionally does not inform the patient or make arrangements to provide the balance but bills for the fully-prescribed amount.

- C. **BAIT AND SWITCH PRICING**
Bait and switch pricing occurs when a beneficiary is led to believe that a drug will cost one price, but at the point of sale the beneficiary is charged higher amount.
- D. **PRESCRIPTION FORGING OR ALTERING**
Where existing prescriptions are altered, by an individual without the prescriber's permission to increase quantity or number of refills.
- E. **DISPENSING EXPIRED OR ADULTERATED PRESCRIPTION DRUGS**
Pharmacies dispense drugs that are expired, or have not been stored or handled in accordance with manufacturer and FDA requirements.
- F. **PRESCRIPTION REFILL ERRORS**
A pharmacist provides the incorrect number of refills prescribed by the provider.
- G. **ILLEGAL REMUNERATION SCHEMES**
Pharmacy if offered, or paid, or solicits, or receives unlawful remuneration to induce or reward the pharmacy to switch patients to different drugs, influence prescribers to prescribe different drugs or steer patients to plans.
- H. **TROOP MANIPULATION for Medicare Part D**
When a pharmacy manipulates TrOOP to either push a beneficiary through the coverage gap, so the beneficiary can reach catastrophic coverage before they are eligible, or manipulates TrOOP to keep a beneficiary in the coverage gap so that catastrophic coverage is never realized.
- I. **FAILURE TO OFFER NEGOTIATED PRICES for Medicare Part D**
Occurs when a pharmacy does not offer a beneficiary the negotiated price of a Part D drug.

**Deficit Reduction Act and
False Claims Policy for Massachusetts Workforce Members**

ATTESTATION

I have received a copy of the Deficit Reduction Act and False Claims Act Information for Massachusetts Workforce Members handout.

I am committed to preventing health care fraud, waste and abuse and complying with applicable state and federal laws. I understand that I am required by law to report any such violations to the Company Compliance Officer and may report to the Massachusetts Department of Health and Human Services.

Employee Signature

Date

Employee Name Printed