

DEPARTMENTAL POLICY

POLICY # 411	SUBJECT: Employee Education About False Claims Recovery
EFFECTIVE DATE: June 29, 2007	PAGE 1 of 2
AUTHORIZED SIGNATURE:	

EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY

- I. PURPOSE:** To communicate and comply with the contents of the Federal False Claims Act (Title 31, United States Code) and the Delaware False Claims and Reporting Act (Title 6, Delaware Code) and the Federal Deficit Reduction Act of 2005, Section 6032, which requires (1) an employee education policy regarding false claims recovery for entities receiving annual payments of at least 5 million dollars under a state Medicaid plan; and (2) procedures for detecting and preventing fraud, waste and abuse.
- II. POLICY:** DSCYF employees and all contracted service providers shall be informed about the:
- A. Activities that constitute false claims against state and federal funds (for example Medicaid eligibility and Medicaid reimbursement);
 - B. Relief to which whistleblowers (employees who report fraud and consequently suffer discrimination for such action) are entitled; and
 - C. Procedures for detecting and preventing fraud, waste and abuse.
- III. DEFINITIONS**
- A. False Claims: False claims occur when any person *knowingly* :
 1. Presents or causes to be presented a false or fraudulent claim for payment
 2. Makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid
 3. Conspires to make a false claim or get one paid
 4. Makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to repay overpayments
 - B. Knowingly: A person acts knowingly when that individual:
 1. Has actual knowledge of the claim information
 2. Acts in deliberate ignorance of the truth or falsity of the claim information
 3. Acts in reckless disregard of the truth or falsity of the claim information
 - C. Qui Tam Relator or Plaintiff: A private person who may bring an action on behalf of a government entity to redress false claims. Such persons may share in a percentage of the proceeds from a false claim action or settlement and are afforded whistleblower protections.
 - D. Whistleblower Protections: The relief to which an employee is entitled who has been discharged, demoted, suspended, threatened, harassed, or in any way discriminated against by his or her employer because of involvement in a false claims disclosure. Such relief necessary to make the employee whole may include:

1. Reinstatement with the same seniority status that the employee would have had but for the discrimination
2. Two times the amount of back pay plus interest
3. Compensation for any special damage sustained because of the discrimination (including litigation costs and reasonable attorney's fees)

IV. PROCEDURES

- A. Employee education about false claims recovery shall be implemented by: (1) training and notification of DSCYF employees; (2) inclusion of employee education about false claims recovery requirements in contracts with service providers; (3) placing the policy on the DSCYF internet site; and (4) posting the attached False Claims Recovery poster at relevant employee locations.
- B. Procedures used by DSCYF for detecting and preventing fraud, waste and abuse include:
 1. Weekly review of the OIG and CMS listing of providers that have been sanctioned.
 2. Existing reports in the FACTS system to detect and prevent fraud, waste and abuse.
 3. Edits/audits established and existing within the FACTS system to detect and prevent fraud, waste and abuse.
 4. Periodic process reviews performed by external consultants.
 5. Periodic audits/reviews performed by State and Federal auditors.
 6. DSCYF or contracted service provider employees who are uncertain about the validity of claims (for instance, those related to Medicaid eligibility or Medicaid reimbursement) shall review the relevant requirements to determine their validity and/or discuss their questions with their supervisor.
- C. If DSCYF or contracted service provider employees suspect or become aware of fraud, waste, or abuse, they shall report this to their supervisor. The supervisor is responsible for contacting the appropriate agency to report the matter. If the matter involves Medicaid eligibility or reimbursement, the supervisor shall call the Delaware Health and Social Services (DHSS) Division of Medicaid and Medical Assistance Surveillance and Utilization Review Unit at (302) 255-9646.
- D. Websites to relevant acts and related requirements:
 1. Federal False Claims Act:
<http://www.cms.hhs.gov/smdl/downloads/SMD032207Att2.pdf>
 2. Delaware False Claims and Reporting Act:
<http://www.delcode.delaware.gov/title6/c012/index.shtml>
 3. PL 109-171, Section 6032 – Encouraging the Enactment of State False Claims Acts; and Section 6033 – Employee Education About False Claims Recovery:
http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp109&sid=cp1091EYgl&refer=&n=hr362.109&item=&sel=TOC_227784&

FALSE CLAIMS RECOVERY

The Federal Deficit Reduction Act of 2005, Section 6032, requires that organizations receiving annual payments of at least 5 million dollars under a state Medicaid plan inform their employees about false claims recovery as described in the Federal False Claims Act (Title 31, United States Code) and the Delaware False Claims and Reporting Act (Title 6, Delaware Code). This information shall include the:

- A. Activities that constitute false claims against state and federal funds (for example Medicaid eligibility and Medicaid reimbursement);
- B. Relief to which whistleblowers (employees who report fraud and consequently suffer discrimination for such action) are entitled; and
- C. Procedures for detecting and preventing fraud, waste and abuse.

Definitions

False Claims: False claims occur when any person *knowingly* :

- Presents or causes to be presented a false or fraudulent claim for payment
- Makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid
- Conspires to make a false claim or get one paid
- Makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to repay overpayments

Knowingly: A person acts knowingly when that individual:

- Has actual knowledge of the claim information
- Acts in deliberate ignorance of the truth or falsity of the claim information
- Acts in reckless disregard of the truth or falsity of the claim information

Employee Responsibilities

- DSCYF or contracted service provider employees who are uncertain about the validity of claims (for instance those related to Medicaid eligibility or Medicaid reimbursement) shall review the relevant requirements to determine their validity and/or discuss their questions with their supervisor.
- DSCYF employees will conduct periodic on-going review of procedures established to detect and prevent fraud, waste and abuse.
- If DSCYF or contracted service provider employees suspect or become aware of fraud, waste, or abuse, they shall report this to their supervisor. The supervisor is responsible for contacting the appropriate agency to report the matter. If the matter involves Medicaid eligibility or reimbursement, the supervisor shall call the Delaware Health and Social Services (DHSS) Division of Medicaid and Medical Assistance Surveillance and Utilization Review Unit at (302) 255-9646.

Whistleblower Protections: The relief to which an employee is entitled who has been discharged, demoted, suspended, threatened, harassed, or in any way discriminated against by his or her employer for involvement in a false claims disclosure. Relief necessary to make the employee whole may include:

- Reinstatement with the same seniority status that the employee would have had but for the discrimination
- Two times the amount of back pay plus interest
- Compensation for any special damage sustained because of the discrimination (including litigation costs and reasonable attorney's fees)