



POLICY TYPE:

Corporate

Divisional

EFFECTIVE DATE:

01/01/2008

INITIAL APPROVAL DATE:

01/01/2006

NEXT REVIEW DATE:

May 2017

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5511

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01/06, 12/07, 03/08, 03/09, 12/09, 12/10, 3/11, 4/12, 9/13, 5/14, 11/14, 3/15, 4/16

APPLIES TO PRODUCT TYPE:

Medi-Cal

CMC

PAGE:

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POLICY APPLIES TO:

All of CHG Departments

CLASSIFICATION SERIES:

Compliance

SUBJECT:

COMPLIANCE WITH DEFICIT REDUCTION ACT OF 2005

Purpose: To ensure Community Health Group and CHG Partnership Plan (collectively, "CHG") are in compliance with Section 6032 of the Deficit Reduction Act of 2005, which requires the establishment of written policies about (i) CHG's processes for preventing fraud, waste and abuse, (ii) the Federal False Claims Act, (iii) similar state laws, (iv) administrative remedies for false claims and statements, and (v) applicable whistleblower protections.

Definitions:

1. **CFCA:** The California False Claims Act.
2. **Claim:** For the purposes of the FCA and the CFCA, "claim" generally includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the government provides any portion of the money or property which is requested or demanded, or if the government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.
3. **False Claim:** For the purposes of the administrative remedies provisions, a "false claim" is defined as a claim that the person knows or has reason to know: is false; includes or is supported by any written statement which asserts a material fact which is false; includes or is supported by any written statement that omits a material fact; is false as a result of such omission; and is a statement in which the person making such statement has a duty to include such material fact; or is for payment for the provision of property or services which the person has not provided as claimed.
4. **False Statement:** For the purposes of the administrative remedies provisions, a "false statement" is defined as a statement that the person knows or has reason to know asserts a material fact which is false or omits a material fact that makes the statement false.
5. **FCA:** The Federal False Claims Act.
6. **Knowingly:** For the purposes of the FCA and the CFCA, "knowingly" means that a person: (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

Procedure:

CHG's Processes for Detecting and Preventing Fraud, Waste and Abuse

1. CHG is committed to compliance with all applicable laws governing its activities as a governmentally funded payor and provider of health care services, including prevention of fraud, waste and abuse. In furtherance of this commitment, CHG has established a Compliance Program and detailed policies to deter, detect, and prevent, fraud, waste and abuse.



2. As more fully described in the Compliance Plan and related policies and procedures, CHG's Compliance Program consists of compliance policies, training, audits, anonymous reporting mechanisms, and an investigative process to minimize the risks of fraud, waste and abuse, such as the filing of false claims.
3. The Chief Compliance & Regulatory Affairs Officer can provide a more thorough discussion of the Compliance Program and any applicable laws designed to protect Federal and state health care programs from fraud, waste and abuse.
4. All CHG employees, contractors, and agents have an affirmative obligation to report suspected misconduct, such as false claims, to their immediate supervisor, the Chief Compliance & Regulatory Affairs Officer, or by using the compliance hotline at (800) 651-4459.

Information Regarding the Federal False Claims Act

1. The FCA helps the Federal government combat fraud and recovers losses resulting from fraud in Federal programs, purchases, or contracts. The FCA is found at 31 U.S.C. §§ 3729-3733.
5. A person or entity may violate the FCA by knowingly: (1) submitting a false claim for payment, (2) making or using a false record or statement to obtain payment for a false claim, (3) conspiring to make a false claim or get one paid, or (4) making or using a false record to avoid payments owed to the government.
6. The FCA imposes penalties of \$5,500 to \$11,000 per claim, plus three times the amount of damages to the government for FCA violations. Lawsuits must be filed by the later of either: (1) three years after the violation was discovered by the Federal official responsible for investigating violations (but no more than ten years after the violation was committed), or (2) six years after the violation was committed.
7. An individual has the right to file a civil suit for him or herself and for the government to challenge a suspected FCA violation. The suit must be filed in the name of the government. Such an individual is called a *qui tam* plaintiff or "relator." Successful relators may receive between 15 and 30 percent of the total amount recovered (plus reasonable costs and attorney fees) depending on the involvement of the relator and whether the government prosecuted the case. Individuals cannot file a lawsuit based on public information, unless he or she is the original source of the information.
8. The FCA contains important protections for whistleblowers. Employees who engage in lawful acts in furtherance of a false claims action and consequently suffer discrimination are entitled to all relief necessary to be made whole, including two times their back pay plus interest, reinstatement at the seniority level they would have had except for the discrimination, and compensation for any costs or damages they have incurred.

Information Regarding the California False Claims Act

1. The CFCA applies to fraud involving state, city, county or other local government funds. The CFCA encourages voluntary disclosure of fraudulent activities by rewarding individuals who report fraud and allowing courts to waive penalties for organizations that voluntarily disclose false claims. The CFCA is found at California Government Code §§ 12650-12655.
2. A person or entity may violate the CFCA by knowingly: (1) submitting a false claim for payment, (2) making or using a false record to get a false claim paid, (3) conspiring to make a false claim or get one paid, or (4) making or using a false record to avoid payments owed to the state or local government. In addition, anyone who benefits from a false claim that was mistakenly submitted violates the CFCA if he or she does not disclose the false claim to the state or local government within a reasonable time after discovery of the false claim.



3. The CFCA imposes penalties of \$10,000, per claim, plus three times the amount of damages that the state sustains because of the violation. The court can waive penalties and reduce damages for CFCA violations if the false claims are voluntarily disclosed. The CFCA does not apply to false claims of less than \$500.
4. Lawsuits must be filed within three years after the violation was discovered by the state or local official who is responsible for investigating the false claim, or, in any event, no more than ten years after the violation was committed.
5. An individual brings a civil action for violation of the CFCA on his or her own behalf and on behalf of the state or a political subdivision. As under the FCA, such an individual is called a *qui tam* plaintiff or "relator." Individuals who bring an action under the CFCA receive between 15 and 33 percent of the amount recovered (plus reasonable costs and attorney's fees) if the state prosecutes the case, and between 25 and 50 percent (plus reasonable costs and attorney's fees) if the relator litigates the case on his or her own. An individual cannot file a lawsuit based on public information, unless he or she is the original source of the information.
6. The CFCA contains important protections for whistleblowers. Employees who disclose information to a government or law enforcement agency or engage in lawful acts in furtherance of a false claims action and consequently suffer discrimination may be awarded two times their back pay plus interest, reinstatement at the seniority level they would have had except for the discrimination, compensation for any costs or damages they have incurred, and punitive damages, if appropriate.

Administrative Remedies

Federal law also provides administrative remedies, in the amount of up to \$5,000 for each false claim or statement and an assessment of up to twice the amount of each false or fraudulent claim, against any person who makes, or causes someone else to make, a false claim or a false statement. The administrative remedies for false claims and statements are found at 31 U.S.C. §§ 3801-3812.

Access Privileges: All _____

Regulatory: Deficit Reduction Act of 2005

NCQA:

Attachments: None

Policy Status: Signed (Signature on File) Active Draft Policy in Development

Approved By: Signature: _____

Department Head: Chief Compliance & Regulatory Affairs Officer

Date: _____

Signature: _____

Division Chief: Chief Executive Officer

Date: _____