

# Information about Federal and State False Claims Legislation<sup>1</sup>

University of Maryland Medical System and its affiliates<sup>2</sup> (collectively referred to herein as the “Medical System”) is required by federal law to provide information to all of its employees, contractors, and agents regarding the federal false claims act, administrative remedies for false claims and statements, the state false claims act and whistleblower protections under these laws. The federal and state false claims acts play an important role in detecting fraud, waste and abuse in federal health care programs.

## Federal False Claims Act

### What the law does:

It allows a civil action to be brought against a health care provider that:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid; or
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid

### Examples of a false claim:

- Billing for procedures not performed
- Violating another law, for example submitting an appropriate claim, but the service was resulted from an inappropriate arrangement between a physician and a hospital (e.g., physician received a kickback for referring patients to the hospital)
- Falsifying information in the medical record
- Billing more than once for the same service

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<sup>1</sup> This information is being provided in compliance with the federal Deficit Reduction Act of 2005.

<sup>2</sup> University of Maryland Medical System, Maryland General Hospital, Baltimore Washington Medical System, Chester River Health System, James Lawrence Kernan Hospital, Shore Health System, University Specialty Hospital and Mt. Washington Pediatric Hospital.

## **Remedies:**

- A federal false claims action may be brought by the U.S Department of Justice
- An individual may bring a "*qui tam*" action. This means the individual files an action on behalf of the government.
- Violation of the federal False Claims Act is punishable by a civil penalty of between \$5,500 and \$11,000 per false claim, plus three times the amount of damages incurred by the government.
- A statute of limitations indicates how much time may pass before an action may no longer be brought for violation of the law. Under the False Claims Act, the statute of limitations is six years after the date of violation or three years after the date when material facts are known or should have been known by the government, but no later than ten years after the date on which the violation was committed.

## **Federal Whistleblower Protections**

Federal law prohibits an employer from retaliating against an employee in the terms or conditions of employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole.

## **Maryland False Claims Provisions**

Maryland, like many other states, has enacted a statute similar to the federal False Claims Act that provides for criminal and civil remedies for the submission of false and fraudulent claims to the Medicaid program. Under Maryland's Medicaid fraud statute, it is a crime for a person to knowingly and willfully:

- Defraud or attempt to defraud the Medicaid program in connection with the delivery of or payment for a health care service or
- Obtain or attempt to obtain by means of a false representation anything of value in connection with the delivery of or payment for a health care service through the Medicaid program

Examples of false representations include:

- Knowingly and willfully concealing, falsifying or omitting a material fact
- Knowingly and willfully making a material false or fraudulent statement
- Knowingly and willfully using a document that contains a statement of material fact that the user knows to be false or fraudulent

## **Maryland Whistleblower Protections**

Maryland law prohibits retaliatory action by an employer against an employee who in good faith reports:

Any potential violation of state or federal law by an employer as a health care provider; or

Any situation where an employer provides care in a manner that violates state or federal standards or laws or recognized clinical or ethical standards.

## **Medical System Policies & Procedures for Preventing and Detecting Fraud & Abuse**

The hospitals within the Medical System utilize various processes in place that support the prevention and detection of fraud and abuse. These processes include, without limitation:

- A compliance hotline available for reporting issues
- Prompt investigation of all hotline reports
- Monitoring and auditing systems
- Training and education programs
- Screening processes ensuring that hospitals within the Medical System do not employ or contract with individuals or entities that have been sanctioned or debarred from government contracting or excluded from participation in Federal health care programs

## **What you should do if you think the Medical System may have made a false claim?**

If you, as a contractor/agent, have a concern about any of the Medical System's billing practices, the Medical System encourages you to:

Report the information to a Medical System supervisor for further investigation

If you are not comfortable reporting the information in this manner, please contact the Medical System's Compliance Office at 1-877-300-DUTY (3889) or logon to [www.reportit.net](http://www.reportit.net) to submit an electronic report to the Medical System's Compliance Office

You are not required to report a possible false claims act violation to the Medical System first. You may report directly to the federal Department of Justice.

**If you have any questions about this information, please call the Medical System's Compliance Department at 410-328-3848.**

**You can find additional information about the False Claims Act at:**

United States Department of Justice: <http://www.usdoj.gov>

Department of Health & Human Services: <http://www.hhs.gov>

Office of Inspector General: <http://oig.hhs.gov>

Systems for Medicare and Medicaid Services: <http://www.cms.hhs.gov>