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	EFFECTIVE DATE: 01/23/2012	LAST REVISION: 10/14/2024
SUBJECT: False Claims Act		

KEY WORDS: False Claims Act, FCA; Deficit Reduction Act, DRA

I. OBJECTIVE/BACKGROUND:

In compliance to comply with the Deficit Reduction Act of 2005, this Policy aims to provide all directors, officers, managers, supervisors, employees, medical staff, agents, contractors, volunteers, students and others (“Team Members”) information regarding certain federal and state laws relating to false claims, protections against reprisal or retaliation for those who report wrongdoing, and policies and procedures to detect and prevent fraud, waste and abuse within the University of Maryland Medical System (UMMS) and its affiliated legal entities (the Medical System).

II. APPLICABILITY:

This Policy applies to Team Members of any of the Medical System entities listed in the UMMS *List of Legal Entities*.


III. DEFINITIONS:

Claim	Any request, demand, or submission.
Compliance Hotline	Internal employee Compliance Hotline that includes a phone and online feature. 1-888-TEL-UMMS, is a toll-free 24/7 telephone number set up for employees to report compliance-related issues, anonymously if they choose, without fear of retaliation; employees are also able to report compliance issues anonymously online at https://umms.weblinesai360.com
Employee	All employees, including but not limited to employed physicians, medical residents and fellows acting within their Scope of Employment as well as other individuals using Medical System resources.
Non-Retaliation	No retaliatory actions may be taken against any person for reporting suspected violations in good faith.

IV. POLICY:

A. False Claims Laws:

The purpose of false claims laws is to combat fraud, waste and abuse in government health care programs by permitting the government to bring actions to recover damages and apply penalties when individuals or entities submit false or fraudulent claims to the government.

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These laws often allow for “qui tam” lawsuits. Qui tam lawsuits are lawsuits brought by laypersons, typically employees or former employees of health care organizations, who have knowledge of false claim related violations.

There is a Federal False Claims Act (“Federal FCA”), a Federal Program Fraud Civil Remedies Act, a Maryland False Health Claims Act (“Maryland FHCA”), a Maryland False Claims Act (“Maryland FCA”), and a generally applicable Maryland Medicaid fraud statute that is intended to prevent the submission of false or fraudulent claims to the Maryland Medicaid program.

B. Federal FCA


Under the federal False Claims Act, any person or entity that knowingly submits a false or fraudulent claim for payment of United States Government funds, or knowingly retains an overpayment of such funds more than 60 days, is liable for significant penalties and fines. The Federal FCA prohibits any individual or company from (1) knowingly submitting false or fraudulent claims payable by the federal government or causing such claims to be submitted; (2) making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim; (3) conspiring to get such a claim allowed or paid; or (4) concealing, avoiding or decreasing an obligation to pay amounts to the federal government. “Knowing” and “knowingly” mean 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. To be found as having “knowingly” submitted a false or fraudulent claim for payment of government funds does not require proof of a person’s specific intent to defraud.

Examples of the type of activity prohibited by the Federal FCA include billing a federally funded program, such as Medicare or Medicaid, for services that were not provided and upcoding (i.e., billing for a more expensive service instead than what was actually provided). Another example is retaining improper overpayments received from a federally funded program. The Federal FCA applies to billing and claims sent to any government payor program, including Medicare, Medicaid, TRICARE, etc.

Any person or company determined to have violated the Federal FCA may be fined between \$13,946 and \$27,894 (as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990) for each claim submitted, regardless of the size of the false claim, plus up to three times the amount of damages sustained by the federal government.

C. Federal Program Fraud Civil Remedies Act

Individuals or companies that defraud the federal government, by false claim or written statement, can also be assessed monetary penalties under the federal Program Fraud Civil Remedies Act. Specifically, penalties of twice the amount of the damages to the government and \$13,946 (as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990) per false claim or statement may be assessed upon an individual or company that has submitted or caused to be submitted a claim to the federal government that: (1) the person knows or

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has reason to know is false, fictitious or fraudulent; (2) includes or is supported by any written statement which asserts a material fact which is false, fictitious or fraudulent.; (3) includes or is supported by any written statement that omits a material fact, which causes the statement to be false, fictitious or fraudulent, and the person submitting the statement has a duty to include the omitted fact; and (4) is for payment of property or services that were not provided as claimed.

D. Maryland FHCA

The Maryland FHCA, which is largely modeled after the Federal FCA, prohibits a person from:

- (1) Knowingly presenting or causing to be presented a false or fraudulent claim for payment or approval;
- (2) Knowingly making, using, or causing to be made or used a false record or statement material to a false or fraudulent claim;
- (3) Conspiring to commit a violation under the Maryland FHCA;
- (4) Having possession, custody, or control of money or other property used by or on behalf of the State under a State health plan or a State health program and knowingly delivering or causing to be delivered to the State less than all of that money or other property;
- (5) Being authorized to make or deliver a receipt or other document certifying receipt of money or other property used or to be used by the State under a State health plan or program and, intending to defraud the state or the Maryland Department of Health, make or deliver a receipt or document knowing that the information contained in the receipt or document is not true;
- (6) Knowingly buying or receiving as a pledge of an obligation or debt publicly owned property from an officer, employee, or agent of a State health plan or a State health program who lawfully may not sell or pledge the property;
- (7) Knowingly making, using, or causing to be made or used, a false record or statement material to an obligation to pay or transmit money or other property to the State;
- (8) Knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or other property to the State; or making any other false or fraudulent claims against a State health plan or program.
- (9) Knowingly making any other false or fraudulent claim against a State health plan or a State health program.

A violator is liable for civil penalties up to \$10,000 per violation, plus three times the damages, as well as attorneys' fees and court costs. The total penalties may not be less than the actual damages incurred and are

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in addition to any criminal, civil or administrative penalties provided under any other State or federal statute or regulation.

E. Maryland FCA

The Maryland FCA is almost identical in language and purpose to the Maryland FHCA, except that the Maryland FCA is broader than the Maryland FHCA and applies to all claims submitted to government agencies (i.e., not just health care claims submitted to State health plans and programs). Like the Maryland FHCA, a person who violates the Maryland FCA is liable for civil penalties up to \$10,000 per violation, plus three times the damages, as well as attorneys’ fees and court costs. The total penalties may not be less than the actual damages incurred and are in addition to any criminal, civil or administrative penalties provided under any other State or federal statute or regulation.

Like the Federal FCA, both the Maryland FHCA and the Maryland FCA permit “qui tam” actions.


F. The Maryland Medicaid Fraud Statute

The Maryland Medicaid fraud statute applies to the Maryland Medicaid program and insurers, health maintenance organizations, and managed care organizations that contract with the Medicaid program to provide health care services reimbursable by the Medicaid program and their subcontractors (each a “State health plan”).

The statute prohibits a person from: (1) knowingly and willfully defrauding or attempting to defraud a State health plan in connection with the delivery of or payment for a health care service; (2) knowingly and willfully obtaining or attempting to obtain, by means of a false representation, money, property, or anything of value in connection with the delivery of or payment for a health care service that is wholly or partly reimbursed by or is a required benefit of a State health plan; (3) knowingly and willfully defrauding or attempting to defraud a State health plan of the right to honest services; and (4) with the intent to defraud, making a false representation relating to a health care service or a State health plan.

A violation of the Maryland Medicaid fraud statute that results in the death of an individual can result in imprisonment not exceeding life and/or a \$200,000 fine. A violation leading to serious injury to an individual can lead to imprisonment up to 20 years and/or a \$100,000 fine. A violation involving money, health care services, or other goods or services valued at \$1,500 or more is a felony, and can lead to imprisonment up to five years and/or a \$100,000 fine. Any other violation is a misdemeanor and can result in imprisonment up to three years and/or a \$50,000 fine. Business entities can also be liable for \$250,000 for each felony violation and \$100,000 for each misdemeanor violation.

Violations are also subject to civil penalties up to three times the amount of the overpayment. The Maryland FCA also permits for “qui tam” actions.

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G. Whistleblower Protection

The Federal FCA protects individuals who report suspected fraud, who are referred to as “whistleblowers.” Any person who lawfully reports information about actual or potential violations of the Federal FCA may not be retaliated against, demoted, suspended, threatened, or harassed for making such a report. The Federal FCA also protects individuals who assist in an investigation, provide testimony, or participate in the government’s handling of a false claim.


Similarly, Maryland law protects employees, contractors and grantees from retaliation if they:

- Act lawfully in furtherance of an action filed under the Maryland FCA or FHCA, including an investigation of, testimony for, or assistance in an action filed or to be filed under the Maryland FCA or FHCA;
- Disclose or threaten to disclose to a supervisor or to a public body any activity, policy, or practice that the employee, contractor or grantee reasonably believes is a potential violation of the Maryland FCA or FHCA;
- Testify or provide information to a public body conducting an investigation, hearing, or inquiry into a violation of the Maryland FCA or FHCA; or
- Object to or refuse to participate in any activity, policy, or practice that the employee, contractor or grantee reasonably believes is in violation of the Maryland FCA or FHCA.

H. Detection of Fraud, Waste and Abuse

All Team Members have a responsibility to report to the UMMS Corporate Compliance and Business Ethics Group any incidents of actual or suspected fraud, waste, abuse, or misconduct that potentially violates federal or state law or UMMS policies. UMMS engages in specific efforts to detect and prevent fraud, waste, and abuse including:

- Adhering to policies and procedures for the prevention of fraud, waste, and abuse, including policies related to:
 - Identifying and correcting overpayments;
 - Compliance investigations;
 - Sanction screening; and
 - Restrictions related to vendor and referral source relationships.
- Maintaining a 24/7 compliance hotline and web-based system available for reporting, which Team Members can report to anonymously;

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- Investigating all reports of actual or suspected fraud, waste, abuse, and misconduct;
- Monitoring and auditing systems, including professional fee and hospital billing;
- Training and education programs, including annual compliance training, new employee compliance training, and targeted compliance education efforts;
- Screening processes to confirm that neither UMMS nor the Medical System 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; and
- Performing internal audits.

Information about the UMMS compliance program and specific compliance policies or efforts to detect and prevent fraud, waste, and abuse can be obtained by contacting the Corporate Compliance and Business Ethics Group at 410-328-4141 or compliance@umm.edu.

To report a concern, Team Members should contact any member of senior management, the Corporate Compliance and Business Ethics Group, or the compliance hotline accessible at 1-833-58335-TELL-US or online at <https://umms.weblinesai360.com>.

V. NON-RETALIATION:

UMMS does not tolerate retaliation in any form against a person for reporting to appropriate personnel a reasonable belief that there are or may be compliance-related concerns (*see* Corporate Compliance Policy CC1204 Internal Reporting and Non-Retaliation).


VI. NON-COMPLIANCE:

Non-compliance with this policy may result in remedial action. If you suspect or know of a violation of this policy, it should be reported to your supervisor or to the Corporate Compliance and Business Ethics Group.. UMMS has a policy of non-retaliation and any retaliation against someone who reports a violation in good faith will be subject to disciplinary action.

VII. RELATED POLICIES:

CC1204 Internal Reporting and Non-Retaliation
 University of Maryland Medical System Standards of Business Conduct
 CC1201 Compliance Investigation Policy and Procedures

VIII. REFERENCES:

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Md. Code, General Provisions, §§ 8-1011 *et seq.*
311 U.S.C. §§ 3801-3812.
42 U.S.C. §§ 1396a (a)(68).
Md. Code, Health-General, §§ 2-601 *et seq.*
31 U.S.C. §§ 3729-3733.

IX. POLICY OWNER:

Corporate Compliance & Business Ethics Group will maintain this Policy.

X. APPROVED:

Executive Compliance Committee Approved Initial Policy: 01/23/2012

Executive Compliance Committee Approved Revisions: 02/15/2016, 8/20/2018; 10/14/2024