

Reporting to External Agencies – Legal Information

Information about the federal False Claims Act

The federal False Claims Act (31 USC §§3729-3733) was enacted during the Civil War and provides that a person or entity that knowingly submits a false or fraudulent claim for payment of federal funds (e.g., from Medicare and Medicaid) may be punished with significant penalties and fines.

Penalties under this Act include:

fines of up to three times the Government's damages,
civil penalties ranging of \$5500 - \$11,000 per false claim, and
the costs of a civil action against the entity that submitted the false claims.

The Act contains a "qui tam" or "whistleblower" provision which provides that:

A private individual who has knowledge of a false claim may bring a civil action on behalf of the federal government to recover monies paid as the result of a false claim, and

An individual who brings such a suit may be entitled to a portion of any recovery made depending on several variables, including whether or not the federal government participated in the suit, or whether the court finds that the individual played a part in furthering the false claim violation. If the individual is convicted of criminal conduct related to the preparation or submission of the false claims, they will be dismissed from the civil action and receive no part of the recovery.

The Act protects whistleblowers from retaliation (e.g., improper termination, demotion, suspension, threats, harassment, or discrimination) by their employer for lawfully bringing a false claims suit. If the employer ignores these legal restrictions, an individual who was retaliated against in this manner may sue the employer and may be reinstated to their job with their seniority status intact, receive two times the amount of back pay (plus interest), and receive compensation for any special damages that resulted from the retaliation, like litigation costs and attorneys fees.

Information about the Program Fraud Civil Remedies Act of 1986

This Act provides administrative remedies for knowingly submitting false claims and statements.

A false claim or statement would include submitting a claim or making a written statement that is for services that were not actually provided, asserts a material fact that is false, or that omits a material fact.

A violation of this Act results in a maximum civil penalty of \$5000 for each false claim and an assessment of up to twice the amount of each false or fraudulent claim.

Information about the Utah False Claims Act

Utah has a state law (Utah Code 26-20-1 et seq.) comparable to the federal laws listed in 1 and 2 above. Utah's False Claims Act provides for similar civil and criminal penalties based on the same types of false claims proscribed in the federal law. Utah's False Claims Act, however, also states that a person may be liable for filing a claim for items or services, which they or the provider knows were not medically necessary, or if they file a claim for benefits that were already covered by a private source.

Information About Reporting to External Agencies

Intermountain Healthcare's Compliance Violation Reporting Policy states that all individuals are required to report any and all suspected compliance violations through established channels to the appropriate personnel. This may include the employee's supervisor or manager, the Facility/Regional Compliance Coordinator, Human Resources Representative, the Corporate Compliance and Privacy Officer, or any member of the Corporate Compliance Department. In addition to these mechanisms to report concerns, many agencies outside of Intermountain provide avenues for reporting concerns. A link to a table that provides many of those resources is provided. This table will be reviewed periodically and updated as necessary.

Reference:

Deficit Reduction Act of 2005 (SEC.6032)

EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY

(a) In General.--Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended--

- (1) in paragraph (66), by striking "and" at the end,
- (2) in paragraph (67) by striking the period at the end and inserting ";" and"; and
- (3) by inserting after paragraph (67) the following:

"(68) provide that any entity that receives or makes annual payments under the State plan of at least \$5,000,000, as a condition of receiving such payments, shall--

"(A) <<NOTE: Procedures.>> establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

"(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

"(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse."

(b)<<NOTE: 42 USC 1396a note.>> Effective Date.--Except as provided in section 6035(c), the amendments made by subsection (a) take effect on January 1, 2007.

Federal False Claims Act

<http://uscode.house.gov/download/pls/31C37.txt>

Administrative Remedies for False Claims and Statements

<http://uscode.house.gov/download/pls/31C38.txt>

Utah False Claims Act

http://le.utah.gov/~code/TITLE26/26_20.htm