

## ***Memorial Health Center***

**Placement** (all areas where procedure can be found): **Operations Manual – Corporate Compliance Section**  
**Departments Affected:** **All Departments**

### ***Policy: False Claims Act/Whistleblower Protection***

#### **PURPOSE**

To educate employee, contractors, and agents of Memorial Health Center on the requirements of the federal Deficit Reduction Act of 2005, which contains provisions to combat fraud and abuse in government health care programs. Under the Deficit Reduction Act, Memorial Health Center is required to provide employees, contractors, and agents with information regarding federal and state false claims laws, administrative remedies under those laws, whistleblower protections to employees who report incidents of false claims, and Memorial Health Center's program for detecting and preventing fraud, waste, and abuse in Medicare, Medicaid, and other government programs.

#### **AREAS AFFECTED/STAKEHOLDERS**

All Memorial Health Center entities, employees, and contractors.

#### **POLICY**

##### **I. FEDERAL FALSE CLAIMS ACT**

- a. The primary purpose of the federal False Claims Act is to combat fraud and abuse with regard to federal healthcare programs. The False Claims Act does this by making it possible for the federal government to bring legal action against health care providers who submit "false claims." The False Claims Act also permits lawsuits brought by individuals, typically employees or former employees, who have knowledge of fraudulent activities. These individuals are called "qui tam relators" or "whistleblowers."
- b. The False Claims Act prohibits any individual or organization from knowingly submitting a false or fraudulent claim for payment of services (e.g. health care services) pursuant to a federally funded program (e.g. Medicare, Medicaid). The False Claims Act imposes civil liabilities on any person or organization who:
  1. Knowingly presents a false or fraudulent statement or claim for payment or approval;
  2. Knowingly makes or uses a false record or statement to get a false or fraudulent claim paid or approved;
  3. Conspires with another to get a false or fraudulent claim paid or allowed; or,
  4. Knowingly makes or uses false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property.
- c. A wide variety of conduct may lead to the submission of fraudulent claims to the government, including knowingly making false statements, falsifying records, double-billing for items or services, or submitting bills for items or services never furnished. There is no requirement that there be an intent to defraud the government. The requirement of doing something in a knowing manner is met by showing either (1) actual knowledge; (2) deliberate ignorance of the truth or falsity of information; or (3) reckless disregard of the truth or falsity of the information.
- d. Federal Civil Penalties: Violations of the federal False Claims act can result in penalties of not less than \$5,500 and not more than \$11,000 per claim (subject to

inflationary increases), plus up to three times the amount of damages that the government sustains.

## II. FEDERAL QUI TAM “WHISTLEBLOWER” ACTIONS

- a. Any private person (“Qui Tam Relater”) with actual knowledge of allegedly false claims may file a lawsuit on behalf of the United States government. The federal government gets an opportunity to review the complaint and the disclosure of substantially all of the material evidence and information the person possesses to decide whether to intervene. If the federal government decides to intervene, then it has the primary responsibility for prosecuting the action for the False Claims, and the person who originally brought the action, the Qui Tam Relater, may receive from 15% to 25% of the proceeds of the action or settlement of the claim. If the federal government does not proceed with the action and the Qui Tam Relater continues with the action or settles the claim, he or she may receive an amount from 25% to 30% of the proceeds of the action or settlement. The Qui Tam Relater may also receive an amount for reasonable expenses, including reasonable attorney fees and costs incurred in connection with bringing the lawsuit.

## III. WISCONSIN FALSE CLAIMS ACT

- a. Wisconsin has enacted a Wisconsin False Claims Act. Any person who does any of the following is liable to the state for three (3) times the amount of damages sustained by the State because of the actions of the person, and shall forfeit not less than \$5,000 nor more than \$10,000 for each violation:
  1. Knowingly presenting a false claim for medical assistance.
  2. Knowingly making a false record or statement to obtain approval or payment of a false claim for medical assistance.
  3. Conspiring with another to get a false or fraudulent claim paid.
  4. Knowingly making or using a false record or statement to conceal, avoid, or decrease any obligation to pay or transmit money or property to the medical assistance program.
  5. Being a beneficiary of the submission of a false claims for medical assistance, knowing that the claim is false, and failing to disclose the false claim to the state within a reasonable time after the person becomes aware the claim is false.

## IV. WHISTLEBLOWER PROTECTION LAWS

- a. Both the federal and state laws protect employees from retaliation if they, in good faith, report fraud. Employees are protected against retaliation such as being fired, demoted, threatened, or harassed as a result of filing a False Claims Act lawsuit. An employee who suffers retaliation can sue, and may receive up to twice his or her pay back, plus interest, reinstatement at the seniority level he or she would have had if not for the retaliation, and compensation for his or her costs or damages. This does not insulate the reporter from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

## V. MEMORIAL HEALTH CENTER POLICIES AND EDUCATION

- a. Non-retaliation Policy:

Memorial Health Center has adopted a “Non-retaliation” policy through the Corporate Compliance Plan that provides for protection of personnel who make a good faith report of issues or concerns, including reports of suspected fraud, waste, and abuse.

b. Programs to Prevent and Detect Fraud:

As part of the Memorial Health Center Corporate Compliance Plan, a policy entitled “Corporate Compliance Hotline” has been enacted that provides a detailed procedure for identifying and reporting potential fraud and abuse. Under the policies, personnel are obligated to report suspected fraud and abuse, including false or misleading claims or statements, through either the chain of command, directly to the Compliance Officer at x8159, or to the Corporate Compliance Hotline at 1.888.297.1555. The confidentiality of all calls to the hotlines are maintained to the fullest extent permitted by law.

c. Educating Employees, Medical Staff, Contractors, and Agents on the Wisconsin False Claims Act Policy

Memorial Health Center will provide and make this False Claims Act/Whistleblower Protection Policy available to all employees, medical staff, contractors, and agents and provide them an opportunity for discussion of the policy.

**REFERENCES**

Federal False Claims Act, 31 USC 3729-3733

Wisconsin False Claims Act, Wis. Stat. § 20.931

Aspirus, Inc. Policy #10211

Memorial Health Center Corporate Compliance Plan

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