

False Claims Acts – CMP212

Subject: False Claims Acts	Effective: March 1, 2017
Policy #: CMP212	Review Schedule: Annual or as needed

Applicability:

This policy applies to all workforce members.

Policy:

Colorado Access (COA) is committed to compliance with state and federal laws addressing the prevention and detection of fraud, waste and abuse. Federal and state laws, including the False Claims Act and the Colorado Medicaid False Claims Act prohibit the knowing submission of false or fraudulent claims or statements to the government for payment. These laws are intended to reduce the amount of fraud, waste, and abuse in state and federal health care programs and contain protections from retaliation for those who report wrongdoings, misconduct, or violations of laws and regulations in good faith.

No COA workforce member may knowingly submit to a federal or state health care program a false claim for reimbursement or a claim that one suspects is false. Such conduct is unlawful under federal and state law. Colorado Access strives to ensure that its workforce members and contractors are fully aware of conduct that constitutes a false claim, and has implemented a Compliance Program to ensure our business is conducted with the highest level of integrity.

False Claims Act - Federal

The False Claims Act prohibits knowingly presenting (or causing to be presented) to the federal government a false or fraudulent claim for payment or approval. A false claim is a claim for payment, which is knowingly submitted for services or supplies that were not provided specifically as presented, or for which the individual or entity is otherwise not entitled to payment.

“Knowingly” means: (1) actual knowledge that the information on the claim is false; (2) acting in “deliberate ignorance” of the truth or falsity of the information on the claim; or (3) acting in “reckless disregard” of the truth or falsity of the information on the claim. It is important to note that an individual or entity does not have to deliberately intend to defraud the federal government in order to be found liable under the False Claims Act.

The civil penalty for violating the False Claims Acts is a minimum of \$5,000 up to a maximum of \$11,000 for each false claim submitted. In addition to the penalty, a provider could be found liable for up to three times the amount unlawfully claimed.

Whistleblower Provisions of False Claims Acts

The False Claims Acts allow individuals to bring civil suits against an individual or entity in the name of the government for violations of the False Claims Acts. The government may choose to join in the lawsuit and assume primary responsibility for prosecuting, dismissing or settling the action. If the government chooses not to join the suit, the individual who initiated the lawsuit has the right to conduct the action independent of the government.

Plaintiffs may receive 10%-30% of the action or settlement and may also receive an amount for reasonable expenses plus reasonable attorneys' fees and costs. If the plaintiff planned or initiated the violation, the plaintiff's share of the proceeds may be reduced and, if the plaintiff is found guilty of a crime associated with the violation, no share will be awarded the plaintiff. If the plaintiff's civil action is frivolous, or brought primarily to harass the provider, the plaintiff may have to pay the defendant's fees and costs.

The False Claims Acts also provide for protection for employees from retaliation.

Colorado Medicaid False Claims Act

The Colorado Medicaid False Claims Act prohibits knowingly presenting (or causing to be presented) to the Colorado Medicaid program a false or fraudulent claim for payment or approval.

The civil penalty for violating the Colorado Medicaid False Claims Acts is a minimum of \$5,000 up to a maximum of \$10,000 for each false claim submitted. In addition to the penalty, a provider could be found liable for up to three times the amount unlawfully claimed.

Colorado Fraudulent Acts Statute

A person is guilty of committing theft for obtaining or willfully aiding or abetting another to obtain public assistance, vendor payments or medical assistance to which the person is not entitled or exceeding what the person is entitled to by means of false statements or representations, impersonation or by any other fraudulent device.

A person found guilty of committing theft may be guilty of a felony or misdemeanor depending on the amount of the damages. In addition, a person found guilty of committing theft will be disqualified from participation in any public assistance program for one year for the first offense, two years for the second offense and permanently for the third offense.

COA Policies on Prevention and Detection of Fraud and Abuse

All COA workforce members should be aware of COA policies regarding detection and prevention of health care fraud and abuse. These policies can be accessed online through the COA intranet or by contacting the Compliance Team at compliance@coaccess.com.

COA's policies relevant to the prevention and detection of fraud and abuse include:

- COA Code of Conduct
- COA Compliance Plan
- CMP 211 Fraud, Waste and Abuse
- CMP201 Compliance Problem Reporting and Non-retaliation
- CMP204 Corporate Compliance Program Education and Training

Colorado Access will include information about Fraud, Waste, Abuse and the False Claims Act, in the provider manual, on the company website, in provider bulletins, company policies and procedures, vendor contracts, and in other communications and training materials.

Reporting Non Compliance

COA employees must report any known or suspected violations of law to their supervisor or to the Chief Compliance Officer. Supervisors shall forward all compliance concerns to the Chief Compliance Officer. COA supports employees in fulfilling this obligation by maintaining a non-retaliation policy against staff

who report in good faith and by providing an external hotline that allows employees to report issues anonymously.

COA expects its vendors and contractors to support our efforts to prevent and detect practices that could potentially violate laws, regulations, or COA's policies. Any employee of a vendor or contractor who has concerns about the work they do for COA or work done by COA should report these concerns to the Chief Compliance Officer directly or the Compliance Hotline.

Procedures:

1. Potential or suspected violations of law or incidents of fraud, waste and abuse shall be reported by contacting your direct supervisor or a member of the Colorado Access Compliance Team:
 - a. In person at the main Colorado Access facility
 - b. Email to compliance@coaccess.com
 - c. COA Hotline at (877) 363-3065.

References:

31 USC §§3729-3730
CRS §25.5-4-303.5 to §25.5-4-310
CRS § 26-1-127

Attachments:

None