ACCESS: SUPPORTS FOR LIVING INC., The Guidance Center of Westchester, Inc.; New York Families for Autistic Children, Inc.; and Meaningful NY Initiatives for People with Disabilities, Inc.

FALSE CLAIMS ACT POLICY

Purpose of Policy

The purpose of this policy is to ensure that Access: Supports for Living, Inc., , The Guidance Center of Westchester, New York Families for Autistic Children, Inc., and Meaningful New York (henceforth referred to as "the Agency") do not engage in conduct that violates the federal or state False Claims Act and other state laws punishing the making of false claims and statements.

Applicable Law

The federal False Claims Act is violated if a person knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the federal government. 31 U.S.C. § 3729-3733. The potential penalties for violating the federal False Claims Act include treble damages (damages equal to three times the amount of the false claims), civil penalties per claim and exclusion from federal health care programs. In addition, the federal government may impose administrative sanctions plus twice the amount of the false claim under the Federal Program Civil Remedies Act of 1986 (31 U.S.C. § 3801).

A comparable New York State False Claims Act (Article 13 of the State Finance Law) imposes penalties for the knowing submission of false claims to either state or local government. Under the state law, false claims can result in the imposition of civil penalties plus treble (three times) damages for the false claims asserted. The damages will only be doubled, rather than tripled, if the court finds that the provider provided timely and full cooperation with the investigation.

Several other New York State laws also prohibit the making of false claims and statements. Criminal penalties may be imposed for knowingly making a false entry in business record or filing a false instrument with a government agency (Article 175 of the Penal Law), committing a fraudulent insurance act (Article 176 of the Penal Law) or engaging in health care fraud (Article 177 of the Penal Law).

Definitions

Claim means any request or demand for payment submitted to another party if the federal government directly or indirectly covers the cost of any portion of the claim.

Fraud means any type of intentional deception or misrepresentation made by a person with the knowledge that that the deception or misrepresentation could result in some unauthorized benefit to himself/herself or another person.

Knowing and knowingly means that a person, with respect to information (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of a specific intent to defraud is required for a person to act knowingly.

Statement of Policy

Types of Conduct Prohibited under the Federal False Claims Act – 31 U.S.C. §§ 3729 - 3733
(1) In general.--Subject to paragraph (2), any person who
(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);
(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410 [FN1]), plus 3 times the amount of damages which the Government sustains because of the act of that person.

The Agency may be subject to liability under the federal or state False Claims Acts for knowingly engaging in the following types of conduct:

- Submitting claims to the Medicaid program for services not actually rendered or for which the Agency are not otherwise entitled to reimbursement.
- Submitting cost reports to Medicaid that are inaccurate or incomplete.
- Failing to bill Medicare or a private insurer as the primary payer prior to submitting a claim to the Medicaid program.

The above list is intended to be illustrative and not exhaustive. Liability exists for any

knowing submission of false claims or statements that result in payment by a federal, state or local health care program to which the Agency are not entitled.

All employees, interns, volunteers, contractors and board members (henceforth referred to as "agents") are strictly prohibited from engaging in any conduct that violates the federal or state False Claims Acts. Agents must take all steps specified in this policy to protect the Agency from liability.

Reporting of False Claims Act Violations by Agents

Agents will be expected to report the preparation or submission to Medicaid or any other federal, state or local health care program of any claim or report that appears to be false or fraudulent, or any other conduct that appears to violate the federal or state False Claims Acts. Agents may make such reports through any of the mechanisms described in the Agency Fraud, Waste and Abuse Reporting Policy. All reports received from agents will be evaluated and investigated as necessary pursuant to such policy. Agents are encouraged to contact their supervisor, formal leader or the Compliance Officer if they have questions as to whether certain practices violate the federal or state False Claims Acts.

Agents have the legal right to file qui tam lawsuits with the government if they become aware that the Agency has submitted claims for reimbursement to Medicaid or other government programs in violation of the federal or state False Claims Acts. In a qui tam lawsuit under the federal False Claims Act, the agent, referred to as a "relator," files the case under seal and requests that the federal government intervenes and take over prosecution of the matter. If the case results in a recovery for the government, the relator may be awarded a portion of the funds recovered.

The State False Claims Act has a similar process for qui tam lawsuits. The Agency will not seek to impede any employee from filing a qui tam lawsuit, through threats of retaliation or otherwise.

Employee and Contractor Education

The Agency provides annual compliance training to all employees. This training will include information on the state and federal False Claims Acts, Deficit Reduction Act and other state laws regarding making false claims for payment by any governmental agency.

The Compliance Officer in collaboration with Senior Leadership will ensure that, in connection with the execution of each contract by the Agency, the contractor/vendor receives information regarding the Agencies Code of Ethics, the Deficit Reduction Act, False Claims Act and Fraud, Waste and Abuse Reporting Policies.

Internal Auditing

The Compliance Officer will ensure that the periodic compliance audits conducted by or on behalf of the Agency cover the submission of accurate claims and cost reports to federally funded programs, as well as any other activities deemed by the Compliance Officer to raise potential risks under the federal or state False Claims Acts. The Compliance Officer will oversee the development and implementation of a corrective action plan to address any compliance issues identified through such audits.

Disclosure of False Claims

The Agency will report any false or fraudulent claims within sixty (60) days of identification and make appropriate restitution for any overpayments. Accordingly, the Compliance Officer will promptly investigate all reports of potential federal False Claims Act violations to provide the Agency with an opportunity to make disclosure and restitution.

Cooperation with Investigation

In the event of an investigation by state or local government, the Compliance Officer and other agency staff shall provide all information relevant to an investigation within 30 days of the information's discovery and cooperate with the government officials conducting the investigation.

Enforcement of Policy

Agents who do not comply with this policy will be subject to guidance and disciplinary action. Depending on the facts and circumstances of each case, the Agency may reprimand, suspend or terminate any agent who fails to comply with this policy