

CITY OF HORNELL AMBULANCE SERVICE

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False Claims Act Education

Purpose

To provide education on the Federal and State False Claims Act to all ambulance personnel, including all EMS and billing staff , as well as all Business Associates.

Policy

As required by 42 U.S.C. §1396a(a)(68), it is the policy of the City of Hornell Ambulance Service to provide the following detailed information to all ambulance employees and Business Associates about federal and state False Claims Acts and this organization's policies and procedures to detect and prevent fraud, waste and abuse. This information shall be included in the Compliance Manual, located both at the billing office and Fire Department, on the City of Hornell's website and distributed to all Business Associates.

Procedure

I. FALSE CLAIMS ACT INFORMATION

A. Federal False Claims Act

The federal False Claims Act, among other things, applies to the submission of claims by health care providers for payment by Medicare, Medicaid and other federal and state health care programs. The False Claims Act is the federal government's primary civil remedy for improper or fraudulent claims. It applies to all federal programs, from military procurement contracts, to welfare benefits, to health care benefits.

B. Prohibitions of the Federal False Claims Act

The False Claims Act prohibits, among other things:

- (a) knowingly presenting or causing to be presented to the federal government a false or fraudulent claim for payment or approval;
- (b) knowingly making or using, or causing to be made or used, a false record or statement in order to have a false or fraudulent claim paid or approved by the government;

- (c) conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; and
- (d) knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

“Knowingly” means that a person, with respect to information: (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, and no proof of specific intent to defraud is required.

C. Enforcement

The United States Attorney General may bring civil actions for violations of the False Claims Act. As with most other civil actions, the government must establish its case by presenting a preponderance of the evidence rather than by meeting the higher burden of proof that applies in criminal cases.

The False Claims Act allows private individuals to bring “qui tam” actions for violations of the Act.

D. Protection for “Whistleblowers”

If any employee has knowledge or information that any such activity may have taken place, the employee should notify his/her supervisor or call the Compliance hotline at 607-324-7421 ext. 103. Information may be reported to the Hotline anonymously.

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addition, federal and state law and our policy prohibit any retaliation or retribution against persons who report suspected violations of these laws to law enforcement officials or who file “whistleblower” lawsuits on behalf of the government. Anyone who believes that he or she has been subject to any such retribution or retaliation should also report this to the Compliance Hotline.

NY False Claim Act (State Finance Law §191)

The False Claim Act also provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees.

E. Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act of 1986 (PFCRA) authorizes federal agencies such as the Department of Health and Human Services(HHS) to investigate and assess penalties for the submission of false claims to the agency. The conduct prohibited by the PFCRA is similar to that prohibited by the False Claims Act. For example, a person may be liable under the PFCRA for making, presenting, or submitting, or causing to be made, presented, or submitted, a claim that the person knows or has reason to know:

- (a) is false, fictitious, or fraudulent;
- (b) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
- (c) includes or is supported by any written statement that-
 - i. omits a material fact
 - ii. is false, fictitious, or fraudulent as a result of such omission;
 - iii. and is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
- (d) is for payment for the provision of property or services which the person has not provided as claimed

If a government agency suspects that a false claim has been submitted, it can appoint an investigating official to review the matter. The investigating official may issue a subpoena to further the investigation, or may refer the matter to the Department of Justice for proceedings under the False Claims Act. If, based on the investigating official's report, an agency concludes that further action is warranted, it may issue a complaint following approval from the Department of Justice) regarding the false claim. A hearing would be held, following the detailed due process procedures set forth in the regulations implementing the PFCRA.

F. State Law

There can also be liability under the state for false or fraudulent claims with respect to Medicaid program expenditures, including:

- (a) Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval to the Medicaid program;
- (b) Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Medicaid program;
- (c) Conspiring to defraud the Medicaid program by getting a false or fraudulent claim allowed or paid;
- (d) Knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Medicaid program.

NY False Claims Act (State Finance Law §187-194).

The NY False Claims Act closely tracks the Federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6000-\$12000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government's legal fees. The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the suit eventually concludes with payment back to the government, the person who started the case can recover 15-25% if the government did participate in the suit.