

TITLE	Fraud, Waste and Abuse
SECTION	Corporate Compliance
POLICY NUMBER	COM 1105
RESPONSIBLE PERSON	Corporate Compliance Officer

STATEMENT OF POLICY

It is the policy of the Cornell Scott-Hill Health Corporation (CS-HHC) to vigorously combat fraud, waste and abuse in federal and state healthcare programs by (1) providing information on federal and state criminal and civil laws and regulations that punish prohibited activities; (2) providing information on federal and state laws and regulations that protect individuals who report fraud, waste and abuse from retaliation; and (3) informing CS-HHC employees, contractors and agents of CS-HHC's efforts to combat fraud, waste and abuse. Any CS-HHC employee, officer or contractor who suspects or has knowledge of fraud, waste or abuse must immediately report it. All contractors and agents must adopt this policy and are responsible for assuring that their employees and agents comply with applicable laws and CS-HHC policies.

DEFINITIONS

Employee – All CS-HHC employees and volunteer workers.

Fraud -- An intentional deception or misrepresentation made by a person or corporation with the knowledge that the deception could result in some unauthorized benefit to himself, the corporation, or some other person. It also includes any act that constitutes fraud under applicable federal or state health care fraud laws.

Waste and Abuse – Practices that are inconsistent with sound fiscal, business or medical practices, and result in unnecessary cost to public agencies, including, but not limited to practices that result in reimbursement for services that are not medically necessary, or that fail to meet professionally recognized standards for health care.

Contractor – Any person or entity that furnishes health care items or services on behalf of CS-HHC for which Medicaid reimbursement will be sought, performs billing or coding functions or is involved in monitoring health care provided by CS-HHC.

GENERAL INFORMATION REGARDING FRAUD WASTE AND ABUSE

There are numerous federal and state criminal and civil laws and regulations that punish prohibited activities. They include:

Federal False Claims Act: [Sections 3729 to 3733 of Title 31 of the United States Code]

The federal False Claims Act (FCA) imposes civil penalties on people and companies who:

- Knowingly present the government with a false claim for payment or approval;
- Knowingly make a false statement to get a fraudulent claim paid by the government;
- Conspire to defraud the government by getting a false or fraudulent claim paid;
- Knowingly make a false record or statement to conceal, avoid, or decrease an obligation to pay the government, or;
- Cause a false claim to be submitted.

“Knowing” is defined under the FCA to include the submission of a claim in “reckless disregard” of the truth or falsity of the claim or “deliberate ignorance” of its propriety. Managerial staff can be held accountable in situations where they refuse to explore a credible concern about the compliance requirements for a particular bill, claim, or practice.

The FCA extends to any payment requested of the federal government. Specifically the FCA applies to billing and claims sent from CS-HHC to any government program, including Medicare and Medicaid.

FCA Penalties -- A person or entity that violates the FCA is liable for significant fines and penalties. The fines include civil money penalties ranging from \$5,500 to \$11,000 per false claim, regardless of the size of the false claim. In addition the person or company submitting the false claim may have to pay three times the value of any charges.

Qui Tam Provision -- The FCA is generally enforced by the United States Department of Justice. The FCA allows any person with direct knowledge of a false claim to bring a civil suit on behalf of the United States Government, known as a “Qui Tam” action. It derives from the Latin phrase “qui tam pro domino rege quam pro se ipso in hoc parte sequitur,” meaning “he who sues for the king as well as for himself.” The individual must first formally notify the Department of Justice of the suspected fraud. The Department of Justice then has the option of either intervening in and prosecuting the action or allowing the individual to proceed on his/her own. If the suit is ultimately successful, the individual who initially brought the suit may be awarded a percentage between 15-30% of the funds recovered.

The FCA imposes a six year statute of limitations on private legal action; a government initiated claim can have up to a ten year statute of limitations, depending on the circumstances.

The FCA protects people who file qui tam lawsuits. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his employment as a result of the employee's lawful acts in furtherance of a false claims action is entitled to remedies that include

reinstatement with comparable seniority, two times back pay with interest, litigation costs and attorneys fees.

Program Fraud Civil Remedies Act of 1986 [Sections 3801 to 3812 of Title 31 of the United States Code]

Persons or companies that commit fraud on the federal government, by false claim or statement, can be assessed money penalties in addition to the penalties of the False Claims Act because of a law called the Program Fraud Civil Remedies Act (referenced in this policy as "PFCRA"). Specifically, PFCRA penalties of \$5,000 per false claim or statement apply if a person or company submits a claim to the federal government that: the person or company knows or has reason to know is false, fictitious, or fraudulent; includes or is supported by written statements containing false, fictitious, or fraudulent information; includes or is supported by written statements that omit a material fact, which causes the statements to be false, fictitious, or fraudulent, and the person submitting the statement has a duty to include the omitted fact; or is for payment of property or services that are not provided as claimed.

The \$5,000 penalty also applies if a person or company provides written back-up or materials relating to the claim in which the person or company asserts a material fact that is false, fictitious or fraudulent; or omits a fact that the individual had a duty to include, the omission causes the statement to be false, fictitious, or fraudulent, and the statement contains a certification of accuracy.

Connecticut State Laws

1. Public Act 09-5: The Connecticut False Claims Act (CFCA) prohibits a person from:
 - Knowingly presenting any medical assistance program administered by the State of Connecticut Department of Social Services (DSS) with a false claim for payment or approval;
 - Knowingly make a false record or statement to get a fraudulent claim paid any medical assistance programs administered by DSS;
 - Conspire to defraud DSS by getting a false or fraudulent claim paid;
 - Having custody of property or money that belongs to the State;
 - Presenting documentation to DSS without completely knowing that the information is true;
 - Knowingly buying or receiving public property from a State employee not authorized to sell such property;
 - Knowingly making a false record or statement to avoid, or decrease an obligation to pay DSS;

Knowingly is defined under CFCA as any person who has actual knowledge, acts in deliberate ignorance of the truth and acts in reckless disregard of the truth.

CFCA Penalties –A person or entity that violates the Section 2(b) of P.A. 09-5 is liable for civil monetary fines and penalties. The fines include civil money penalties ranging from \$5,000 to \$10,000 per false claim. In addition the person or company submitting the false claim may have to pay three times the value of any charges and the costs of investigation and prosecution.

Section 2 (c) of P.A. 09-5 limits damages to double for those individuals or entities that self report and cooperate with State investigations.

Qui Tam Provision – The State of Connecticut Attorney General is authorized to investigate any violation of Section 2(b) of CFCA. The CFCA allows any person with direct knowledge of a false claim to bring initiate a civil suit on behalf of the State of Connecticut (see FCA for further information on Qui Tam). The individual must first formally notify Attorney General of the suspected fraud. The Attorney General then has the option of either intervening in and prosecuting the action or allowing the individual to proceed on his/her own. If the suit is ultimately successful, the individual who initially brought the suit may be awarded a percentage between 15-30% of the state's recovery.

The CFCA imposes a six-year statute of limitations after the date the violation occurs or more than three years after the date when a state official knew or should have known but in no event can a claim be brought more than ten years after the date the violation occurred.

Section 9 of the CFCA prohibits claims that are filed based on information obtained in a public disclosure (1) during the course of a pending civil, administrative or criminal hearing (2) in a hearing, audit or investigation conducted by the Attorney General's office (3) from news media.

Section 11 of the CFCA protects people who file qui tam lawsuits. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his/her employment as a result of the employee's lawful acts in furtherance of a false claims action is entitled to remedies that include reinstatement, with comparable seniority, two times back pay with interest, litigation costs and attorneys fees.

2. It is a crime in Connecticut to bill Medicaid or the general assistance program fraudulently. All CS-HHC employees and contractors must immediately report suspicion of any criminal activity occurring at CS-HHC to the CS-HHC Compliance Officer.
3. Anyone who provides services to a state Medicaid beneficiary and seeks or accepts payment for unnecessary or improper services is subject to possible imprisonment and/or criminal fines under state law. Depending on the amount of fraudulent services involved, such offenses carry potentially significant penalties, with a maximum of 20 years in prison and a maximum fine of \$15,000.

4. Anyone who provides services to a recipient of Connecticut's general assistance program and seeks or accepts payment for unnecessary or improper services is also subject to civil and criminal penalties. In addition, any person who defrauds Connecticut's general assistance program is also excluded from participating in the program for a minimum of one year.
5. The Connecticut Whistleblower Act authorizes the Connecticut Auditors of Public Accounts to receive information concerning matters involving corruption, unethical practices, violation of State laws or regulations, mismanagement, gross waste of funds, abuse of authority or danger to the public safety occurring in any State department or agency. Reports may be made to the State Auditors of Public Accounts.

The Whistleblower Act protects employees who report suspected violations of state or federal law, including reports of criminal fraud. An employer may not retaliate in any way for reporting a violation or suspected violation of the law, as long as the employee does not know the information being reported is false. Connecticut has a qui tam regulation similar to the federal False Claims Act that awards whistleblowers a maximum of 15% of the amount of funds recovered on behalf of the State.

PROCEDURES

1. Reporting: CS-HHC employees, officers and contractors who suspect or know of fraud, waste or abuse may make a confidential report to their supervisor or the Compliance Officer at:

Phone: 203.503.3241

Message Only: 203-503.3758

Alternately, reports may be made to the Connecticut State Auditors of Public Accounts at 800.797.1702 or www.state.ct.us/apa.

All reports will be taken seriously by CS-HHC and investigated promptly. Reporters may request confidentiality and CS-HHC will afford confidentiality to the extent permitted by law. No employee, officer or contractor may retaliate in any manner against a reporter who acted in good faith. CS-HHC will treat retaliation against an employee or contractor like any other form of prohibited discrimination under existing Human Resources policies and procedures. Similarly, reporters who make allegations of fraud, waste or abuse that they know to be false will be disciplined under existing Human Resources policies and procedures. CS-HHC may terminate employees or the contracts of contractors who make allegations of fraud, waste or abuse that they know to be false.

2. Some departments may have additional procedures to combat waste, fraud and abuse. Please refer to your supervisor for those procedures.

EVALUATION/REVIEW

The overall performance of the organization in meeting the objectives of this policy is assessed annually by the Corporate Compliance Officer. The evaluation consists of review of this policy annually, revising and updating as needed.

REFERENCES

Federal Laws

- United States Code, Vol. 42, Sec. 1396a (a)(68) (Section 6032 of the Deficit Reduction Act of 2005)
- United States Code, Vol. 31, Secs. 3729-3733 (False Claims Act)
- United States Code, Vol. 31, Secs. 3801-3812 (Program Fraud Civil Remedies Act of 1986)

State Criminal Laws

- Connecticut General Statutes, Sec. 53a-290 to 296 (Vendor Fraud)
- Connecticut General Statutes, Sec. 53-440 et seq. (Health Insurance Fraud Act)
- Connecticut General Statutes, Sec. 53a-119 et seq. (Larceny)
- Connecticut General Statutes, Sec. 53a-155 (Tampering With or Fabricating Physical Evidence)
- Connecticut General Statutes, Sec. 53a-157b (False Statement Intending to Mislead Public Servant)

State Civil Laws and Regulations

- Connecticut General Statutes, Sec. 17b-25a (Toll free vendor fraud telephone hotline)
- Connecticut General Statutes, Sec. 17b-99 (Vendor Fraud Penalties)
- Connecticut General Statutes, Sec. 17b-102 (Financial Incentive for Reporting Vendor Fraud)
- Regulations of Connecticut State Agencies, Sec. 17-83k -1 through 17-83k - 7 (Administrative Sanctions)
- Regulations of Connecticut State Agencies, Sec. 17b-102-01 et seq. (Financial Incentive for Reporting Vendor Fraud and Requirements for Payment for Reporting Vendor Fraud)

State Whistleblower Protections

- Connecticut General Statutes, Sec. 4-61dd (Whistleblowing)
- Connecticut General Statutes, Sec. 31-51m (Protection of Employee Who Discloses Employer's Illegal Activities or Unethical Practices)
- Connecticut General Statutes, Sec. 31-51q (Liability of Employer for Discipline or Discharge of Employee on Account of Employee's Exercise of Certain Constitutional Rights)
- Regulations of Connecticut State Agencies, Sec. 4-61dd-1 et seq. (Rules of Practice for Contested Case Proceedings under the Whistleblower Protection Act)
- CS-HHC Policy and Procedures Manual