

MHN Enterprise
Compliance Policies and Procedures

EC.009 – DEFICIT REDUCTION ACT COMPLIANCE

SECTION:	ETHICS AND COMPLIANCE	LAST REVISION DATE:	1.27.2020
SUBJECT:	Deficit Reduction Act Compliance	LAST REVIEW DATE:	11.29.2021
POLICY NUMBER:	EC.009	APPROVED BY:	ERMC – P&P Subcommittee

I. PURPOSE

The purpose of this policy is to educate workforce members about false claims laws, whistleblower protections, and policies and procedures for detecting and preventing fraud, waste and abuse. This policy has also been developed to comply with certain requirements set forth in the Deficit Reduction Act of 2005 (the “DRA”) relating to federal and state false claims laws. Section 6032 of the DRA requires all entities that receive \$5 million or more in annual Medicaid payments to establish written policies that provide detailed information about the Federal False Claims Act, the administrative remedies for false claims and statements, applicable state laws that provide civil or criminal penalties for making false claims and statements, the “whistleblower” protections afforded under such laws and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs. Entities shall establish these written policies for all employees (including management), and for any contractor or agent of the entity.

II. POLICY

- A.** MHN requires compliance with federal and state laws that prohibit the submission of false claims in connection with federal healthcare programs, including Medicare and Medicaid. It is also our policy to comply with the DRA’s employee education requirements regarding False Claims Acts and whistleblower protections.
- B.** We have a compliance program in place and encourage all workforce members to bring any compliance concerns to the attention of management or call the compliance hotline to anonymously report such concerns (see EC.007 – Reporting Compliance Issues). It is also our policy to refrain from retaliating against any workforce member who in good faith raises compliance concerns (EC.008 – Non-Retaliation).

III. PROCEDURAL GUIDELINES

- A.** For MHN employees and contractors the following are available:
 - 1.** Detailed information about the Federal False Claims Act ;
 - 2.** Information about administrative remedies for false claims and statements.
 - 3.** Information on applicable state laws that provide civil or criminal penalties for making false claims and statements;
 - 4.** Information about the “whistleblower” protections afforded under such laws and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs.;

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5. Summary of MHN's policies and procedures for detecting and preventing fraud, waste and abuse.

B. The information outlined in Section A, above can be reviewed at:

1. Section C, below;
2. EC.015 – Detecting & Preventing Fraud, Waste, Abuse, and Overpayments;
3. Training on EC.015 upon hire and annually thereafter;
4. MHN's online DRA Compliance document available at <https://www.medicalhomenetwork.org/img/MHN-Deficit-Reduction-Act-Statement.pdf>; and
5. CMS False Claims Act Summary at <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD032207Att2.pdf>

C. Information for Employees and Contractors on Laws that Prohibit False Claims

1. The Federal False Claims Act (“FCA”)

The False Claims Act, 31 U.S.C. §§ 3729-3732, allows the federal government or private individuals (*qui tam* plaintiffs, or relators, also known as whistleblowers) to file lawsuits in federal court against individuals or entities for submitting false or fraudulent claims for payment of government funds. The FCA covers fraud involving any federally funded contract or program (including Medicare and Medicaid). If the action is successful, the *qui tam* plaintiff may receive a percentage of the amounts recovered on behalf of government.

- a. Under the FCA, any person who knowingly submits a false or fraudulent claim for payment by the government is liable to the government for up to three times the amount of the government's loss, plus penalties that, as of 2022, are up to \$25,076 for each false claim. Penalty amounts are adjusted periodically for inflation.
- b. The False Claims Act provides legal protections for whistleblowers. It prohibits any adverse employment action (e.g., demotion or termination) to be taken against an employee who lawfully participates in activities relating to a false claims investigation or suit.

2. Administrative Remedies

There are also federal administrative remedies for false claims or statements, which include recoupment for overpayments, program exclusions, and civil monetary payments. See the United States Code, Title 31, Chapter 38.

3. State False Claims Acts

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Some states, including Illinois, have enacted their own false claims laws modeled on the federal False Claims Act. Like the federal FCA, these state laws establish civil liability for individuals and entities that submit false or fraudulent claims to the state. Other states have passed false claims laws that are limited solely to false Medicaid claims.

- a. Currently, if a state obtains a recovery as the result of a state action relating to false or fraudulent claims submitted to the Medicaid program, it must share the damages recovered with the federal government in the same proportion as the federal governments share in the cost of the state Medicaid program.

4. The Patient Protection and Affordable Care Act (PPACA) of March 2010

PPACA links the retention of program overpayments to potential liability under the False Claims Act. Retained overpayments can also be grounds for program exclusion. Additionally, states are required to terminate the participation of any individual or entity that has been excluded under any other State plan or Medicare.

IV. FORMS

N/A

V. RELATED POLICIES

- EC.001 - Code of Business Conduct and Ethics
- EC.003 - Conflicts of Interest Policy
- EC.007 - Reporting Compliance Issues
- EC.008 – Non-Retaliation
- EC.015 – Detecting & Preventing Fraud, Waste, Abuse, and Overpayment
- MHN Employee Manual

VI. REFERENCES AND ACCREDITATION AUTHORITIES

- United States Sentencing Commission, Guidelines Manual, §8B2.1 (“Effective Compliance and Ethics Program) (Nov. 2012), available at:
http://www.ussc.gov/Guidelines/2012_Guidelines/Manual_PDF/2012_Guidelines_Manual_Full.pdf
- Basic Compliance Program resources available on the HHS OIG website:
<https://oig.hhs.gov/compliance/101/index.asp>
- Compliance Program Guidance, available at:
<https://oig.hhs.gov/compliance/compliance-guidance/index.asp>

VII. REVIEW STATEMENT

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MHN will maintain the status of this activity and conduct audits as appropriate to ensure compliance. This policy will be reviewed annually to determine whether additional state false claims laws must be added. Modifications to the procedure will be made as needed.

VIII. REVIEW HISTORY

Approved

July 24, 2013

Reviewed

November 14, 2017

January 27, 2020

November 29, 2021