

 <p>Colorado Health Partnerships, LLC Pikes Peak ♦ SyCare ♦ West Slope Casa ♦ ValueOptions</p>	Section: II	Number: CHP 102
	Keywords:	Category: A
Review Date:	Page 1 of 3	Original Date of Issue: April 11, 2007
Functional Area: <i>Compliance</i>	Date(s) Revised:	
Operating Unit: All	Subject: False Claims/Fraud and Abuse	
Approval Signatures:		
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I. PURPOSE

To provide guidelines for Colorado Health Partnerships, LLC (dba Colorado Health Networks) to ensure that procedures are in place to avoid the submission of any false claim or false statement to parties with which Colorado Health Partnerships (CHP) conducts business.

II. POLICY

It is the policy of CHP to be in compliance with federal and state laws and regulations related to the submission and payment of claims and billings involving federal, state or private health care benefits programs.

III. DEFINITIONS

Claim: any request or demand for money that is submitted to the federal government or its contractors.

Contractor or agent: includes any contractor, subcontractor, or agent, or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the entity.

IV. PROCEDURES

- A. CHP supports the government's efforts to reduce fraud and abuse in healthcare and to prevent submission of false claims. CHP establishes a culture within the partnership that promotes prevention, detection, and resolution of instances of conduct that do not conform to federal and state law
- B. The federal False Claims Act is very broad and prohibits a wide range of practices which may be false or fraudulent. Examples include::
 1. Submission of false or fraudulent claims for payment with federal funds.
 2. Making a false record or statement to get a false or fraudulent claim paid by the government.

3. Conspiring to have a false or fraudulent claim paid by the government.
 4. Withholding property of the government with the intention of defrauding the government or of willfully concealing it from the government.
 5. Making a false statement to avoid or deceive an obligation to pay money or property to the government.
 6. Cause someone else to submit a false claim to the government.
 7. Knowingly use or cause to be used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.
 8. Omits a material fact to get money or property from the government
- C. Examples of illegal activities falling under the False Claims laws and regulations include the following:
1. Billing for services not rendered or for add-on services
 2. Up-coding
 3. Down-coding
 4. Unbundling
 5. False certifications
 6. Lack of medical necessity
 7. Fraudulent Cost Reports
 8. Cross-charging
 9. Product substitution
 10. Improper cost allocation
 11. Failure to comply with contract specifications
 12. Submission of false time and expense reports
 13. Submission of false costs
 14. Submission of false contract performance data.
- D. CHP will ensure that contract performance reports, claims and billing processes are monitored for validity and accuracy. All potential violations of the False Claims Act or instances of false report or information, whether pursuant to a federal, state or third party will be investigated and actions will be taken to resolve the identified problem. Potentially fraudulent activity will be reported to CHP's Compliance Officer. Subsequent investigations will be initiated through the ValueOptions Service Center in accordance with the Internal and External Fraud and Abuse Policy (VO QM 3.13) if the potentially fraudulent activity involves a contracted CHP provider. Investigations for other potentially fraudulent activity will be initiated by the CHP Executive Director and/or CHP Compliance Officer. Investigations will be monitored through CHP's Compliance Committee; corrective actions will be initiated by the Committee in accordance with policies, regulations and the CHP Operating Agreement. Potentially fraudulent activity is reported to the State of Colorado Department Health Care Policy and Financing within 10 days as specified in the CHP Medicaid contract.
- E. FALSE CLAIMS ACT: Under the FALSE CLAIMS ACT (31 U.S.C. §§3729-3733). Those whom knowingly submit or cause a person or entity to submit a false claim for government funds are liable for damages up to three times the amount of the government's damages plus mandatory penalties. A person or entity which violates the False Claims Act may receive a felony conviction as well as criminal and civil penalties with civil penalties being not more that \$5,500 to \$11,000 for each false claim.
- F. CRIMINAL PENALTIES FOR ACTS INVOLVING FEDERAL HEALTH CARE PROGRAMS (42 U.S.C. SEC 1128B, 1320a-7b): Under the Criminal Penalties for Acts Involving Federal Health Care Programs, those who knowingly and willfully cause false statements or representations of material facts in any benefit or payment under a Federal health care program are subject to a felony conviction with a fine of up to \$25,000 and/or 5 years imprisonment.
- G. THE FALSE CLAIMS ACT WHISTLEBLOWERS EMPLOYEE PROTECTION ACT (31 U.S.C. sec 3730(h)): Under this act, whistleblowers are protected from retaliation for reporting or participating in an investigation of a false claim.
- H. ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS (31 U.S.C. Chapter 8. §3801): Under this act, any person who makes, presents, or submits a claim that

is false or fraudulent is subject to a civil penalty of not more than \$5,000 for each claim and also an assessment of not more than twice the amount of the claim.

- I. No adverse action or retribution of any kind will be taken against an employee because he or she reports a suspected violation of the False Claims Act or other irregularity by another person or entity.
- J. Employees not in compliance with the Deficit Reduction Act and the False Claims Act and the company's related policies, may receive disciplinary action up to and including termination.
- K. The Centers for Medicare and Medicare Services (CMS) web page for state fraud statutes can be accessed <http://www.cms.hhs.gov/apps/mfs/weblist.apa>.

V. REFERENCES

- A. "Criminal Penalties for Acts Involving Federal Health Care Programs", Compilation of Social Security Laws, 42 U.S.C. SEC 1128B, 1320a-7b.
- B. "The Law: An Overview – False Claims Act Whistleblower Employee Protections", WhistleblowerLaws.com
- C. "Deficit Reduction Act: Implications for Compliance Teams", MediRegs
- D. Wilson, Joy Johnson, Health Policy Director, "Deficit Reduction Act of 2005: A Summary of Medicaid/Medicare Health Provisions", National Conference of State Legislators, February 3, 2006.
- E. "Administrative Remedies for False Claims and Statements", U.S. Code, Title 31, Chapter 38, §3801 -3806.
- F. "Public Law 109-171", The Federal Register, February 8, 2006
- G. "ValueOptions, Inc. Policy & Procedure titled False Claims", Legal Policy Section 3, Number LC309.