

SUBJECT: False Claims Policy
SECTION: Corporate Ethics and Compliance

PURPOSE

It is the fundamental policy of Saint Luke's Health System and its affiliate hospitals (the "System") to conduct all of its business and other practices in compliance with all applicable laws and regulations. The purpose of this policy is to help the System's employees, agents, and contractors understand the tools that the System, federal and state agencies and individuals can use to fight such fraud, waste and abuse, including the federal and state false claim laws, and the right of the System's employees, agents and contractors make a good faith report about any violations of such laws.

POLICY

The Federal False Claims Act

The Federal False Claims Act ("FCA"), in general, makes it illegal for a health care provider to knowingly present or be involved in presenting a false claim, record or statement to the federal government for payment. The term "knowingly" means the person has actual knowledge that the information is false, or deliberately ignores whether the information is true or false. As examples, forbidden conduct might include falsifying records, double-billing for items or services or submitting bills for services never performed or items never furnished. Anyone who violates the FCA could be subject to fines between \$5,000 and \$10,000 for each false claim, plus three times any actual payment made by the federal government that should not have been made.

Qui Tam "Whistle-blower" Provisions:

"Whistleblowers" are generally employees who observe activities or behavior that may violate the law in some manner. These individuals report their observations either to management or to governmental agencies. To encourage these individuals to come forward and report possible misconduct involving false claims, the FCA includes a *qui tam* or whistleblower provision which essentially allows a person with actual first-hand knowledge of false claims activity to bring an action in federal court. The lawsuit is started by filing a copy of the complaint and all available relevant evidence with the federal government. The lawsuit will remain sealed (meaning it will be kept confidential) for at least 60 days so the federal government can investigate the complaint and decide how to proceed. The government may then decide to pursue the matter in its own name or decline to proceed, at which time the person bringing the action has the right to continue with the lawsuit on their own.

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If the lawsuit is successful, the person bringing the action may receive between 15-30% of any proceeds, plus reasonable expenses, costs and attorney's fees, depending upon the contributions the individual made to the success of the case. Any case must be brought within six years from the date that the false claim was filed.

No Retaliation:

The FCA provides protection for whistleblowers. Anyone initiating a *qui tam* case may not be discriminated or retaliated against in any manner by their employer for filing the lawsuit. If the employee suffers any job related losses for reporting in good faith under the FCA, the employee can file a lawsuit against the employer.

Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act ("PFCRA") is another federal law which addresses false claims. It is similar to the FCA, but imposes different penalties. In general, it subjects anyone who violates the PFCRA to administrative penalties if they submit an improper statement or file a false claim with the federal government: a) which they know, or should know, is false; b) which omits a material fact, making the claim false; or c) for payment of services not rendered. Anyone who violates the PFCRA could be subject to penalties of up to \$5,000 plus two times the amount of the claim if the claim has been paid. Although an individual can report any incidents to the government that they believe could be a violation of the PFCRA, the individual is not allowed to bring a *qui tam* lawsuit similar to what is allowed under the FCA.

Missouri and Kansas False Claims Statutes

The Missouri and Kansas false claims statutes are not as broad as the FCA. These statutes only deal with claims submitted to Medicaid. In general, these statutes make it a criminal offense for a health care provider to knowingly present: a) any false claim for payment of goods and services that may be paid for by Medicaid; b) any false statement for use in determining payment, or the rate of payment, of goods and services that may be paid for by Medicaid; and c) any claim for payment of services that were medically unnecessary. The Attorney General in both states brings all criminal or civil actions under the statute of that state. Because a violation can be criminal in nature, the Attorney General must prove that the health care provider intended to violate the statute. Violations of the statute constitute a felony punishable by fines, imprisonment or both.

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Neither the Missouri nor Kansas false claims statutes have a “whistleblower provision” similar to the one found in the FCA. Therefore, an individual may not bring an action in state court.

Missouri law does require the System to have internal policies in place that prohibit a supervisor from preventing, discriminating or retaliating against an employee who, in good faith, reports certain types of intentionally false activity to the System or the government. The System encourages its employees, contractors and agents to report any activities that they believe may violate the statute to the System Compliance Officer or through the System’s compliance hotline.

The System’s Policies and Procedures for Detecting and Preventing Fraud, Waste and Abuse

Through its Code of Conduct, the System has established standards and procedures to promote the highest ethical culture and discourage inappropriate conduct. It is the fundamental policy of the System to conduct its business in compliance with all applicable laws and regulations of the United States, the States of Missouri and Kansas, all applicable local laws and ordinances and the ethical standards/practices of the industry and the System. The Code of Conduct is available on the System website and the network I: drive.

The System is committed to ensuring that its coding, billing and reimbursement procedures comply with all federal and state laws, regulations and guidelines. Accordingly, System policy prohibits billing or submitting a claim for services that were not provided as stated, not medically necessary, known not to be covered by the payor or false, misleading or inaccurate. If these types of inaccuracies are discovered in bills or claims already submitted to the payor, the employee who discovered the inaccuracies should immediately report the issue to his/her supervisor, the System Ethics and Compliance Officer, or the System’s compliance hotline so that corrective action can be taken.

System’s Reporting Procedures and No Retaliation:

As outlined in the System’s Code of Conduct, employees must report known compliance issues or they will be subject to disciplinary action. Employees who report compliance issues in good faith will not be punished in any way for reporting the issue. An employee that attempts to retaliate against another employee for reporting a compliance issue in good faith will be subject to disciplinary action, including termination if appropriate. If an employee makes a false or misleading report related to a compliance issue, the employee will be subject to disciplinary action.

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Reporting suspected non-compliance with laws may be accomplished in a variety of ways. Employees may report the incident directly to the System Ethics and Compliance Office by dialing (816) 932-3218 or (816) 932-6858 or a member of any of the System Ethics and Compliance Committees or Subcommittees either verbally or in writing. Examples of written communication include email, memorandum, letter or incident report. The employee may identify him/herself or remain anonymous. Every attempt will be made to keep the employee's identity confidential unless he/she gives permission or requests that his/her identity be revealed through the process of investigation. However, there may be situations where the direction of the investigation may lead to identification of the reporter.

The employee may also report the incident to his or her manager or supervisor, verbally or in writing. The manager or supervisor must promptly forward such report and concern to the System Ethics and Compliance Officer or to a member of the System Compliance Committee.

The employee may also use a hotline, which has been set up solely for the purpose of providing employees a secure means by which compliance issues can be reported. This hotline can be accessed by dialing **(816) 932-3053** (23053 internally) or toll free **(888) 660-6227**. This is not a manned line, but the System Ethics and Compliance Officer or his/her designee regularly checks the compliance hotline for messages.

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