

Notice to Vendors: Information regarding False Claims Recovery from Waterbury Hospital

Waterbury Hospital is committed to following local, state and federal laws, rules and regulations. To assist us with commitment to appropriate and legal conduct, all contractors are encouraged and expected to report any violations that come to their attention. If a contractor believes that a representative of the Hospital is billing for services that (i) were not actually provided (services that did not occur or are improperly coded); (ii) were medically unnecessary; or (iii) were provided in a significantly sub-standard manner, the employee should immediately contact the Hospital's Compliance Officer, who can be reached at 203-573-7128.

Federal and state laws concerning penalties for submitting false and fraudulent claims to the government are discussed below. We want you to know that we comply with these federal and state laws. We also want you to be aware that employees or contractors who act as "whistleblowers" when they believe false or fraudulent claims are being submitted receive protection under law. For more information about our Corporate Compliance Program and policies, please review the Hospital's Administrative Policy and Procedure Manual, located in the Waterbury Hospital Health Center Library on the first floor of the Main Building. These are designed to prevent fraud, waste, and abuse in connection with payments by the federal government for health care services and promote ethical conduct by our employees. Vendors should contact the Compliance Officer directly with questions concerning these policies and procedures.

Federal "False Claims" Statutes. There are two major federal laws concerning submission of false or fraudulent claims for payment to Medicare, Medicaid, or other federal health programs.

- Federal False Claims Act 31 USC Sections 3729 through 3733. Known as the FCA, this statute make a person civilly liable if he or she:
 - Knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment and approval;
 - Conspires to defraud the government by getting a false or fraudulent claim allowed or paid;
 - Uses a false record or statement to avoid or decrease an obligation to pay the government; or
 - Commits other fraudulent acts listed in the statute.

A person acts "knowingly" if he or she has **actual** knowledge of the falsity of the submitted information, or acts in "deliberate ignorance" or "recklessly disregards" the truth or falsity of the information. Penalties for providers such as the hospital that file false claims are between five and eleven thousand dollars **per claim, plus** a penalty of up to three times the amount of the payments falsely received, **plus** the costs of the legal action brought to recover the money improperly paid.

The FCA allows individuals who have first-hand knowledge of such misconduct to sue the entity that submitted the false claim on behalf of the United States. These are called “qui tam” lawsuits (short for a Latin phrase meaning “he who (sues) for the king as well as for himself”) and are popularly known as “whistleblowers” lawsuits. There are many law firms that specialize in bringing such actions against health providers and others in hopes of making a significant recovery for the whistleblowers and themselves.

After a whistleblower lawsuit is begun, the lawsuit remains under seal (secret) for sixty days while the federal government decides whether it wishes to participate in the suit. If the lawsuit succeeds in recovering funds for the government, the whistleblower can recover 20-30% of the recovery, after legal fees, if the government did *not* participate and 15-25% if it did. Whistleblower recoveries can be very high; *however*, if a whistleblower brings an action for the purpose of harassing the employer, and/or the case has no merit, the whistleblower may have to pay the defendant for its legal fees and the costs of its defense.

The FCA protects employees who act as whistleblowers from retaliation by their employers. An employee may not be discharged, demoted, suspended, threatened, harassed or discriminated against in the terms and conditions of employment because of lawful actions taken by the employee in connection with an action under the FCA. If the employee can demonstrate that he or she was the victim of such retaliation, the employee is entitled to reinstatement, double back pay plus interest and reimbursement of other costs and damages.

- Federal Administrative Remedies for False Claims 31 USC Sections 3801 through 3812. This federal law is similar to the FCA and creates a penalty for submitting a false claim of up to \$5,000 per claim and twice the amount of the claim. This law is violated when a false claim is submitted, not when it is paid. Under this statute, investigations and recoveries are handled by federal agencies, not the courts. Although private individuals may report violations to the government, there is no option for the whistleblowers to share in the amounts recovered.

State “False Claims” Statutes. Connecticut has a number of laws concerning defrauding the government through the submission of claims or other improper conduct. Several other laws prevent retaliation against employees who disclose such misconduct. The following is a summary of the most important of these.

- Vendor Fraud CGS §53a-290. Vendor fraud is committed when a vendor (or its employee or contractor on the vendor’s behalf) submits, with intent to defraud, a claim for goods or services to the Medicaid program that is false; accepts payment or additional compensation from the state or anyone else beyond the amount due or allowed by law; attempts to provide services or sell goods knowing that the recipient does not need them or provides or sells them without prior authorization from the Department of Social Services when required. The penalties for vendor

fraud include imprisonment, monetary penalties, exclusion from participation in the Medicaid program and/or revocation of state license.

- Health Insurance Fraud, CGS §53-440 et seq. A person is guilty of health insurance fraud when he/she makes, or assists or conspires with another to make, a written or oral statement in an application for health insurance or a claim for payment to an insurer (commercial, Medicare or Medicaid) knowing the statement is false, incomplete, deceptive or misleading. Misleading information includes falsely representing that goods or services were medically necessary or that they met professionally recognized standards. Health insurance fraud is punishable by imprisonment and/or fines and may result in exclusion from participation in the Medicaid program and/or loss of license.
- Larceny/Defrauding the Government, CGS §53a-119. A person or entity is guilty of larceny against the government when he/she (i) authorize, certifies, attests or files a claim for benefits or reimbursement with a local, state or federal agency knowing it is false; or (ii) knowingly accepts the benefits from a claim he or she knows is false. Larceny is a crime punishable imprisonment and/or fines.
- Discriminatory Practice Prohibited, CGS §19a-498a. No health care facility may discriminate or retaliate in any manner against an employee for submitting a complaint or initiating or cooperating in an investigation relating to the care, services or conditions in the facility.
- Protection of Employee who Discloses Employer's Illegal Activities or Unethical Practices. CGS §31-51m. No employer may discharge, discipline or otherwise penalize any employee because that person reports a suspected violation of any state or federal law or regulation or because the employee is requested by a public body to participate in an investigation, hearing or inquiry. An employee who believes he/she has been retaliated against in this manner may bring a civil action against the employer.
- Disclosure of Information Regarding Misconduct of Large State Contractors. CGS §4-61dd. No employee or officer of a large state contractor may take or threaten to take any personnel action against an employee in retaliation for disclosing information of any matter involving corruption or violation of state or federal laws or regulations.

Independent contractors are reminded that the Hospital expects that anyone who believes that a violation of law may have occurred will communicate his or her concerns to the Hospital Compliance Officer or other member of Hospital management. Connecticut law protects employees against retaliation, and the Hospital will not discriminate or retaliate in any manner against anyone who discloses information about possible violations.