



Policy Title: COM-S-LL-922 Deficit Reduction Act of 2005		
Department: Corporate Compliance		TJC Chapter(s): LD
Title of Policy Owner: VP & Chief Compliance Officer		Approved by: Vice President and Chief Compliance Officer
Effective Date: 1/1/07	Reviewed Date: 11/14; 12/14; 1/16; 3/16; 7/17; 6/20	Revised Date: 11/14; 12/14; 1/16; 3/16; 7/17; 6/20

I. PURPOSE:

In conformance with the Deficit Reduction Act of 2005 (the “DRA”), Halifax Hospital Medical Center and its affiliates (“Halifax Health”) requires compliance with all laws applicable to its business, including insistence on compliance with all applicable federal and state laws dealing with false claims and false statements. Halifax strives to prevent, detect, and eliminate fraud, waste, and abuse in all government-funded programs from which it receives payments, such as the Medicare and Medicaid programs This policy describes Halifax Health’s compliance with certain requirements set forth in the DRA.

II. SCOPE:

This policy is applicable to all employees, contractors, and agents of Halifax Health, its subsidiaries and affiliates.

DEFINITIONS:

A Halifax Health Employee is any officer or employee of Halifax Health and its affiliates.

A Contractor or Agent includes any contractor, subcontractor, agent, or other person which or who, on behalf of the entity, who 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 Halifax Health and its affiliates. Vendors who provide security, janitorial, dietary, maintenance, volunteer services, and other services that are not related to providing care to Medicaid patients are NOT *contractors or agents*.

An *Affiliate* of Halifax Health is an entity owned or controlled by Halifax Health.

III. POLICY:

Halifax Health has processes in place for detecting and preventing fraud, waste and abuse related to the government-funded programs. Halifax Health maintains a hotline to which anonymous reports can be made concerning Halifax Health’s compliance with the topics discussed below. Halifax Health will not retaliate against any individual who reports a concern internally or to external governmental agencies. Halifax Health disseminates information about the following to Employees, Contractors and Agents:

- The False Claims Act, established under sections 3729 – 3733 of title 31 USC; and
- Administrative remedies for false claims and statements established under chapter 38 of title 31 USC; and
- State laws pertaining to civil or criminal penalties for false claims and statements; and
- Whistleblower protections under the Federal False Claims Act and state laws; and
- The role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs.

A. Federal False Claims Act

The Federal False Claims Act ("FCA") covers fraud involving any federally-funded contract or program, including Medicare or Medicaid, and establishes liability for any person or entity that knowingly presents or causes to be presented a false or fraudulent claim to the government for payment under Medicare or Medicaid. A violation will occur if a person or organization knowingly presents, or causes to be presented, a false or fraudulent claim to a federal government agency or program for payment or approval.

Liability: the FCA, provides for penalties ranging from \$11,665 to \$23,331 for *each* violation, meaning penalties can run into the millions of dollars. In addition, a party may be required to pay three times the amount of damages to the government, plus the costs of the civil action brought to recover such penalties or damages.

The term "claim" includes "any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded." In health care, claim includes any of the paper or electronic billing forms submitted to a government health care program for items or services provided to a program beneficiary.

The term "knowingly" has been defined as a person, with respect to information on the claim:

- has actual knowledge of the information;
- acts in deliberate ignorance of the truth or falsity of the information; or
- acts in reckless disregard of the truth or falsity of the information; no proof of specific intent to defraud is required.

Federal law provides protections for individuals who report possible false claims, and anyone initiating a complaint or reporting a violation may not be discriminated or retaliated against or harassed in any manner by his or her employer.

B. Florida False Claims Act

Under the Florida False Claims Act ("FFCA"), any person who presents a false claim to the State can be held liable for a civil penalty up to \$11,000 per claim and three (3) times the amount of the overpayment paid or incurred by the State. If the false claim is disclosed promptly and the person cooperates with the State, the penalty that might otherwise be assessed may be reduced. No specific intent to defraud the government is required. The term "claim" includes any request or demand, under a contract or otherwise, for money, or property, which is made to any employee, officer, or agent of the state, or to any contractor, grantee, or other recipient if the state provides or has provided any portion of the money or property requested or demanded, or if the state will reimburse the contractor, grantee, or other recipient for any portion of the money or property requested or demanded.

The term "knowingly" has the same definition as that under the Federal False Claims Act, set forth above.

The term "State" means the government of the state or any department, division, bureau, commission, regional planning agency, board, district, authority, agency, or other instrumentality of the state.

Similar to the Federal False Claims Act, the FFCA provides protections for Employees who report possible false claims.

Examples of a possible false claim:

1. Making false statements regarding a claim for payment;
2. Falsifying information in the medical record;
3. Double-billing for items or services;
4. Billing for services or items not performed or never furnished.

C. Medicaid Integrity Program

When presenting a claim for payment under the Medicaid program, a provider has an affirmative duty to supervise the provision of, and be responsible for, goods and services claimed to have been provided, to

supervise and be responsible for preparation and submission of the claim, and to present a claim that is true and accurate and that is for goods and services that were provided, are of appropriate quality, covered by the Medicaid program and documented appropriately in the records.

Florida contains an additional whistleblower statute that provides a reward to a person who reports a violation of the state's Medicaid fraud laws. The Florida Medicaid Provider Fraud Laws provides criminal penalties and fines for false statements or representations, among other things, made to the Medicaid program. This statute establishes grounds for criminal actions against any person who knowingly defrauds the state Medicaid program. A violation constitutes either a first, second or third-degree felony, depending upon the monetary amount of the false claim at issue, and also subjects the violator to a mandatory statutory fine. This statute is prosecuted by state officials and may not be brought by private individuals and provides the individual who furnishes original information about the fraud the lesser of 25% of the amount recovered or \$500,000.

IV. PROCEDURE:

- A. Halifax Health's processes for detecting and preventing fraud, waste and abuse include:
 - 1. Investigating reports of concerns from Employees and other individuals; and
 - 2. Performing background checks and screening of new Employees; and
 - 3. Performing internal and external reviews of risk areas; and
 - 4. Investigating reported concerns and reviewed by Halifax Health's Compliance Committee and Board of Commissioners.
 - 5. Reporting the resolution of concerns reported through the Compliance hotline to the Compliance Committee and the Board of Commissioners.
- B. How to report concerns – Halifax Health's anonymous hotline:
 - 1. Call (844) 251-1880, or
 - 2. Go to: www.halifaxhealth.ethicspoint.com
 - 3. Reports may be made anonymously or reporters may choose to leave contact information
 - 4. Information should include the names of individuals and/or entity involved in suspected fraud and/or abuse including address, phone number, and any other identifying information.
- C. Whistleblower Protection:
 - 1. State and Federal laws provide protections for individuals who report concerns to external agencies, such as Centers for Medicare and Medicaid Services, the Florida Agency for Health Care Administration ("AHCA") (the agency in charge of administering the Medicaid program in Florida). Halifax Health will not retaliate against persons who report concerns to AHCA or other external government agencies.
- D. Distribution of information to Employees, Contractors and Agents:
 - 1. Employees, Contractors and Agents (other than supply vendors) receive information about Halifax Health's controls, the concerns hotline and general information on fraud, waste and abuse as part of the Code of Conduct and as part of the General Compliance Training required at policy *COM-S-CP-40 Compliance Training and Education*.
 - 2. Contractors and Agents who are supply vendors receive information about Halifax Health's controls, the concerns hotline and general information on fraud, waste and abuse as part of the vendor registration process through the materials management department using a software called Vendor Mate and as a notification on each purchase order form.

V. KEYWORDS:

Fraud; Waste; Abuse; Deficit Reduction Act; DRA, Billing, Coding, False Claims Act, FCA,

VI. REFERENCES:

Halifax Health policy *COM-S-CP-40 Compliance Training and Education*

Halifax Health Code of Conduct <https://www.halifaxhealth.org/about-us/code-conduct-quality-content>

United States Code Title 31, § 3279, Federal False Claims Act <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title31/pdf/USCODE-2011-title31-subtitleIII-chap37-subchapIII-sec3729.pdf>

§§ 68.081 – 68.092, Florida Statutes, Florida False Claims Act
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0000-0099/0068/Sections/0068.081.html

§§ 409.901 – 409.9205, Florida Statutes

VII. REVISION HISTORY:

Date	Revision/Review	By
2/6/2007	Policy established	G.Rousis
6/24/2010	Review; minor edits; published to Pulse.	G.Rousis
7/11/17	Complete re-write of policy	C. Kowatch
6/25/20	Reviewed; minor edits throughout the policy for clearer reading Adjusted the Federal False Claims Act Liability/penalties for inflation Removed definitions under “Medicaid Integrity Program” and added FS 409.901 to references Added wording related to the whistleblower statute that provides a reward to a person who reports a violation	J. Wheelock/ S. Kaylor