

ALLINA HOSPITALS & CLINICS
System-wide Policy

Department: Allina Hospitals & Clinics Corporate Compliance	Policy Title: Anti-Fraud Laws and Compliance Program Information (DRA 2005)
Page: 1 of 4	Effective Date: January 2007
Approved by: Ethics & Compliance Oversight Committee	Revised: August 30, 2010
Reference Number: 402-01.38	

Scope:

The scope of this policy applies to all employees and certain contractors and agents of Allina Hospitals & Clinics.

Purpose:

The purpose of this policy is to comply with the education requirements set forth in Section 6032 of the Deficit Reduction Act of 2005.

Policy:

Allina Hospitals & Clinics will provide detailed information to its employees, contractors, and agents regarding federal and state false claims laws, penalties, and non-retaliation protections, as well as Allina’s Compliance Program and its policies for detecting and preventing fraud, waste, and abuse. This information will be made available to employees, contractors and agents by posting a copy of this policy on the Allina Knowledge Network (AKN) and on Allina’s public website at allina.com/integrity. Allina employees will be educated on the contents of this policy during annual compliance education. Contractors and agents will disseminate this information to its employees who provide services for Allina.

A “contractor” or “agent” includes any contractor, subcontractor, agent, or other person who furnishes, or otherwise authorizes the furnishing of, health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by Allina.

False Claim Laws, Penalties, and Whistleblower Protections

Federal Laws

1. The Federal False Claims Act (FCA):
The purpose of the FCA (31 U.S.C. Sections 3729-3733) is to discourage and prevent fraud, waste, and abuse in government programs, including Medicare Medicaid, and other federally-funded health care programs. The FCA provides that anyone who knowingly submits, or causes another to submit, a false or fraudulent claim for payment; or knowingly makes, or causes to be made, a false statement or record in connection with a claim for payment; or knowingly retains an overpayment, may be liable for up to

three times the government's damages plus per claim civil monetary penalties and may be excluded from federally funded programs.

The FCA specifically defines 'knowingly' to mean that a person or entity, with respect to information: (1) has actual knowledge of the false information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information. No proof of a specific intent to defraud the government is required.

The FCA permits both the United States and private parties to bring a civil action for violation of the FCA. When a private party or 'whistleblower' brings such an action, it is brought in the name of the United States, and is referred to as a "qui tam" action. The private party may share in a percentage of the proceeds from an FCA action or settlement, from 15 percent up to 30 percent, depending on whether the government intervenes in the action.

The FCA also protects employees from retaliation and discrimination in the terms and conditions of their employment based on lawful acts of the employee done in furtherance of a FCA action. Remedies include reinstatement with comparable seniority, two times the amount of any back pay plus interest, and compensation for any special damages sustained, including litigation costs and attorneys' fees.

2. The Federal Program Fraud Civil Remedies Act of 1986 (PFCRA):
The PFCRA (31 U.S.C. 3802-3811) provides administrative remedies for making false claims and false statements in connection with claims to designated federal agencies, including the U.S. Department of Health and Human Services. The remedies include an assessment of twice the amount of any unlawful claims, per claim civil monetary penalties, and program exclusion. The remedies under PFCRA are in addition to any other remedy prescribed by law.
3. Federal law also contains criminal sanctions for false claims and statements that may be applicable to identified instances of health care fraud.

State Laws

1. Minnesota and Wisconsin False Claims Acts:
Minnesota and Wisconsin have statutes modeled on the federal False Claims Act which apply to the same types of conduct and contain similar penalty provisions, *qui tam* provisions, and whistleblower protections. The Minnesota False Claims Act (Minnesota Statutes Section 15C.01 et seq.) applies generally to claims submitted to the state, including the Medicaid agency. The Wisconsin False Claims Act (Wisconsin Statutes Section 20.931) applies specifically to Medicaid claims.

The Minnesota False Claims Act specifically precludes liability: (1) for mere negligence, inadvertence, or mistake; (2) for acts committed by a nonmanagerial employee under certain circumstances; and (3) when, absent specific intent to defraud, an entity repays

the false claims within 45 days of a report of the false claims to the entity's compliance officer.

2. Minnesota and Wisconsin Medicaid Fraud Statutes:

Minnesota and Wisconsin have other laws that specifically provide for sanctions for false claims or false statements in connection with the provision of medical services reimbursed by the state. The Minnesota law provides for administrative sanctions (Minnesota Statutes Section 256B.064) and the Wisconsin law provides for criminal sanctions (Wisconsin Statutes Section 49.49).

3. Minnesota and Wisconsin Whistleblower Laws:

Minnesota and Wisconsin have other laws that prohibit retaliation or discrimination against employees who report in good faith violations of any federal or state law or regulation or situations in which the quality of care provided by a health care facility or provider violates established standards and poses a potential risk to public health or safety. (Minnesota Statutes Section 181.932 and Wisconsin Statutes Section 146.997).

Examples of Prohibited Conduct

The following types of conduct could lead to liability under the false claim laws discussed above:

- billing for items never provided and services never performed
- billing for items or services knowing that they are not medically necessary
- double-billing for items or services
- falsifying records that are used to support claims
- upcoding claims to obtain reimbursement in excess of the proper amount due
- improper unbundling of charges
- making false statements on a cost report
- failing to disclose and make necessary repayments of overpayments and credit balances
- billing for items or services provided as a result of an illegal inducement or illegal financial relationship between a hospital and a physician

Allina Hospitals & Clinics is committed to its role in preventing and detecting health care fraud, waste, and abuse. It is the policy of Allina to maintain an effective compliance program, which is described in further detail below, and to encourage the prompt reporting of any compliance concerns with confidentiality and non-retaliation protections.

Allina's Compliance Program

Allina has a Compliance Program and policies in place for detecting and preventing fraud, waste, and abuse. The goal of the Compliance Program is to establish and foster a culture that promotes prevention, detection, and resolution of conduct that does not conform to the laws, regulations, and requirements of government-funded healthcare programs.

The Compliance Program closely monitors business processes and billing activities to ensure accurate billing and prevent conduct that would give rise to false claims liability. In addition, Allina has an internal audit department that provides an independent appraisal function for Allina Hospitals & Clinics. Allina Audit Services serves both the Board of Directors and

management by reviewing: the accuracy of reported financial activities, business operations; information technology; security implementation and maintenance; adequacy of internal controls; and compliance with laws/regulations. Audit Services regularly audits business units for billing accuracy and identifies areas of improvement. When deficiencies are identified, corrective actions are put into place to ensure issues are addressed and corrected.

Pursuant to Allina Policy 402-01.01, all employees are required to report any good faith belief of non-compliance and are strongly encouraged to communicate concerns directly to their supervisor or manager. Additional resources for employees are the business unit's Compliance Program Director, the Corporate Compliance Officer, and the Allina Law Department. (See Allina Policy 402-01.)

Employees also may refer to the Allina Code of Conduct or report concerns to the Allina Integrity Line by calling the 24-hour toll-free hotline (1-800-472-9301) or using the confidential internet connection at <https://www.mycompliancereport.com/report.asp>. Information obtained from the Integrity Line will be treated confidentially and reported to the Corporate Compliance Department for follow-up.

There will be no retaliation in the terms and conditions of employment as a result of reporting concerns in good faith. Reports will be investigated pursuant to Allina Hospitals & Clinics Internal Investigation Policy 402-01.03.

Compliance policies and procedures are posted on Allina's Corporate Compliance intranet site at <http://akn.allina.com/corporatecompliance/index.htm>. They also are available to Contractors, Agents, and Vendors upon request from the Corporate Compliance Department at (612) 262-4900.

References:

- Federal False Claims Act – 31 U.S.C. Section 3729, et seq.
- Program Fraud Civil Remedies Act – 31 U.S.C., Section 3801, et seq.
- Deficit Reduction Act of 2005
- Minnesota False Claims Act – Minnesota Statutes Section 15C.01, et seq.
- Minnesota Medicaid Fraud Statute – Minnesota Statutes Section 256B.064
- Minnesota Whistleblower Protection Law – Minnesota Statutes Section 181.932
- Wisconsin False Claims Act – Wisconsin Statutes Section 20.931
- Wisconsin Medicaid Fraud Statute – Wisconsin Statutes Section 49.49
- Wisconsin Health Care Worker Protection Law – Wisconsin Statutes Section 146.997
- [Allina's Billing Compliance Policies and Code of Conduct](#)
- MyAllina Website – Policy Handbook (Non-Retaliation)

This policy, which is reviewed annually, supersedes all prior policies of the same or similar subject except to the extent it is inconsistent with the express terms of a collective bargaining or individual agreement.