



System-wide Policy: **False Claims Acts**
Reference #: SYS-CC-402-01.38

Origination Date: January 2007
Next Review Date: September 2021
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Approval Date: September 2018
Approved By: Ethics and Compliance Oversight Committee

System-wide Policy Ownership Group: Integrity & Compliance Department
System-wide Policy Information Resource: Integrity & Compliance Directors

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|---------------------------|
| Stakeholder Groups |
| Legal Department |

SCOPE:

| Sites, Facilities, Business Units | Departments, Divisions, Operational Areas | People applicable to |
|---|--|-----------------------------|
| Allina Health Group, Abbott Northwestern Hospital, Buffalo Hospital, Cambridge Medical Center, District One Hospital, Mercy Hospital, New Ulm Medical Center, Owatonna Hospital, Phillips Eye Institute, Regina Hospital, River Falls Area Hospital, St. Francis Regional Medical Center, United Hospital, all other Business Units | All | All |

POLICY STATEMENT:

Allina Health is committed to preventing, detecting and reporting fraud, waste and abuse, and complying with state and federal False Claims Acts. Allina Health’s Integrity & Compliance Program includes safeguards to facilitate the prevention and detection of fraud, waste and abuse, and to ensure robust reporting mechanisms and timely and efficient response. See the Integrity & Compliance Program policy for details on the program elements and safeguards.

In accordance with the education requirements set forth in Section 6032 of the Deficit Reduction Act (DRA) of 2005, Allina Health provides detailed information to its employees, contractors and agents regarding federal and state false claims laws, administrative remedies and civil and criminal penalties for violations of such laws, and whistleblower protections under such laws, as well as Allina Health’s Integrity & Compliance Program and its policies to prevent and detect fraud, waste and abuse. This

Allina Health reserves the right to modify, revoke, suspend terminate or change any and all such policies and procedures unilaterally as the company deems appropriate, with or without notice, at any time.



information is made available to employees, contractors and agents by posting a copy of this policy and the Integrity & Compliance Program policy on Allina Health's intranet, the Allina Health Knowledge Network (AKN), and on Allina Health's public website at www.allinahealth.com/integrity. Allina Health employees are also educated on the contents of this and related policies upon hire and during annual compliance education. Contractors and agents are responsible to disseminate this information to their employees who provide services for Allina Health.

DEFINITIONS:

Contractor/Agent: 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 Health.

Knowingly: 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.

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.

2. FCA whistleblower protection

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.

3. 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, or a state contractor. The Wisconsin False Claims Act (Wisconsin Statutes Section 20.931) applies specifically to Medicaid claims submitted to the state or an agent of the state.

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 including fines and suspension or termination from participation in the program (Minnesota Statutes Section 256B.064) and the Wisconsin law provides for criminal sanctions and recovery of damages equal to three times the amount of actual damages (Wisconsin Statutes Section 49.49).

3. Minnesota and Wisconsin whistleblower protection 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

PROTOCOL: Not applicable.

FORMS: Not applicable.

ALGORITHM: Not applicable.

ADDENDUMS: Not applicable.

FAQs: Not applicable.

REFERENCES:

Related Regulation and Laws:

- 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

Alternate Search Terms: Not applicable.

Allina Health Regulatory Education Grid: Not applicable.

RELATED POLICIES/DOCUMENTS:

| Name of Policy | Content ID | Business Unit where Originated |
|--------------------------------|----------------------------|--------------------------------|
| Code of Conduct | N/A | System-wide |
| Integrity & Compliance Program | SYS-CC-402-01.01 | System-wide |
| Non-Retaliation | MyAllina – Policy Handbook | System-wide |

POLICIES/DOCUMENTS REPLACING:

| Name of Policy | Content ID | Business Unit where Originated |
|-----------------|------------|--------------------------------|
| Not applicable. | | |