

Employee Handbook Language

Federal False Claims Act Discussion

Any person who knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the government; or knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person.

For purposes of this act, the terms “knowing” and “knowingly” means that the person 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, and no proof of specific intent to defraud is required.

While the False Claims Act imposes liability only when the claimant acts “knowingly” it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act.

In simplest terms, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money.

The Act provides that private parties may bring an action on behalf of the United States. These private parties, known as “qui tam relators” may share in a percentage of the proceeds from an FCA action or settlement.

With some exceptions, a qui tam relator, when the government has intervened in the lawsuit, may receive 15 – 25% of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the government does not intervene, the relator may receive an amount that the court decides is reasonable (25 – 30%).

New York State False Claims Act Discussion

The New York False Claims Act closely tracks the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 to \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government's legal fees.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the suit eventually concludes with payments back to the government, the person who started the case can recover 25 – 30% of the proceeds if the government did not participate in the suit or 15 – 25% if the government did not participate in the suit.

Other Applicable Laws Discussion

In addition to the federal and state False Claims Acts, other laws also prohibit the creation and use of false or fraudulent documents in order to receive or keep Medicaid payments. The liabilities, fines and penalties listed above are only some of the potential costs to an individual or organization who participates in any way with a scheme to receive or retain Medicaid money inappropriately.

Whistleblower Protections Discussion

The FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. Remedies include reinstatement with comparable seniority as the quit tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

Our Policies that You Should Know About

We encourage open communication among our staff, management, Compliance Officer and Compliance Committee. We believe it is everyone's responsibility to report anything that appears to be out of compliance with our policies and procedures or against our Code of Conduct, Compliance Plan, any law or regulation under which we operate. We value your input, take your reports seriously and will investigate issues reported to us. You will not be retaliated against for making an internal report of something that you believe may constitute non-compliance. Anything that you believe constitutes retaliation should be reported to your supervisor or directly to the Compliance Officer.

We also routinely audit and monitor our business activities to ensure that we are in compliance with all applicable laws, rules and regulations under which we operate. You

may be asked to participate in such an audit and the department that you work in may be the subject of such an audit. In no case will your participation in an internal audit subject you to retaliation. Anything that you believe constitutes retaliation should be reported to your supervisor or directly to the Compliance Officer.