

## **POLICY ON PREVENTING FRAUD, WASTE AND ABUSE IN MEDICAID REIMBURSEMENTS**

Applicability: This policy applies to all Oak Hill employees, officers, directors, and vendors.

### I. Purpose:

Oak Hill is committed to ethical and honest billing and reporting practices to ensure compliance with all relevant rules and laws including, but not limited to those laws concerning Medicaid payments. All employees must be vigilant in maintaining these standards at all times. Consequently, Oak Hill desires that all employees become aware of applicable federal and state laws, as well as our internal policies, designed to prevent healthcare fraud, and to ensure that Oak Hill is providing the government with accurate information regarding services rendered.

### II. The Federal False Claims Act ("FCA") (31 U.S.C. § 3729) et seq

#### A. Summary:

There are three (3) principal provisions of Section 3729 of the FCA.

The first section provides that a person is liable to the United States Government for "knowingly" presenting or causing to be presented to an "officer or employee of the United States Government" a "false or fraudulent claim for payment or approval." While the person must act "knowingly", the person submitting the claim need not have actual knowledge that the claim is false to be liable under the statute.

- A "false claim" is a request for payment for a medical service or item that is not reasonable or necessary for the diagnosis or treatment of a patient. "False claims" may include billing for services not rendered or costs not incurred, duplicate billing, assigning an inaccurate code to increase reimbursement, providing false information about a patient's status or eligibility, failing to identify and refund credit balances or submitting bills without supporting clinical documentation.
- "Fraud" means an intentional act of deceit used to deprive another of money, property or a legal right

The second area of liability covers individuals who knowingly submit a false record in order to obtain payment from the government. An example of this would be a contractor who relies on a record that he knows (or should know) is false which indicates compliance with contractual or regulatory requirements.

The third area of liability involves instances when a person or entity obtains money from the federal government to which he or it might not be entitled, and then makes false statements or records to retain the money. An example would be a hospital that receives interim payments from Medicare throughout the year and then files a false cost report at the end of the year in order to avoid paying a refund to the government.

The claim does not actually have to be paid or approved to constitute a false claim. The submission alone violates the statute. Any person who is caught violating this statute can be held liable for at least \$5,000 or at most \$10,000, plus three times the actual amount of damages, for each false claim presented.

A potential defendant may limit its liability under this section if it discloses the violation within thirty days of learning of it, if it is not already subject to civil, criminal, or administrative actions for the violation.

#### B. *Qui Tam* Provisions

A private individual may bring an action in the name of the Federal Government against a person or entity for violating these laws. This person is known as a "*qui tam* relator". When the Government intervenes in the lawsuit and obtains a recovery, the relator receives at least 15% but not more than 25% of the recovery, depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the government does not intervene, the relator receives an amount that the court decides is reasonable and shall not be less than 25% and not more than 30%.

If, however, the relator is convicted of criminal conduct arising out of the role he or she played in the violation, the individual will be dismissed from the action and cannot receive any share of a recovery.

#### C. Protection Against Retaliation

The FCA prohibits employers from retaliating against employees who initiate or assist in an action under the FCA. If any such discriminatory

actions are taken, employees are entitled to reinstatement to the same position from which they were let go with the same seniority status, two times the amount of back pay with interest, and compensation for any other damages arising out of the discrimination.

### III. State Laws Regarding False Claims and Whistleblower Protection

#### A. Criminal laws

- G.S. §53a-290 *et seq* (Medicaid vendor fraud; state false claims act; penalties range from felony to misdemeanor depending on amount of claim)
- G.S. §53-440 *et seq* (Health Insurance Fraud Act; any person found guilty of defrauding a health insurance company shall be penalized according to the larceny statute)
- G.S. § 53a-118 *et seq* (larceny)
- G.S. § 53a-155 (tampering with or fabricating physical evidence class D felony; “a person is guilty of tampering with or fabricating physical evidence if, believing that an official proceeding is pending or is about to be instituted he: . . . presents or uses any record, document or thing knowing it to be false and with purpose to mislead a public servant who is or may be engaged in such official proceeding.”)
- G.S. § 53a-157b (false statements intending to mislead public servant Class A misdemeanor)

#### B. Civil Fraud Statutes

- G.S § 17b-25a (toll free hotline to DSS for reporting vendor fraud)
- G.S. § 17b-99 (vendor fraud penalties, including termination as a vendor and ineligibility for reimbursement)
- G.S. §17b-102 (financial incentive of up to 15% of any amounts recovered by the state as a result of a person’s report of fraud)
- Regs. Of Conn. State Agencies § 17-83k-1 *et seq* (administrative sanctions against vendors and /or providers of goods and services under the Medicaid program)
- Regs. Of Conn. State Agencies § 17b-102-01 *et seq* (financial incentives for reporting vendor fraud and requirements for payment for reporting vendor fraud)

### C. Whistle blower Protection

- G.S. § 4-61dd (whistle blowing; fraud and abuse of funds in state government and large state contracts may report to the Auditors of Public Contracts; no retaliation against whistle blowing employee)
- G.S. § 31-51m (protection of employees who disclose employers' illegal activities or unethical practices)
- G.S. § 31-51q (employer liability for discipline or discharge of employees on account of employees' exercise of certain constitutional rights (free speech))
- Regs. Conn. State Agencies § 4-61dd-1 *et seq* (rules of practice for contested case proceedings under the Whistleblower Protection Act)

## IV. Oak Hill Policies & Procedures Regarding Fraud and Abuse

This Human Resources Policy Manual and the Policy and Procedures Manual for Community Programs set forth most of Oak Hill's policies regarding fraud and abuse in all aspects of its operations, including Medicaid and other entitlement monies.

### A. Relevant Policies in the Human Resources Policy Manual:

- Mission and Core Values
- Conflicts of Interest
- Code of Ethics
- Standards of Conduct and Workplace Procedure
- Discipline and Discharge

### B. Relevant Policies in the Manual for Community Programs:

- P18 Management of Program Participants' Personal Funds
- S6 Staff Responsibilities
- S28 Conflicts of Interest
- Guidelines for Managing Program Participants Funds (in Managers Manual)

### C. Internal Controls

- Annual audits by our certified public accountants
- Audits by the State of Connecticut Department of Social Services covering successive three-year periods
  - Room and board audits in CLAs
  - All costs in ICF/MRs

- Biennial audits by program supervisors of Quicken bank statements prepared by group home managers
- Random audits of group homes
  - Program participant bank accounts
  - Fixed assets
  - Petty cash

## V. Employee Obligations

### A. Reporting Obligation

Employees must immediately report to the General Counsel any suspected or actual violations of applicable law or internal policies by any Oak Hill employee or contractor. Any employee making a report may do so anonymously if he or she chooses by calling the Compliance Hotline in the General Counsel's office at 286-3114. Once an employee has made a report, the employee has a continuing obligation to update the report as new information comes into his or her possession. All information reported to the General Counsel by any employee in accordance with this policy shall be kept confidential by General Counsel to the extent that confidentiality is possible in the context of any resulting investigation. There may, however, be a point where an employee's identity may become known or may have to be revealed in certain instances when governmental authorities become involved.

### B. Acknowledgement Statement

Every employee must sign and complete an Acknowledgement Statement to the effect that he or she fully understands this policy and acknowledges his or her commitment to comply with this policy as a condition of employment. The signed Acknowledgment Statement shall be a part of every employee's personnel file. It shall be the responsibility of each manager to ensure that all employees under his or her supervision who are materially involved in any of the documentation, coding, and billing for healthcare services execute such an acknowledgement on an annual basis.

VI. Oak Hill Obligations

A. Investigation and Corrective Action

Oak Hill does not tolerate any deliberately false or inaccurate billing or cost reporting. Upon receipt of a report of alleged wrongdoing, Oak Hill will promptly investigate. Based upon the results of the investigation, Oak Hill will take all appropriate steps, including immediate corrective action to rectify the violation, possible sanction or disciplinary action against the employee or contractor involved in the violation, and reporting of the violation to the appropriate regulatory body as required by law.

B. No Employment or Retention of Sanctioned Individuals or Vendors

Oak Hill shall not knowingly employ any individual or contract with any person or entity who has been convicted of a criminal offense related to healthcare or who is listed by a federal agency as debarred, excluded, or otherwise ineligible for participation in federally funded healthcare programs. Until resolution of such criminal charges or proposed debarment or exclusion, any individual who is charged with criminal offenses related to healthcare or has been proposed for exclusion or debarment shall be removed from direct responsibility for, or involvement in, documentation, coding or billing for medical services while such action or proposal is pending. If the resolution results in conviction, debarment, or exclusion of the individual, Oak Hill shall terminate the employment of such individual.

C. No Retaliation

Oak Hill adheres to a non-retaliation policy for employees that report compliance concerns or potential violations of applicable regulations. Under the FCA, employees cannot be subject to retaliation for reporting FCA violations. Connecticut law provides protection for employees who report potential federal and state regulatory violations. Retaliation cannot

be taken against an employee for reporting a potential violation, providing the government or other public body information about a potential violation, or refusing to participate in an activity he or she believes to be in violation of the state and federal laws.

Cross-reference: Code of Ethics  
Protecting Documents and Data

Approved by the Board of Directors: July 31, 2007