

BJC HealthCareSM

CORPORATE COMPLIANCE POLICY*

APPLIES TO: BJC HealthCare and All BJC Members

TITLE: Information Policy Concerning False Claims Laws

NUMBER: 7.0

PURPOSE: To help the employees, agents and contractors serving BJC HealthCare and BJC members (collectively, the “BJC Workforce”) understand the provisions of federal and state laws covering fraudulent claims submitted for reimbursement under government programs (collectively, the “False Claims Laws”), the associated penalties for violating the False Claims Laws, as well as to provide information concerning avenues for reporting suspected violations of the False Claims Laws.

Statement of Policy

It is the policy of BJC HealthCare and its members (collectively, “BJC”) to comply with all state and federal laws including, without limitation, the False Claims Laws. This policy is intended to supplement BJC’s existing Corporate Compliance Program Plan, Handbooks and Policies by providing specific information regarding the False Claims Laws to BJC’s employees, contractors and agents

Summaries of Federal and State False Claims Laws

Federal False Claims Laws - Social Security Act

The federal Social Security Act contains both civil and criminal false claims provisions. The criminal provisions prohibit persons or entities from (a) knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application for a benefit or payment under a federal health-care program, (b) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to a benefit or payment under Medicare or Medicaid, or (c) knowingly and willfully making or causing to be made any false statement with respect to the conditions of participation in Medicare or Medicaid.

The civil false claims provisions (the “Civil Monetary Penalties law”) prevent any person from knowingly billing for services not rendered, misrepresenting the services actually rendered, submitting a claim for payment that is inconsistent with or contrary to Medicare or Medicaid payment requirements, or submitting a claim for a service furnished while the person was excluded from the federal health-care programs.

Federal False Claims Laws - Civil False Claims Act

The other most frequently used federal false claims statute is the “Civil False Claims Act,” which prohibits persons or entities from (a) knowingly presenting or causing to be presented to an employee of the United States a false or fraudulent claims for payment or approval; (b) knowingly making or causing to be made or used a false statement to get a false or fraudulent claim paid or approved; or (c) conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid.

Each of the above statutes sets forth the penalties to be imposed on those engaging in prohibited activities. Virtually all of the statutes containing criminal penalties authorize imprisonment for up to five years, possibly in addition to a substantial fine. Moreover, persons convicted of criminal false claim violations may be excluded from the Medicare and Medicaid programs. Violations of the civil statutes are punishable through fines, which include penalties of as much as \$15,000 per violation and an assessment of three times the amount of damages sustained by the government. Violators of the civil statutes also may be excluded from Medicare and Medicaid.

State False Claims Laws

Missouri

Missouri law contains civil and criminal false claims provisions for combating Medicaid fraud. Specifically, Missouri’s false claim statute prohibits: (1) knowingly presenting a claim for payment that falsely states the health care provided was medically necessary; (2) knowingly concealing an event affecting initial or continued payments by a medical assistance program for providing care; (3) knowingly concealing or failing to disclose any information in order to obtain a payment from a medical assistance program to which the health care provider is not entitled or improperly increasing the amount of any such payment to which the health care provider is entitled; or (4) knowingly making a claim for payment for health care that was provided that has a lesser value than the amount of the claim.

Criminal penalties range from imprisonment up to seven (7) years, restitution and civil penalties of \$5,000 to \$10,000 per violation plus treble damages measured as three (3) times the amount of damage sustained by the Medicaid program as a result of the false claims activity. Alternatively, Missouri law authorizes the attorney general to initiate civil actions for violations of Missouri’s false claims laws and recover up to two times the amount of payments received by the person as a result of making false statements or false representations, as well as the state’s costs in pursuing the action.

Illinois

Illinois law similarly provides for civil penalties to be imposed upon persons who: (1) knowingly present a false or fraudulent claim for payment to the state; (2) knowingly present a false record to receive from the state a false or fraudulent claim; (3) conspire to defraud the state by allowing payment of a false or fraudulent claim; (4) defraud the state by delivering less money or property than he had in his possession or control; (5) make or deliver receipt of property used or to be used by the state without knowing the truthfulness of the information on the receipt; (6) knowingly receive property from state officials who are not authorized to sell or pledge the property; or (7) knowingly make or use a false statement to avoid or decrease payment or transmission of money or property to the state.

Violations may result in civil penalties ranging from \$5,500 to \$11,000, three (3) times the amount of damages sustained by the state, as well as any prosecution costs.

Reporting Violations of the False Claims Laws

In the event an employee, contractor or agent discovers or suspects a violation of the False Claims Laws described above or is concerned that a violation may be occurring within BJC's operations, he or she is expected to utilize the Four-Step Communication Program described within BJC's Compliance Issue Reporting Policy (Corporate Compliance Policy #3).

Specifically, the violation should be reported and resolved promptly, constructively and at the lowest level possible by following these four steps: (1) Discuss the issue with your supervisor or, for contractors and non-employee agents, to the BJC employee most directly responsible for the activities from which the concern arises; (2) If the supervisor does not resolve the concern to your satisfaction, speak to the Department Manager or Director; (3) If the Department Manager or Director is unable to resolve your concern, contact the Compliance Liaison or Human Resources Department for the relevant facility(ies). Alternatively, you may instead elect to bring the matter to the attention of the facility's President or Chief Executive Officer; (4) Matters not resolved at the facility or operational level should be brought to the attention of the BJC Director of Corporate Compliance, the BJC Director of Audit Services or the BJC General Counsel.

If an individual has exhausted the above avenues or otherwise feels uncomfortable reporting the issue or concern to the persons indicated above, he or she should call the BJC Compliance Action Line. The Compliance Action Line number is 1-800-525-BJC1. The Compliance Action Line should also be used if the individual wishes to remain anonymous. Calls to the Compliance Action Line will not be traced and will be treated confidentially. To the extent allowed by law, callers may remain anonymous if they choose. The conduct of investigations into the activities at issue is described more fully within BJC's Compliance Issue Reporting Policy (Corporate Compliance Policy No. 3).

Whistleblower Rights and Protections

“Whistleblower” is a term commonly used to describe an individual who observes activities or behavior that may violate the law in some manner and reports those observations either to management or to governmental agencies. Laws have been enacted at both the federal and state level to protect these individuals and to make sure that their employer does not: (i) prevent such persons from reporting suspected fraudulent or illegal activity to government oversight agencies, or (ii) take adverse action in retaliation for such person reporting their observations to the government.

It is the policy of BJC that no person shall be prohibited or discouraged from bringing forth a good faith compliance issue or concern. That process should begin with BJC’s four-step program referenced above. In addition, no person shall be subject to discrimination, harassment or retaliation for bringing forward a good faith compliance issue or concern. Anyone who attempts to retaliate against an individual who has asked a good faith question or has brought forward a good faith concern will be subject to corrective action, including possible termination of employment.

Should an individual have good faith compliance concerns that he or she does not feel have been adequately addressed through BJC’s Corporate Compliance Program and the reporting mechanisms described above, federal law also contains provisions that permit individuals with actual knowledge of false claims activity to personally file a lawsuit on behalf of the U.S. Government, provided he or she is the “original source” of the information. Such persons are referred to as “qui tam relators.” If the government determines that the lawsuit has merit, it may join (“intervene”) the lawsuit and assume responsibility for prosecuting the matter. If the government decides not to intervene, the qui tam relator may continue the lawsuit on his or her own. If the lawsuit is successful, the qui tam relator may receive an award ranging from 10 to 30 percent of the amount the defendant is found liable to the government, as well as reimbursement for his or her costs incurred in bringing the lawsuit. The size of the relator’s award and ability to recover his or her costs depends on a number of factors including, without limitation, whether or not the government elects to intervene in a case, the extent to which the relator contributes to the prosecution of the action, and the degree to which the relator may have assisted or participated in the illegal false claims activities. Qui tam relators who are themselves convicted of criminal conduct in connection with the false claims are disqualified from receiving any share of the government’s recovery.

BJC’s Policies and Procedures for Detecting and Preventing Fraud, Waste & Abuse

BJC is committed to possessing and demonstrating the reliability, honesty, trustworthiness and high degree of integrity expected of a leading health-care organization and participant in federal and state-funded health-care programs and has implemented the BJC Compliance Program to help strengthen this commitment. The BJC Compliance Program is focused on detecting and preventing fraud, waste and abuse through education and through providing the mechanisms through which the BJC Workforce can communicate questions and concerns arising from their activities and observations within BJC’s operations. With the assistance of every employee,

agent and contractor, BJC will fulfill its commitment to provide medical services of the highest quality to its clients in full compliance with all applicable laws and regulations including, without limitation, the False Claims Laws described in this policy.

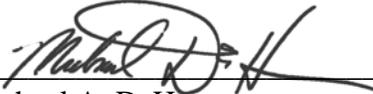
Corporate Compliance and Legal Services Department Review, Approval and Assistance

Any exception, change, or deviation from this Policy must be reviewed and approved by the Corporate Compliance Department and/or the Legal Services Department. These Departments will be available to answer any questions and to provide assistance and advice to BJC employees concerning this Policy. Questions regarding specific terms, situations, or problems may be forwarded to the Corporate Compliance Department or Legal Services Department for assistance and advice.

RECOMMENDED BY: Corporate Compliance Department
Legal Services Department

EFFECTIVE DATE: January 1, 2007 (Original)

AUTHORIZED BY:



Michael A. DeHaven
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and Corporate Compliance Officer