


Title: False Claims Act Policy Manual: Administrative Policy Manual Category: Business Function Approval Signatures: <hr/> <hr/> <hr/>		
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1.0 Policy:

PURPOSE

The purpose of this policy is to provide information about Sparrow’s responsibility to prevent fraud and abuse by presenting accurate claims for payment to all payers, including federal programs. The policy also describes Sparrow policies for detecting and preventing fraud and abuse, the Federal and State False Claims Acts, and related whistleblower provisions.

POLICY STATEMENT

Sparrow, through its compliance plan and other policies, is committed to the highest standards of ethical behavior, and the submission of accurate claims to all payers, including federally funded payers such as Medicare and Medicaid.

2.0 Scope:

Category	Description	
System wide	Policy is applicable to all majority-controlled Sparrow Health System affiliates (Affiliates).	√

3.0 Definitions:

APPLICABILITY

This policy applies to Associates, independent contractors and agents who provide services for, or on behalf of, Sparrow Health System and any of its Affiliates (“Sparrow”).

4.0 Responsibilities & Procedures

SPARROW’S POLICIES FOR PREVENTING WASTE, FRAUD AND ABUSE

Sparrow has established policies to prevent fraud, waste and abuse of the Medicaid and Medicare programs. These policies are stated in writing in the Sparrow Health System Compliance Plan. This Plan helps to ensure appropriate claims are made to all payers, including government programs, through:

- Development of policies on appropriately submitting and processing claims for services.
- Education regarding the SHS Compliance Plan and Departmental/Affiliate Compliance Plans.
- Monitoring and auditing to prevent or detect errors in coding or billing.
- Investigating all reported concerns and correcting errors that are discovered.
- Promoting the Compliance Hotline for reporting, including protection of adverse action when genuine concerns are reported in good faith.

The Compliance Plan is available at the office of Audit and Compliance Services, Sparrow Health System, for any Associate, medical staff member, independent contractor or agent to read. In addition, it is available on the Internet at www.sparrow.org, or on the Compliance Department page of the Sparrow Intranet.

FEDERAL CIVIL FALSE CLAIMS ACT (1)

The False Claims Act is a federal law that addresses fraud involving federally funded programs. Claims to Medicare and Medicaid for payment make up the majority of health care claims paid by the U.S. government. This law defines a false claim to the U.S. Government as follows:

1. Knowingly presenting a false or fraudulent claim for payment or approval.
2. Knowingly making or using a false record or statement to get a false or fraudulent claim paid or approved.
3. Conspiring with another to get a false or fraudulent claim paid or allowed.
4. Knowingly making or using a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property.

There is no requirement that there be an intent to defraud. The requirement of doing something in a knowing manner is met by showing either (1) actual knowledge, (2) deliberate ignorance of the truth or falsity of the information, or (3) reckless disregard of the truth or falsity of the information.

Penalties: Violations of the federal false claims act can result in penalties of not less than \$5,500.00 and not more than \$11,000.00 per claim (subject to inflationary increases), plus three times the amount of damages that the government sustains.

ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS

Under a second regulation addressing health care fraud, the Department of Health and Human Services may impose on a person who submits certain claims to the government of the United States a penalty of up to \$5,500.00 for each False Claim, plus twice the amount of the False Claim.

This law applies to any claim that a person knows or has reason to know:

1. Is false, fictitious, or fraudulent;
2. Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
3. Includes or is supported by any written statement that (i) omits a material fact, (ii) is false, fictitious, or fraudulent as a result of such omission, and (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
4. Is for payment for the provision of property or services, which the person has not provided as claimed.

Chapter 38 of Title 31 of the United States Code imposes the same penalty of \$5,500.00 on any person who has made an express certification of the truthfulness and accuracy of the written statement and who makes a written statement that the person knows or has reason to know:

1. Asserts a material fact which is false, fictitious, or fraudulent; or
2. Omits a material fact, (ii) such is false, fictitious, or fraudulent as a result of such omission, and (iii) the person submitting such statement has a duty to include such material fact.

FEDERAL QUI TAM "WHISTLEBLOWER" ACTIONS

Any private person ("Qui Tam Relater") may bring a civil action for any False Claim (itemized above) in the name of the United States government. The federal government gets an opportunity to review the complaint and the disclosure of substantially all of the material evidence and information the person possesses to decide whether to intervene. If the federal government decides to intervene, then it has the primary responsibility for prosecuting the action for the False Claims, and the person who originally brought the action, the Qui Tam Relater, may receive from 15% to 25% of the proceeds of the action or settlement of the claim. If the federal government does not proceed with the action and the Qui Tam Relater continues with

the action or settles the claim, he or she may receive an amount from 25% to 30% of the proceeds of the action or settlement. The Qui Tam Relater may also receive an amount for reasonable expenses, including reasonable attorney fees and costs incurred in connection with bringing the lawsuit.

STATE FALSE CLAIMS ACT (2)

Michigan has enacted a Michigan False Claims Act. This act imposes prison terms of up to four (4) years and fines of up to \$50,000.00 for:

1. Knowingly making a false statement or false representation of a material fact in any application for Medicaid benefits or for use in determining rights to a Medicaid benefit;
2. Soliciting, offering or receiving kickbacks or bribes for referrals to another for Medicaid-funded services (fine up to \$30,000.00);
3. Entering into an agreement with another to defraud Medicaid through a False Claim; or
4. Making or presenting to the State of Michigan a False Claim for payment.

STATE QUI TAM “WHISTLEBLOWER” ACTIONS

Any person (Qui Tam Relater) may bring a civil action on behalf of the State of Michigan to recover losses that the State suffered from a person violating the Michigan Medicaid False Claims Act, and the Michigan Attorney General is to be notified and has an opportunity to appear and intervene in the action brought on behalf of the State of Michigan. If the Michigan Attorney General intervenes, in addition to the person receiving his or her expenses, costs and reasonable attorney fees, the person may also receive from 15% to 25% of the monetary proceeds resulting from the action or any settlement. If the Michigan Attorney General does not intervene, the recovery for the Qui Tam Relater may be in the range of 25% to 30% of the monetary proceeds.

WHISTLEBLOWER PROTECTION LAWS

Both the federal and state laws protect individuals who investigate or report possible False Claims made by their employer against discharge or discrimination in employment because of such investigation. Employees who are discriminated against based on whistleblowing activities may sue in court for damages. Under either the federal or state law, any employer who violates the whistleblower protection law is liable to the employee for (1) reinstatement of the employee's position without loss of seniority, (2) two times the amount of lost back pay, (3) interest and compensation for any special damages, and such other relief necessary to make the employee whole.

AUTHORITY

This policy is enacted pursuant to Section 6032 of the Deficit Reduction Act of 2005.

- (1) The federal Civil False Claims Act, Section 3279 of Chapter 31 of the United States Code.
- (2) The Michigan Medicaid False Claims Act, Sections 400.603 - 400.607 of the Michigan Compiled Laws

5.0 Revision History

Date	Revision #	Changes	Referenced Section

6.0 References:

Author: Foster Swift Collins and Smith

Owner: Audit and Compliance Services

Related Policies: SHS Compliance Plan

7.0 Other Documentation: Examples could be JCAHO standards, OSHA standards, ISO9000 standards, state or federal law, etc.

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