

Policy Number: III.Q
Subject: FALSE CLAIMS AND
NON-RETALIATION
Effective Date: December 12, 2006
Revision Date:

POLICY

Presbyterian Medical Services (“PMS”) requires that its employees, agents, professionals and contractors conduct themselves ethically and in conformance with all applicable laws and regulations and the policies and procedures of PMS. In keeping with its commitment to compliance, PMS has adopted a Corporate Compliance Program (“Program”) that is designed to detect, prevent and report any actions which constitute violations of applicable laws, regulations, policies and procedures. In furtherance of the goals of the Program, the purpose of this policy is to inform PMS employees, agents, professionals and contractors of (a) the false claims laws, (b) methods to report actions that may constitute a violation of applicable laws or the policies and procedures of PMS, and (c) PMS’ policy prohibiting retaliation against any employee, agent, professional or contractor who reports any actions that may constitute a violation of applicable laws or PMS policies and procedures, including the false claims laws.

PROCEDURES

A. FEDERAL AND STATE FALSE CLAIMS LAWS

1. Federal False Claims Act.

The Federal False Claims Act prohibits knowingly presenting or causing to be presented a false or fraudulent claim for payment to any federal health care program (including Medicare and Medicaid); knowingly making a false record or misrepresentation to obtain payment for a false claim from any federal health care program; or conspiring to defraud any federal health care program by getting a false claim paid. Examples of actions that could constitute a violation of the Federal False Claims Act include:

- Filing false or fraudulent claims for payment or approval;
- Making or entering any charge for a service that was not provided or not ordered by a physician or other appropriately licensed person;
- Recording a charge for a service that differs in any way from the actual service provided (including by entering a false, fraudulent or erroneous CPT code);
- Submitting separate claims to maximize reimbursement for tests and procedures that are required to be billed together (i.e., unbundling);

Violations of the Federal False Claims Act may result in any or all of the following actions being taken against Company:

- Civil penalties of between \$5,000-\$10,000 for each false claim;

- An additional penalty equal to three times the amount of each false claim, as determined by the government depending on the circumstances;
- Recoupment by a federal health care program of any reimbursement received by Company for services covered by a false claim; and/or
- Exclusion or suspension from all federal health care programs.

2. New Mexico False Claims Act.

The New Mexico False Claims Act prohibits:

- presenting, or causing to be presented, to the state a claim for payment under the Medicaid program knowing that such claim is false or fraudulent;
- presenting, or causing to be presented, to the state a claim for payment under the Medicaid program knowing that the person receiving a Medicaid benefit or payment is not authorized or is not eligible for a benefit under the Medicaid program;
- using or causing to be made or used a record or statement to obtain a false or fraudulent claim under the Medicaid program paid for or approved by the state knowing such record or statement is false;
- using or causing to be made or used a record or statement to obtain a false or fraudulent claim under the Medicaid program paid for or approved by the state knowing such record or statement is false;
- conspiring to defraud the state by getting a claim allowed or paid under the Medicaid program knowing that such claim is false or fraudulent;
- making, using or causing to be made or used a record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the state, relative to the Medicaid program, knowing that such record or statement is false;
- knowingly applying for and receiving a benefit or payment on behalf of another person, except pursuant to a lawful assignment of benefits, under the Medicaid program and converting that benefit or payment to a person's own personal use;
- knowingly making a false statement or misrepresentation of material fact concerning the conditions or operation of a health care facility in order that the facility may qualify for certification or recertification required by the Medicaid program, or
- knowingly making a claim under the Medicaid program for a service or product that was not provided.

Violations of the New Mexico False Claims Act may result in penalties up to three times the amount of damages that the State sustains as a result of the unlawful act.

B. REPORTING POTENTIAL VIOLATIONS

Any PMS employee, agent, professional or contractor who in good faith believes an activity may not comply with applicable laws, regulations, policies or procedures shall report the activity by any of the following methods:

- Reporting the incident to a supervisor or Site Administrator, who shall in turn report the incident to the System Administrator and PMS Department of Legal Affairs;
- Contacting the PMS Compliance Officer or General Counsel in person, by telephone or by email, or;
- Reporting through the PMS Anonymous Reporting Hotline at (800) 398-1496.

Employees, agents, professionals and contractors are encouraged to report any suspect activity to the PMS Compliance Officer or General Counsel for quick resolution. Employees also have the right to bring a civil action on their own or in conjunction with the government for a violation of the Federal False Claims Act and may recover damages or a portion of the recovery obtained by the government.

C. NON –RETALIATION

No employee, agent, professional or contractor shall be subject to adverse or discriminatory action by PMS for reporting in good faith any wrongdoing or suspect activity or for participating in any investigation or providing assistance with respect to any action that may be brought against PMS, including, without limitation, bringing a civil action for a violation of Federal or state false claims laws. Employees, agents, professionals and contractors shall report immediately any action believed to be retaliation against any individual for reporting suspect activities or wrongdoing. Individuals determined to have engaged in retaliation or discriminatory treatment in response to a report of wrongdoing or suspect activity will be subject to disciplinary or other corrective action, including termination.

Revision Approval Date: