

POLICY TITLE: FALSE CLAIMS ACT COMPLIANCE

Former Policy Title:

POLICY:

It is the policy of Lancaster General Health (“LG Health”) to comply with the requirements of the False Claims Act (“FCA”), 31 U.S.C. §§3729 et. seq., and the Pennsylvania Fraud and Abuse Control Law (“PFAC”), 62 P.S. §§1401 et. seq. This policy provides employees vendors, contractors, agents and affiliated personnel with information regarding liability under the FCA and PFAC and the process by which they can report potential violations of the FCA and PFAC.

SCOPE:

All LG Health employees, vendors, contractors, agents, and affiliated personnel.

PURPOSE:

To educate employees, vendors, contractors, agents, and affiliated personnel about the FCA and PFAC and the procedures LG Health follows to comply with the FCA and PFAC.

BACKGROUND:

To control and prevent fraud, abuse, and waste, the FCA prohibits an individual or organization from: (i) knowingly submitting to an officer or employee of the United States Government a false or fraudulent claim for payment; (ii) knowingly making or using a false record or statement to get a false claim paid by the United States Government; or (iii) conspiring to defraud the United States Government by getting a false claim paid.

The FCA is one avenue by which the federal government controls fraud, abuse, and waste in health care. The FCA allows the federal government to hold an individual or organization responsible for knowingly submitting, for payment, a false claim to Medicare, Medical Assistance, or any other payor in which the federal government provides a portion of the money to satisfy the claim.

Violations of the FCA occur in many ways. The most common examples applicable to healthcare organizations are: billing for services not rendered; duplicate billing for the same service; billing separately for services that should be billed together in a bundled code (sometimes referred to as unbundling); and upcoding a service to a more expensive service than the service that was actually rendered.

A person or organization found guilty of violating the FCA may be liable for both civil and administrative penalties. Typically, a civil penalty between \$5,000 and \$10,000 is imposed for *each* submitted false claim. In addition, fines up to three times the damages the United States Government

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sustains because of the submitted false claim may be imposed. Administrative penalties can include a fine of \$5,000 for *each* submitted false claim. In addition, the individual or organization may be subjected to an assessment of twice the amount of the submitted false claim. Violations of the FCA may also lead to exclusion from Medicare, Medical Assistance, or other government programs.

Either the United States Attorney General or a private individual may bring a civil action against an organization for violation of the FCA. If the private individual is an employee of the organization, federal and state whistleblower protection laws prohibit the organization from retaliating against the employee for bringing the civil action against the organization.

The PFAC attempts to control and prevent fraud, abuse, and waste in health care. The PFAC prohibits an individual or organization from knowingly submitting to Medical Assistance a false claim for payment. PFAC violations are similar to violations under the FCA. Examples include billing for services not rendered, submitting duplicate claims for the same service, and upcoding to a more expensive service than the service that was actually rendered.

Violations of the PFAC can result in a fine up to \$15,000, damages equal to three times the amount of the false claim, exclusion from the Medical Assistance program, and imprisonment. Pennsylvania also has a whistleblower protection law, 43 P.S. §§ 1421 et. seq., that prohibits an employer from retaliating against an employee who notifies the state government of violations of the PFAC.

PROCEDURE:

To ensure compliance with the FCA and PFAC, LG adopts the following procedures:

1. LG Health employees, vendors, contractors, agents, and affiliated personnel shall comply with the LG Health Code of Conduct, including those sections relating to fraud and abuse and billing for services rendered.
2. All employees shall be made aware of the duties and functions of the LG Health Compliance Department in protecting against fraud, abuse, and waste.
3. Any employee who knows that an employee or department of LG has submitted a false claim shall report this by any of the following methods:
 - a. Directly contacting the manager of the involved department or through the normal chain of command.
 - b. Directly contacting the Compliance Officer or Compliance Department at 544-5866.
 - c. Calling the Compliance Hotline at 1-888-411-3380. This process can be completely anonymous if the caller so chooses.
 - d. Accessing LG Health's AlertLine (formerly called SilentWhistle) website from the LG Health Intranet site or at the following URL:

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<https://lancaster.alertline.com/gcs/welcome>

This process can be completely anonymous if the employee so chooses.

4. All filed reports will be investigated by LG Health's Compliance Department.
5. LG Health shall educate all employees, vendors, contractors, agents, and affiliated personnel about the requirements of the FCA and PFAC and all of LG Health's policies for preventing fraud, abuse, and waste.
6. No employees, vendors, contractors, agents, and affiliated personnel shall be retaliated against for reporting a potential violation of the FCA or PFAC. All vendors, contractors, agents, and affiliated personnel shall be made aware of LG Health's policy against non-retaliation. In general, LG Health's Non-Retaliation Policy prohibits any entity or individual within LG Health from disciplining, terminating, or taking any other adverse action against an employee for reporting potential violations of the FCA or PFAC.

Referenced Policies

Lancaster General Health Code of Conduct

Lancaster General Health Non-Retaliation Policy