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References:	

Preventing, Detecting and Reporting Fraud, Waste and Abuse

INTRODUCTION

It is the policy of American Health Companies, Inc. d/b/a American Health Partners ("**AHP**"), including its subsidiaries owners, officers, employees, contractors, subcontractors, and agents to perform work-related daily activities in accordance with the organization's ethical standards and all federal, state, and local laws, rules, and regulations. This policy provides guidance for compliance with section 6032 of the Deficit Reduction Act of 2005.

To ensure compliance with such laws, the Facility has in place a Code of Conduct and policies and procedures in place to detect and prevent fraud, waste, and abuse, and also supports the efforts of federal and state authorities in identifying incidents of fraud and abuse. As part of the Compliance Program and the organization's efforts to prevent and detect fraud, waste and abuse, individuals have a responsibility to report any known or suspected violations of the law to their supervisor, or department head, any supervisor or department head, the Facility Compliance Officer, the Regional Compliance Directors, the Chief Compliance and Ethics Officer, or the Confidential Disclosure Program.

Federal False Claims Act

The Federal False Claims Act ("FCA") was enacted during the Civil War to fight fraud in supplying goods to the Union Army. The law has undergone many changes and now applies to any federally funded contract or program, other than tax fraud, including Medicare and Medicaid.

The FCA imposes liability on any person or entity who: 1) knowingly files a false or fraudulent claim for payment to Medicare, Medicaid or any other federally funded health care program; 2) knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid or any other federally funded health care program; 3) conspires to defraud Medicare, Medicaid or any other federally funded health care program by attempting to have a false or fraudulent claim paid; or 4) knowingly uses (or causes to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Federal Government. "Knowingly" means: 1) having actual knowledge that the information on the claim is false; 2) acting in deliberate ignorance of whether the claim is true or false; or 3) acting in reckless disregard of whether the claim is true or false.

In the case of healthcare services, a false claim may include overbilling for a product or service, delivering less than the promised type of goods or services, underpaying money owed to the government and charging for services not provided.

The FCA imposes civil penalties but is not a criminal statute. Therefore, no proof of specific intent as required for violation of a criminal statute is necessary. Fines between $11,181 and $22,363 plus three times the amount of damages sustained by the government for each false claim may be applied. The amount of damages in healthcare would be the amount paid for each false claim filed.

Qui Tam Whistleblower Provisions

Anyone may bring an action under this law in federal court. The case is initiated by causing a copy of the complaint and all available relevant evidence to be served on the federal government. Any case must be brought within six years of the filing of the false claim. The case will remain sealed for at least 60 days and will not be served on the defendant, so the government can investigate the complaint. The government may obtain additional time for good cause. The government may also initiate its own investigation under the FCA.

After the 60-day investigation period, plus any extension periods, the government will either choose to join the complaint or decline to proceed. If the government declines to proceed, the person bringing the complaint has the right to conduct the action on their own in federal court.

If the government proceeds with the case, the qui tam relator bringing the action will receive between 15 and 25 percent of any proceeds, depending upon the contributions of the individual to the success of the case. If the government declines to pursue the case, the qui tam relator will be entitled to between 25 and 30 percent of the proceeds of the case, plus reasonable expenses and attorney's fees and costs awarded against the defendant.

Note that many of the state false claims act laws contain similar whistleblower provisions. The citations for each of the individual state whistleblower laws may be found as an attachment to this policy.

Non-Retribution and No Retaliation

Anyone initiating a qui tam case may not be discriminated or retaliated against in any manner by their employer. An employee is authorized under the FCA to initiate court proceedings to make themselves whole from any job-related losses resulting from any such discrimination or retaliation. The organization's Confidential Disclosure Program and state and federal whistleblower statutes and protections for individuals encourage reporting of fraud, waste and abuse in good faith.

Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act (PFCRA) creates administrative remedies for making false claims separate from and in addition to, the judicial or court remedy for false claims provided by the False Claims Act. PFCRA cases typically affect false claims or statements for which the liability is $150,000 or less.

The PFCRA is quite like the FCA but is somewhat broader and more detailed, with differing penalties. The PFCRA deals with submission of improper claims or written statements to a federal agency. A violation of the PFCRA has occurred when an individual knows or should have known that a submitted claim is (i) false, fictitious or fraudulent, or (ii) includes or is supported by written statements that are false, fictitious or fraudulent, or (iii) includes or is supported by a written statement that omits a material fact; the statement is false, fictitious or fraudulent as a result of the omission; and the person submitting the statement has a duty to include the omitted facts, or (iv) for payment of property or services not provided as claimed.

A violation of the PFCRA carries a $5,000 civil penalty for each such wrongfully filed claim. In addition, an assessment of two times the amount of the claim can be made, unless the claim has not actually been paid.

A person also violates the PFCRA if they submit a written statement they know or should know (i) asserts a material fact which is false, fictitious or fraudulent, or (ii) omits a material fact and is false, fictitious or

fraudulent as a result of an omission. In this situation, there must be a duty to include the fact and the statement submitted contains a certification of the accuracy or truthfulness of the statement.

A violation of the prohibition for submitting an improper statement carries a civil penalty of up to $5,000.

State False Claims Acts

Many states have laws similar to the Federal False Claims Act and the Program Fraud Civil Remedies Act. These laws provide federal and state funded healthcare beneficiary programs with a method to control fraud, waste and abuse by giving appropriate government agencies the authority to seek out, investigate and prosecute violations. Enforcement activities are pursued in three ways: criminal, civil and administrative.

The citations for each of the individual state whistleblower laws may be found as an attachment to this policy.

Organizational Efforts to Prevent and Detect Fraud, Waste and Abuse

This organization provides general and specific compliance training and has many auditing and monitoring procedures in place to prevent and detect fraud, waste and abuse.

An individual who becomes aware of or suspects any type of fraud, waste or abuse may report this information to the Confidential Disclosure Program. Callers may remain anonymous. Anonymous calls and communications will be investigated and acted upon in the same manner as calls where the caller or writer identifies his/her identity. Efforts will not be made to determine the identity of an individual making an anonymous report unless the individual admits to engaging in improper conduct. Individuals are encouraged to describe the conduct or incident in sufficient detail to enable the organization to investigate the matter.

Furthermore, in the context of the Health Insurance Portability and Accountability Act ("HIPAA"), a covered entity is not considered to have violated HIPAA if a member of the organization's workforce or a business associate discloses protected health information, provided that:

- The workforce member or business associate believes in good faith that the covered entity has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by the covered entity potentially endangers one or more patients, workers, or the public; and
- (ii) The disclosure is to:

    o A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of the covered entity or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by the covered entity; or

    o An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to the conduct described in paragraph (j)(1)(i) of this section.

Investigation of Reports

Investigation of reported known or suspected violations will be prompt, appropriate and confidential. The findings of the investigation and recommended corrective and/or disciplinary actions will be coordinated by the Corporate Compliance and Privacy Officer or her designee.

Corrective Action

Once a reported violation is substantiated through an investigation, corrective action will be initiated. When

appropriate, the affiliated facility will return any overpayment amounts, notifying the correct governmental agency of the overpayment situation. Corrective action will be taken promptly to prevent similar occurrences.

Attachments:

State False Claims Act Citations with Whistleblower Provisions and Financial Penalties

Approval Signatures

Approver	Date
Ben Sparks: AGC [LC]	05/2019
Kelly Thomas: Chief Compliance & Ethics Officer [LC]	05/2019
Kelly Thomas: Chief Compliance & Ethics Officer [LC]	05/2019
Laura Carrico: Director of Compliance	05/2019