

## THINGS YOU SHOULD KNOW ABOUT THE DEFICIT REDUCTION ACT

A recently enacted federal law, the Deficit Reduction Act (DRA), requires that all employees and others working at or on behalf of Commonwealth Health Corporation (CHC) and its subsidiaries be reminded of our policies and requirements as they relate to billing. The federal False Claims Act (31 U.S.C. §§ 3729-33) makes it unlawful for any person or organization to knowingly make a false record or file a false claim with the government for payment. A *claim* includes any request or demand for money, and *knowingly* means that the person or organization:

- knows the information on a claim is false;
- seeks payment while deliberately ignoring that the claim is false, or
- seeks payment recklessly without caring that the claim is false.

Examples of such fraudulent behavior include:

- Billing for services not rendered or goods not provided;
- Falsifying certificates of medical necessity and billing for services that are not medically necessary;
- Billing separately for services that should be a single service;
- Falsifying treatment plans or medical records to maximize payments;
- Failing to report overpayments or credit balances;
- Duplicate billing;
- Unlawfully giving health care providers, such as physicians, inducements in exchange for referrals for service;
- Billing for services that were not properly ordered by a health professional; or
- Billing for services that were of a lesser value, quality or quantity than those actually billed (i.e. upcoding.)

If fraudulent billing is proven, federal law provides for administrative remedies that can involve monetary penalties, exclusion from participation in Medicare and Medicaid and in some cases fines and/or imprisonment. The False Claims Act and comparable laws of the Commonwealth of Kentucky are part of the government's efforts to prevent and detect fraud, waste and abuse.

In addition to the False Claims Act (31 U.S.C. §§ 3729-33) and the Deficit Reduction Act of 2005 Section 6032 on which much of the above is based, other federal and Kentucky laws and regulations pertaining to billing fraud include:

Submitting False Claims 18 USC Section 287;

False Statements (18 USC Section 1001);

Federal Administrative Remedies for False Claims (31 USC Sections 3801 – 3812);

False Statements 18 USC Section 1001;

Medicare and Medicaid Fraud 42 USC Section 1320a-7b(a)(1);

Federal Administrative Remedies for False Claims 31 USC Section 3801 – 3812;

Mandatory Exclusion 42 USC Section 1320a-7(a) and 42 USC Section 1320a-7(b);

Federal Remedies 31 USC Sect. 3801 – 3812;

Mandatory Exclusions 42 USC Section 1320a-7(a) and 42 USC Section 1320a-7(b); and

Civil Penalties 42 USC Section 1320a-7a.

Kentucky Laws Include:

KRS 205.8461;  
KRS 205.8475;  
KRS 205.8471;  
KRS 205.8465(1), (2) & (3);  
KRS 205.8463;  
KRS 205.8463(2);  
KRS 205.8469(4);  
907 KAR 1:671.1(20)(a,b);  
907 KAR 1:671.1(40)(a,b,c,e,f,h,i,k,m,n,o); and  
907 KAR 1:671.1(41).

We applaud and support the government's efforts to prevent and detect fraud, waste and abuse. Toward that end, Commonwealth Health Corporation expects and requires any person who knows or suspects that a false claim for payment was submitted to a payer to report that occurrence. There are several ways to report suspected problems, and all are appropriate.

- (1) Bring the false claim to the attention of your supervisor, vice president, or other senior manager.
- (2) Contact Neil Shields, Vice President of Corporate Compliance at 270-745-1535 or by calling our anonymous hotline at 1-800-826-6762.

In addition to the above in-house remedies, a person who has actual knowledge that a false claim for Medicare or Medicaid payment was knowingly submitted can file a lawsuit in federal court on behalf of the government and, in some cases, receive a reward for bringing original information about a violation to the government's attention. For more details from Medicare and Medicaid on this subject, visit the CMS Web site at [www.cms.hhs.gov](http://www.cms.hhs.gov). or the Office of Inspector General of Health and Human Services at <http://oig.hhs.gov>. The U.S. Department of Justice (DOJ) reviews these "whistleblower" cases and takes over cases that it believes have merit. A case that the DOJ declines to take over can still be prosecuted at the whistleblower's expense. There are harsh penalties for violating the False Claims Act. Penalties can be up to three times the value of the false claim plus a fine of \$5,500 to \$11,000 per claim.

It is important for you to know that under the False Claims Act a whistleblower is protected from retaliation by his or her employer. An employee who is retaliated against, in the form of being fired, demoted, threatened or harassed by his or her employer, must file a lawsuit against that employer in federal court. If the employer is found guilty of retaliation, the court can order the employer to re-hire the employee, provide double the amount of back pay, and any other compensation arising from the improper conduct.

Commonwealth Health Corporation's policy is clear. We put a considerable amount of time, expense and effort into detecting and preventing errors in coding and billing. Our goal is to submit only accurate claims for services that are actually provided, are documented in the medical record and are medically necessary. In those rare occurrences

when an error is made, it is our policy to take corrective action, which may include a variety of options depending on the specifics of the situation. We also adhere strictly to a non-retaliation policy. A colleague who in good faith asks a question, raises a concern or reports a perceived misconduct is doing exactly what we want him or her to do. **No employee or other colleague will be allowed to retaliate against an employee who raises a concern in good faith.** An individual who does take retaliatory action will be subject to disciplinary action up to and including termination. These guarantees and expectations are addressed in the [Commonwealth Health Corporation Code of Conduct](#). We invite you to read this document as well.