

POLICY # 411	SUBJECT: Education of Employees and Contractors about False Claims Recovery
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APPROVED BY: Josette Manning, Cabinet Secretary	

DELAWARE CHILDREN'S DEPARTMENT

I. PURPOSE

The purpose of this policy is to communicate and comply with the contents of the Federal False Claims Act (Title 31, United States Code), Delaware False Claims and Reporting Act (Title 6, Delaware Code) and the Federal Deficit Reduction Act of 2005, Section 6032 which require (1) an employee education policy regarding false claims recovery for entities receiving annual payments of at least 5 million dollars under a state Medicaid plan and (2) procedures for detecting and preventing fraud, waste and abuse.

II. POLICY

Department employees and all contracted service providers shall be informed about the activities that constitute false claims against state and federal funds (for example Medicaid eligibility and Medicaid reimbursement); relief to which whistleblowers (employees who report fraud and consequently suffer discrimination for such action) are entitled; and procedures for detecting and preventing fraud, waste and abuse.

III. DEFINITIONS

A. False Claims: False claims occur when any person knowingly:

- Presents or causes to be presented a false or fraudulent claim for payment
- Makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid
- Conspires to make a false claim or get one paid
- Makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to repay overpayments

B. Knowingly: A person acts knowingly when that individual:

- Has actual knowledge of the claim information
- Acts in deliberate ignorance of the truth or falsity of the claim information
- Acts in reckless disregard of the truth or falsity of the claim information

C. Qui Tam Relator or Plaintiff: A private person who may bring an action on behalf of a government entity to redress false claims. Such persons may share in a percentage of the proceeds from a false claim action or settlement and are afforded whistleblower protections.

D. Whistleblower Protections: The relief to which an employee is entitled who has been discharged, demoted, suspended, threatened, harassed, or in any way discriminated against by his or her employer because of involvement in a false

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claims disclosure. Such relief necessary to make the employee whole may include:

- Reinstatement with the same seniority status that the employee would have had but for the discrimination
- Two times the amount of back pay plus interest
- Compensation for any special damage sustained because of the discrimination (including litigation costs and reasonable attorney's fees)

IV. PROCEDURES

- A. Education about false claims recovery shall be implemented by:
 1. training of Department staff during new employee orientation
 2. on-demand training available for Department staff in the Delaware Learning Center
 3. language with regulatory references in the Contractor Statement of Agreement and links to the regulations on the Department internet site in the Contracts/RFP/Reporting section
 4. placing the policy on the Department internet site
- B. Procedures used by the Department for detecting and preventing fraud, waste and abuse include:
 1. DMES (Delaware Medicaid Enterprise System) performs a review of the OIG and CMS listing of providers that have been sanctioned
 2. Existing reports in the FOCUS system to detect and prevent fraud, waste and abuse
 3. Edits/audits established and existing within the FOCUS system to detect and prevent fraud, waste and abuse
 4. Periodic process reviews performed by external consultants
 5. Periodic audits/reviews performed by State and Federal auditors
- C. Department staff or contracted service providers who are uncertain about the validity of claims (for instance, those related to Medicaid eligibility or Medicaid reimbursement) shall review the relevant requirements to determine their validity and/or discuss their questions with their supervisor.
- D. If Department or contracted service providers suspect or become aware of fraud, waste, or abuse, they shall report this to their supervisor. The supervisor is responsible for contacting the appropriate agency to report the matter. If the matter involves Medicaid eligibility or reimbursement, the supervisor shall call the Delaware Health and Social Services (DHSS) Division of Medicaid and Medical Assistance Surveillance and Utilization Review Unit at (302) 255-9646.

V. RESPONSIBILITY FOR THIS POLICY

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Fiscal Services is responsible for guidance regarding this policy.