

# **Stormont-Vail HealthCare Administrative Policy**

## **Title: DEFICIT REDUCTION ACT INFORMATION FOR EMPLOYEES, CONTRACTORS AND AGENTS**

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Stormont-Vail HealthCare is required by federal law to provide information to its employees (including management), contractors and agents regarding the federal False Claims Act, administrative remedies for false claims and statements, any state laws pertaining to civil or criminal penalties for false claims and statements, whistleblower protections under these laws, and Stormont-Vail HealthCare policies and procedures for preventing and detecting fraud, waste and abuse. This policy serves to inform employees, contracted staff and agents as to the details, remedies and whistleblower protections associated with such federal and state laws as well as reminding employees and contracted staff and informing agents of the Stormont-Vail HealthCare compliance program and related policies.

### **Federal False Claims Act**

#### **What it does:**

Allows a civil action to be brought against a health care provider who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid; or
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid.

#### **Examples of a false claim:**

- Billing for procedures not performed;
- Violation of another law, for example a claim was submitted appropriately but the service was the result of an illegal relationship such as a kickback for referrals;
- Falsifying information in the medical record; or
- Double billing.

#### **Remedies:**

- A federal false claims action may be brought by the U.S. Department of Justice Civil Division of the office of the United States Attorney.
- An individual may bring what is called a qui tam action. This means the individual files an action on behalf of the government directly against the health care provider. An individual who files such an action has the burden of establishing a violation and the action may take several months, or even years, to be resolved.
- Violation of the federal False Claims Act is punishable by a civil penalty of between \$5,500 and \$11,000 per false claim, plus three times the amount of damages incurred by the government.
- If a qui tam action is successful, and certain legal requirements are met, the whistleblower may receive between 15% and 30% of any recovery and may also be entitled to reasonable expenses including attorney's fees and costs for bringing the lawsuit.

- If a health care provider is held liable under the False Claims Act, the Office of Inspector General may seek to exclude the provider from participation in federal health care programs such as Medicare and Medicaid.

### **Federal Program Fraud Civil Remedies Act**

The federal Program Fraud Civil Remedies Act of 1986 provides administrative remedies for knowingly submitting false claims and false statements to federal agencies.

- A violation may result in a maximum civil penalty of \$5,000 per each wrongfully filed claim plus an assessment of up to twice the amount of each false or fraudulent claim that has been paid.
- Remedies are separate from, and in addition to, any liability that may be imposed under the federal False Claims Act.

### **Federal Whistleblower Protections**

Federal law prohibits an employer from discriminating against an employee in the terms or conditions of his or her employment because the employee initiated or otherwise assisted in a false claims action.

### **State False Claims Provisions**

Kansas does not currently have provisions that parallel the federal False Claims Act, but it has adopted provisions that appear in the Kansas Criminal Code, known generally as the Kansas Medicaid Fraud Control Act.

- Unlawful acts include any false or fraudulent claim, statement or report, and any wholly or partially false or fraudulent record, document or data;
- Any knowing or intentional solicitation or receipt of any kickback, bribe or rebate in return for any referral or arrangement involving goods or services for which payment may be made under the Medicaid program is prohibited;
- Unlike the federal False Claims Act, current Kansas false claims statutes do not contain a qui tam or whistleblower provision or anti-retaliation protections. Kansas case law generally provides a cause of action if an employee is discharged in retaliation for whistleblowing out of a good faith concern as to an employer's wrongful activity pertaining to public health, safety and welfare but these rules have yet to be applied in this context.

### **Stormont-Vail Policies & Procedures for Detecting Fraud & Abuse**

Stormont-Vail takes any issue regarding false claims seriously. Stormont-Vail has adopted a corporate compliance plan and appointed a Corporate Compliance Officer who is dedicated to the proper invoicing and billing of federal and state healthcare programs. In addition, Stormont-Vail HealthCare has adopted a code of conduct that is distributed and explained to all employees. Stormont-Vail also has documentation, coding and billing policies that specifically address Stormont-Vail documentation and billing methodology as well as adherence to Medicare and Medicaid billing requirements. The compliance plan and code of conduct are available on SVNet, Policy Section, under Administrative Policies.

### **What you should do if you think Stormont-Vail may have made a false claim?**

Employees, contractors and agents of Stormont-Vail have a duty to report any suspected wrongdoing or violation of applicable laws, regulations or Stormont-Vail compliance standard or policies.

A report of a known or suspected violation shall be made using one of the following methods:

- By reporting to the employee's supervisor, manager, director or any officer of Stormont-Vail

HealthCare;

- By reporting in writing to the compliance officer addressed to Kenneth L. Stone, Director of Corporate Compliance and Finance, Stormont-Vail HealthCare, Inc., 1500 SW 10th St., Topeka, KS 66604-1353.
- By calling Kenneth L. Stone at (785) 354-5623.
- By utilizing “It’s Your Call” (877) 217-4767 a toll free anonymous method of reporting.

Stormont-Vail will not retaliate against an employee, contractor or agent if he or she informs Stormont-Vail or the federal government of a possible False Claims Act violation.

**If you have any questions about this information, please call Stormont-Vail Corporate Compliance at (785) 354-5623.**

DEFICIT REDUCTION ACT OF 2005

Effective: 12/31/06\*\*\*

\*\*\*Edited regarding appointment of successor Compliance Officer, effective May 1, 2010.