

<p><u>POLICY & PROCEDURE</u></p> <p>SUBJECT: Fraud, Waste, and Abuse CC *IHN*</p> <p>DEPT: CORPORATE COMPLIANCE</p>	<p>Page 1 of 8</p> <p>EFFECTIVE Date: 05/16/2016</p> <p>REVIEW Date: 01/18/2021</p>
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The False Claims Act (FCA), 31 U.S.C. § 3729-3733

Inspira Health, its employees, contractors, and agents shall comply with the Federal False Claims Act (FCA) and related state requirements. These policies and procedures may be amended to address requirements as directed by the State of New Jersey and the New Jersey Department of Human Services. Inspira Health is committed to following Local, State and Federal laws, rules and regulations that address the prevention, detection, reporting, and correction of fraud, waste, and abuse of public funding. Complaints regarding acts which violate the False Claims Act, such as false claims or attempts to defraud healthcare programs will be promptly reported, investigated, and remedied, as appropriate and required by law.

Fraudulent and abusive claims activities may include:

- Knowingly billing for services not rendered
- Knowingly including improper entries on cost reports
- Knowingly assigning incorrect codes to secure higher reimbursement for services rendered
- Knowingly characterizing unallowable services or costs in a way that secures reimbursement
- Not seeking payment from beneficiaries who may have other primary payment sources
- Knowingly falsifying, forging, altering, or destroying documents to secure payment

The terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

All Inspira Health employees, contractors, vendors and agents are required to participate in the prevention, detection and reporting of fraud, waste and abuse of resources. Detailed information regarding the False Claims Act shall be provided to all Inspira Health employees, agents and contractors.

All individuals who engage in financial documentation and billing will be responsible for ensuring that information is accurate and does not constitute fraud as defined above.

Entities that are responsible for the monitoring of programs and services will also be responsible for verifying that documentation and billing is accurate and reflective of the services provided to individuals. Information that is not reconcilable and is not intentionally falsified is to be corrected prior to the submission of any billing. If it has been determined that a fraudulent or abusive act has occurred, the act is to be reported following reporting procedures below.

If an employee, contractor or agent of Inspira Health believes that a representative of Inspira Health is fraudulently billing for services as described above, he/she should immediately contact a member of administration, the General Counsel or the VP of Corporate Compliance, or the Inspira Health Compliance Hotline. Complaints regarding acts which violate the False



<u>POLICY & PROCEDURE</u>	Page 2 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

Claims Act (FCA), such as false claims or attempts to defraud health care programs will be promptly reported, investigated, and remedied, as appropriate and required by law.

Inspira Health will thoroughly investigate any and all allegations of violations of the FCA on the part of Inspira Health employees. Inspira's VP of Compliance has the sole responsibility and authority to direct all investigations and follow-up activities.

Reports of suspected or observed acts shall include:

- Name(s) of individuals involved in the suspected or observed fraudulent act
- When the suspected or observed fraudulent act occurred
- Where the suspected or observed fraudulent act occurred
- Which programs, departments, and/or individuals were affected by the fraudulent act
- A thorough description of the suspected or observed act
- Name(s) of individuals who have first-hand knowledge of the suspected or observed act
- Name(s) of other individuals who may have knowledge of the suspected or observed act

The FCA provides protection from retaliation by their employer to employees who act as whistleblowers. An employee may not be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA.

Retaliation against an employee or other who in good faith, reported a violation or assisted in a complaint investigation is strictly prohibited. If an individual feels that retaliation has occurred, a complaint regarding the retaliation is to be filed with the Inspira Health Chief Executive Officer or designee within forty-five days. If the employee can demonstrate that he or she was the victim of such retaliation, the employee is entitled to reinstatement, double back pay plus interest and reimbursement of other costs and damages.

However, the FCA also provides that any person who brings an action for the purpose of harassing the employer, and/or the case has no merit; the whistleblower may have to pay the defendant for its legal fees and the costs of its defense. Violations of this policy as well as actual wrongdoings in the areas of fraud, waste, and abuse may have severe consequences including, but not limited to, civil and criminal penalties as allowed under applicable federal and state laws including the False Claims Act.

The FCA allows individuals who have first-hand knowledge of fraudulent billing as described above to sue the entity that submitted the false claim on behalf of The United States. These are called "qui tam" lawsuits and are also known as "whistleblower lawsuits". In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of The United States. These private parties, known as "qui tam relators," may share in a percentage of the proceeds from a FCA action or settlement.

The FCA provides, with some exceptions, that a qui tam relator (whistleblower), when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than



<u>POLICY & PROCEDURE</u>	Page 3 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

The Federal statute currently creates a penalty for submitting a false claim with a minimum penalty of \$11,665 and maximum penalty of \$23,331. This law is violated when a false claim is submitted, not when it is paid. Under this statute, investigations and recoveries are handled by federal agencies, not the courts. Although private individuals may report violations to the government, there is no option for whistleblowers to share in the amounts recovered.

Federal Program Fraud Civil Remedies Act, 31 U.S.C. § 3801-3812

This final rule implements the Program Fraud Civil Remedies Act of 1986 (PFCRA), which authorizes National Science Foundation (NSF) to impose, through administrative adjudication, civil penalties and assessments against any person who makes, submits, or presents, or causes to be made, submitted, or presented, a false, fictitious, or fraudulent claim or written statement to the agency. The regulations establish the procedures that NSF will follow in implementing PFCRA and specify the hearing and appeal rights of persons subject to penalties and assessments under PFCRA.

Any new employee, contractor, vendor or agent will also receive the same information at time of employment or when entering into a written agreement with Inspira Health.

New Jersey Medical Assistance and Health Services Act – Criminal Penalties, N.J.S. 30:4D-17(a)-(d)

This act provides criminal penalties for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs. They include:

- a. fraudulent receipt of payments or benefits: fine of up to \$10,000, imprisonment for up to 3 years, or both;
 - b. false claims, statements or omissions, or conversion of benefits or payments: fine of up to \$10,000, imprisonment for up to 3 years, or both;
 - c. kickbacks, rebates and bribes: fine of up to \$10,000, imprisonment for up to 3 years, or both; and
 - d. false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to \$3,000, or imprisonment for up to 1 year, or both.
- Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice.

New Jersey Medical Assistance and Health Services Act – Civil Remedies, N.J.S. 30:4D-7.h., N.J.S. 30:4D-17(e)-(i); N.J.S. 30:4D-17.1.a.:

In addition to the criminal sanctions discussed in section 3 above, violations of this act can also result in the following civil sanctions:

- a. unintentional violations: recovery of overpayments and interest;
- b. intentional violation or violation of the New Jersey False Claims Act: recovery of overpayments, interest, up to triple damages, and between \$5,500 and \$11,000 for each false claim.



<u>POLICY & PROCEDURE</u>	Page 4 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

Recovery actions are generally pursued administratively by the Division of Medical Assistance and Health Services, with the assistance of the Division of Law in the N.J. Attorney General’s Office, and can be obtained against any individual or entity responsible for or receiving the benefit or possession of the incorrect payments.

In addition to recovery actions, violations can result in the exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services. Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justice.

New Jersey Health Care Claims Fraud Act
N.J.S.2C:21-4.2&4.3:N.J.S.2C:51-5

Provides the following criminal penalties for health care claims fraud, including the submission of false claims to programs funded in whole or in part with state funds:

- a. A practitioner who knowingly commits health care claims fraud in the course of providing professional services is guilty of a crime of the second degree, and is subject to a fine of up to 5 times the monetary benefits obtained or sought to be obtained and to permanent forfeiture of his license;
- b. A practitioner who recklessly commits health care claims fraud in the course of providing professional services is guilty of a crime of the third degree, and is subject to a fine of up to 5 times the pecuniary benefit obtained or sought to be obtained and the suspension of his license for up to 1 year
- c. A person who is not a practitioner subject to paragraph a. or b. above (for example, someone who is not licensed, registered or certified by an appropriate State agency as a health care professional) is guilty of a crime of the third-degree if that person knowingly commits health care claims fraud. Such a person is guilty of a crime of the second degree if that person knowingly commits 5 or more acts of health care claims fraud, and the aggregate monetary benefit obtained or sought to be obtained is at least \$1,000. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained;
- d. A person who is not a practitioner subject to paragraph a. or b. above is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained.

New Jersey Consumer Fraud Act N.J.S.56:8-2,56:8-3,56:8-13,56:8-14and56:8-15

Makes unlawful the use of “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact”, with the intent that others rely upon it, in connection with the sale, rental or distribution of any items or services by a person, or with the subsequent performance of that person.

This law permits the N.J. Attorney General, in addition to any other penalty provided by law, to



<u>POLICY & PROCEDURE</u>	Page 5 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

assess a penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense. Restitution to the victim also can be ordered.

Conscientious Employee Protection Act, “Whistleblower Act”, N.J.S.A. 34:19-1etseq.

New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
- c. Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
- d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employee or any governmental entity.
- e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
 - i. is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - ii. is fraudulent or criminal; or
 - iii. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. N.J.S.A. 34:19-3.

The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergency in nature.

<u>POLICY & PROCEDURE</u>	Page 6 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

New Jersey False Claims Act

P.L. 2007, Chapter 265, as amended by P.L. 2009, Chapter 265

This law, which was enacted on January 13, 2008 and was effective 60 days after enactment, has three parts:

- a. the main part authorizes the NJ Attorney General and whistleblowers to initiate false claims litigation similar to what is authorized under the Federal False Claims Act, and has similar whistleblower protections;
- b. another part amends the NJ Medicaid statute to make violations of the NJ False Claims Act give rise to liability under NJS 30:4D-17(e); and
- c. a third part amends the NJ Medicaid statute to a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C.s.3729 et seq.)

New Jersey Insurance Fraud Prevention Act, N.J.S.A 17:33A-1 et seq.

The purpose of this act is to confront aggressively the problem of insurance fraud in New Jersey by facilitating the detection of insurance fraud, eliminating the occurrence of such fraud through the development of fraud prevention programs, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay fraudulent claims.

References:

- Federal False Claims Act, 31 U.S.C. § 3729-3733
- Federal Program Fraud Civil Remedies Act, 31 U.S.C. § 3801-3812
- New Jersey Medical Assistance and Health Services Act – Criminal Penalties, N.J.S. 30:4D-17(a)-(d)
- New Jersey Medical Assistance and Health Services Act – Civil Remedies, N.J.S. 30:4D-7.h.; N.J.S. 30:4D-17.1.a
- Health Care Claims Fraud Act, N.J.S. 2C:21-4.2 and 4.3; N.J.S. 2C:51-5
- The Uniform Enforcement Act N.J.S.45:1-21.b. and o.
- New Jersey Consumer Fraud Act N.J.S.56:8-2,56:8-3.1,56:8-13,56:8-14and56:8-15
- Conscientious Employee Protection Act, N.J.S. 34:19-1 et seq.
- New Jersey False Claims Act, P.L. 2007, Chapter 265, as amended by P.L. 2009, Chapter 265
- New Jersey Insurance Fraud Prevention Act, N.J.S.A 17:33A-1 et seq.

Inspira Health Corporate Compliance Contact Information:

VP of Corporate Compliance:	Joe Piccolo
Corporate Compliance Hotline:	888-413-4313
Corporate Compliance Email:	compliance@ihn.org
Corporate Compliance Direct:	856-507-7857



<u>POLICY & PROCEDURE</u>	Page 7 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

New Jersey Medicaid Fraud Division

Contact 888-937-2835 or <https://www.nj.gov/comptroller/divisions/medicaid/complaint.html>

New Jersey Insurance Fraud Prosecutor Hotline

877-55-FRAUD or

<https://njinsurancefraud2.org/#report>

Office of Inspector General Contact Information

Hotline 1-800-HHS-TIPS (1-800-447-8477)

<http://oig.hhs.gov/fraud/reportfraud/index.ap>

US Department of Health and Human

Services Office of Inspector General

ATTN: OIG HOTLINE

OPERATIONS PO Box 23489

Washington, DC 20026

<u>POLICY & PROCEDURE</u>	Page 8 of 8
SUBJECT: Fraud, Waste, and Abuse CC *IHN*	EFFECTIVE Date: 05/16/2016
DEPT: CORPORATE COMPLIANCE	REVIEW Date: 01/18/2021

Statement of Understanding of Fraud, Waste and Abuse

I certify that I understand the Fraud, Waste and Abuse Policy and agree to abide by it during the entire term of my employment. I acknowledge that I have a duty to report any alleged or suspected violations of the Fraud, Waste and Abuse Policy.

I certify that if I identify any circumstances that could constitute a violation of this policy that is my expressed responsibility to report to the Office of Compliance as noted elsewhere in this policy or to the appropriate government agency.

(Signature)

(You can reply that you have read and agree with policy by sending email to Compliance@ihn.org or the Read-Receipt from this email).