False Claims Policy - Fraud Protocol State of Louisiana

1.0 EFFECTIVE DATE: January 2013
REVISION DATE: March 24, 2014

2.0 PURPOSE:

2.1 The purpose of this policy is to comply with all applicable laws and regulations, including the Federal False Claims Act,Program Fraud Civil Remedies Act of 1986, and state laws that address fraud and abuse in a State's Medicaid program.

2.2 The purpose of this policy is to provide information about certain federal and state laws concerning the submission of false and fraudulent claims for payment to the government. These laws play a central role in the government's efforts toprevent and detect fraud, waste and abuse in federal health care programs.

2.3 The purpose of this policy is to ensure that all Parties are educated regarding the federal and state false claims statutes and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs.

3.0 SCOPE:

This policy applies to all Acumen employees, program employers, program employees, government aid recipients, contractors and agents ("Parties").

4.0 DEFINITIONS:

4.1 Fraud - defined as an intentional deception or misrepresentation made by an individual with the knowledge that the deception could result in an unauthorized benefit to the individual or some other person.

4.2 Abuse - defined as practices that are inconsistent with good fiscal, business or medical practices, and that result in an unnecessary cost to government programs, or in seeking reimbursement for goods or services that are not medicallynecessary or that fail to meet professionally recognized standards for healthcare. It also includes practices that result inunnecessary cost to government programs.

4.3 Federal False Claims Act -Under the Federal False Claims Act ("FCA"), any person or entity that knowingly submits falseor fraudulent claims, causing such claims to be submitted, making a false record or statement in order to obtainpayment from a federally funded program for such a claim, or conspiring to get such claim allowed or paid is liable for significant penalties and fines. The civil fines include a penalty of up to three times the cost of the claim, plus penaltiesranging from $5,500 to $11,000 per false claim, and the costs of the civil action against the person or entity thatsubmitted the false claims.

The FCA applies to Medicare and Medicaid reimbursement and prohibits the following:
Billing for services not rendered:

4.3.1 Billing for undocumented services
4.3.2 Billing for services outside the scope of the Medicaid program
4.3.3 Billing for unnecessary services
4.3.4 Characterizing non-covered services or costs in a way that secures reimbursement

The above list does not include the list of all prohibited activities.

The FCA also allows a private person with knowledge of a false claim to bring a civil action on behalf of the UnitedStates Government, to recover the funds paid by the government as a result of the false claims. The person who initiates the lawsuit is generally referred to as the "whistleblower". The United States Government may choose tointervene in the lawsuit and assume primary responsibility for the lawsuit. If the government chooses not to intervenethen the whistleblower has the right to conduct the action. If the suit is ultimately successful, the whistleblower thatinitially brought the lawsuit may be awarded a percentage of the funds recovered.

The FCA also contains a provision that protects a whistleblower from retaliation by his employer. If an employee is discharged, demoted, suspended, threatened, harassed or discriminated against in terms and conditions of employmentbecause of bringing a false claims action that employee may bring an action in federal court seeking reinstatement, twotimes the amount of back pay plus interest, and other costs, damages and fees.

4.4 Federal Program Fraud Civil Remedies Act of 1986 - A similar law is the federal Program Fraud Civil Remedies Actof 1986 ("PFCRA"). It provides for administrative remedies against any person who presents or causes to be presenteda claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to anassertion or omission to certain federal agencies (including the Department of Health and Human Services). A violation of the PFCRA may result in a maximum civil penalty of $5,000 per claim plus an assessment of up to twice the amount of each false or fraudulent claim.

4.5 Louisiana False Claims Act - Under the Louisiana False Claims Act found under Title 46 of the Louisiana Revised StatutesPart VI-A, no person shall knowingly present or cause to be presented false or fraudulent claim; engage inmisrepresentation to obtain, or attempt to obtain, payment from medical assistance programs' funds; conspire todefraud, or attempt to defraud, the medical assistance programs through misrepresentation or by obtaining, or attempting to obtain, payment for a false or fraudulent claim; submit a claim for goods, services or supplies which weremedically unnecessary or which were of substandard quality or quantity. No action will be brought under this sectionunless the amount of the alleged actual damages is $1000 or more, and must be brought forth within ten years of thedate that the alleged violation occurred.

This act also states, no person shall knowingly make, use, or cause to be made or used a false, fictitious or misleadingstatement on any form used for the purpose of certifying or qualifying any person for eligibility for the medicalassistance programs or to receive any good, service or supply under the medical assistance programs which thatperson is not eligible to receive; no unauthorized person, or no authorized person for an unauthorized purpose, shallobtain a recipient list, number, name or any other identifying information, nor shall that person use, possess ordistribute such information.

Private citizens may bring forth charges and may receive up to 30% of recovery depending on whether the secretary or attorney general intervene. Damages may also include the difference between what the medical assistance programspaid, or would have paid, and the amount that should have been paid had not a violation occurred, plus interest at themaximum rate of legal interest. Civil penalties may include up to $10,000 per violation, or three times the amount ofdamages whichever is greater. In addition, civil monetary penalties can include up to $10,000 per each fraudulent claim plus interest; costs, expenses, fees and attorney fees are subject to review.

Rewards of up to $2000 may be given to an individual who submits information which results in recovery. As part of the Whistleblower protection, no employee shall be discharged, demoted, suspended, threatened, harassed ordiscriminated against in any manner in the terms and conditions of his employment because of any lawful act engagedin by the employee in regard to a health care provider or other person from whom recovery is or could be sought. No individual shall be threatened, harassed or discriminated against in any manner by a health care provider or other person because of any lawful act engaged in by the individual or on behalf of the individual in regard to a health care provider or other person from whom recovery is or could be sought.

5.0 RESPONSIBILITY:

5.1 All parties must conduct themselves in an ethical and legal manner.
5.2 All parties are responsible for being familiar with this policy.
5.3 All Parties are responsible for reporting potential or suspected incidents of fraud and abuse, and other wrong doing directly to their Individual State Fraud and Abuse Reporting Contact at http://new.dhh.louisiana.gov/index.cfm/page/219or through Acumen's Customer Service or Acumen's President's Hotline.
5.4 Acumen will educate Acumen employees, program employers, program employees/ caregivers and service recipients about fraud and abuse, including federal and state laws pertaining to fraud and abuse.
5.5 Acumen has responsibility for receiving and acting upon all information suggesting the existence of possible fraud, abuse or wrongdoing; and properly comply with all investigations arising from this information.

6.0 VIOLATIONS:

Acumen will take appropriate disciplinary and enforcement action (i.e., corrective action plans, employment termination or contract/participant service termination) against all parties found to have committed fraud and abuse violations and/or notacting in compliance with this policy.

7.0 RETALIATION:

Retaliation against anyone who reports "good faith" fraud and abuse issues is strictly prohibited. In addition, retaliationagainst anyone who participates in any fraud or abuse investigations is strictly prohibited. Acumen will take appropriatedisciplinary action against anyone who is found to have committed an act of retaliation.

8.0 PROCEDURES:

8.1 All Parties will be provided with this policy within 30 days of commencing their engagement with Acumen.
8.2 All Parties with exception of Acumen employees with knowledge of potential fraud and abuse situations must report them through any of the following methods, as applicable:

8.2.1 Notification to State Fraud Contact
8.2.1.1 DHH Medicaid Fraud Hotline:
(800) 488-2917 for provider fraud or fax (225) 219-4155
(888) 342-6207 for recipient fraud or fax (225) 389-2610
8.2.1.2 Office of Inspector General's National Fraud Hotline: (800) 447-8477
8.2.2 Notifying Acumen customer service (866) 514-9938 or fax (866) 923-5334
8.2.3 Calling the president's hotline at (888) 530-7473

8.3 Acumen employees with knowledge of potential Fraud should follow the policy "Acumen Reports of Potential Fraud".
8.4 Acumen will report all confirmed allegations of fraud and abuse to the appropriate government officials.
8.5 Acumen will cooperate with federal and state agencies that conduct healthcare fraud and abuse investigations.