

Our Lady of Lourdes, a Catholic Health System dedicated to its Franciscan Tradition of serving all, demonstrates its commitment to fostering an ethical and moral environment by developing and maintaining a Corporate Compliance Program which promotes sound ethical practices and moral behavior and attempts to minimize instances of improper conduct by individuals throughout Our Lady of Lourdes Health Care Services, Inc. and Affiliates (OLLHCS, Inc.).

As a vendor/contractor of OLLHCS, Inc., we would like to alert you to some pertinent compliance issues that pertain to our vendors/contractors.

Code of Conduct Statement - The Corporate Compliance Code of Conduct Statement provides guidance to all of OLLHCS, Inc.'s, trustees, officers, associates, managers, supervisors, contractors, volunteers, students and others and assists us in carrying out our daily activities within appropriate ethical and legal standards. As a vendor/contractor of OLLHCS, Inc., we expect you and your employees to abide by this Code of Conduct as well. The Corporate Compliance Code of Conduct and Conscientious Employee Protection Act Notification policy may be viewed through the Compliance Section of the Lourdes internet site at <http://www.lourdesmed.org/about/compliance.php>

Deficit Reduction Act - On February 8, 2006, the Deficit Reduction Act was signed into law by President Bush in an attempt to drastically reduce the national deficit. One way the Deficit Reduction Act seeks to reduce the deficit is through increased emphasis on detecting and preventing fraud, waste, and abuse within the states' Medicaid programs. In order to increase awareness of the laws regarding false claims under the Medicaid program, Section 6032 of the Deficit Reduction Act requires entities that receive annual Medicaid payments of \$5 million or more, such as OLLHCS, Inc., to establish new written policies for all their employees, **and the employees of their contractors and agents**, which provide: detailed information regarding the federal and state False Claims Act; the administrative remedies for false claims and statements; any state law with civil or criminal penalties for false claims or statements; and the whistleblower protections under such laws.

As our vendor/contractor we are informing you that OLLHCS, Inc. has developed such a policy. Highlights from the policy are provided on the following page, however, please take the time to review the entire policy at <http://www.lourdesmed.org/about/compliance.php> as well as familiarize each of your employees with the policy. If you or any of your employees have questions regarding OLLHCS, Inc.'s policy regarding the federal or state False Claims Act or any other compliance issues, please feel free to contact me at 856-824-3488 or mcgrenraj@lourdesnet.org.

John. P. McGrenra
Director of Compliance and Privacy Officer

THE FEDERAL FALSE CLAIMS ACT

Civil False Claims Act; 31 U.S.C. §§ 3729 – 3733

The False Claims Act (FCA) is a federal law which imposes civil liability on organizations and individuals for knowingly submitting to the federal government a false or fraudulent claim for payment. It applies to all federal programs, from military procurement contracts to welfare benefits to health care benefits.

The False Claims Act prohibits, among other things:

- knowingly presenting or causing to be presented to the federal government a false or fraudulent claim for payment or approval;
- knowingly making or using, or causing to be made or used, a false record or statement in order to have a false or fraudulent claim paid or approved by the government;
- conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; and
- knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

A person or entity found liable under the Civil False Claims Act is subject to a civil money penalty of between \$5,500 and \$11,000 plus three times the amount of damages that the government sustained because of the illegal act. In health care cases, the amount of damages sustained is the amount paid for each false claim that is filed.

THE NEW JERSEY FALSE CLAIMS ACT

N.J. S. 2A:32C-1 to 32C-17 (2008)

The New Jersey False Claims Act is comparable to the federal False Claims Act, making it unlawful for a person to knowingly make false or fraudulent claims, including to: present or cause to be presented to an employee, officer or agent of the State of New Jersey, or any contractor, grantee or other recipient of State funds, a false or fraudulent claim for payment or approval; make, use or cause to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the State; conspire to defraud the State by getting a false or fraudulent claim allowed or paid; or knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, increase or decrease an obligation to pay or transmit money or property to the State. Liability under the New Jersey FCA results in a civil penalty equal to the civil penalty under the Federal FCA (currently between \$5,500 and \$11,000) for each act constituting a violation, plus 3 times the amount of the damages sustained by the State (or 2 times the amount of damages if the person committing the violations provides full information and cooperation to the government officials investigation the false claims violations).

In addition to its substantive provisions, the New Jersey FCA provides that private parties may bring an action in the name of the State for a violation of the FCA. These private parties may share in a percentage of the proceeds from an action or settlement. With some exceptions, when the government has intervened in the lawsuit, this law provides that the private party shall receive at least 15 percent but not more than 25 percent of the proceeds depending upon the extent to which the person substantially contributed to the prosecution of the action. When the government does not intervene, the private party is entitled to receive an amount that the court decides is reasonable, which shall be not less than 25 percent and not more than 30 percent.

THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

31 U.S.C. §§ 3801 – 3812

The Program Fraud Civil Remedies Act of 1986 (PFCRA) authorizes federal agencies such as the Department of Health and Human Services ("HHS") to investigate and assess penalties for the submission of false claims to the agency. The conduct prohibited by the PFCRA is similar to that prohibited by the False Claims Act.

A violation of this section of the PFCRA is punishable by a \$5,000 civil penalty for each wrongfully filed claim, plus an assessment of twice the amount of any unlawful claim that has been paid.

NEW JERSEY HEALTH CARE CLAIMS FRAUD ACT

The New Jersey Code of Criminal Justice Title 2C:21-4.2

On January 15, 1998, the crime of "health care claims fraud" was established under the New Jersey Health Care Claims Fraud Act. The NJ Health Care Claims Fraud Act is intended to enable more effective criminal prosecution of individuals who knowingly or recklessly submit false or fraudulent claims for payment for health care services.

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-(Medicaid) 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 F above, violations of N.J.S. 30:4D(a)-(d) can also result in the following civil sanctions: (a) unintentional violations: recovery of overpayments and interest; (b) intentional violation: recovery of overpayments, interest, up to triple damages, and payment in the sum 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.), (currently between \$5,500 and \$11,000 for each false claim), as it may be adjusted for inflation pursuant to the federal Civil Penalties Inflation Adjustment Act of 1990, (Pub. L. 101-410), for each excessive claim for assistance, benefits or payments. 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.

PROTECTION FOR WHISTLEBLOWERS

Both the federal and state FCA's permits a person with knowledge of fraud against the government to file a lawsuit on behalf of the government against the business that committed the fraud, known as a *qui tam* action or whistleblower.

Anyone initiating a *qui tam* case may not be discriminated or retaliated against in any manner by their employer. The employee is authorized under the FCA to initiate court proceedings to make themselves whole for any job related losses resulted from any such discrimination or retaliation..