



FALSE CLAIMS / FEDERAL DEFICIT REDUCTION ACT NOTICE

Omnicare is committed to operating its business with high ethical standards and in compliance with all federal and state laws and regulations that govern the delivery of health care and the prevention of fraud, waste and abuse. This commitment includes complying with all laws that prohibit fraud, waste, and abuse in the government health programs with which Omnicare deals, such as Medicare and Medicaid.

A provision of the Deficit Reduction Act of 2005 requires Omnicare to provide its employees, and certain contractors and agents, with information regarding the federal and state false claims acts, whistleblower protections and Omnicare's process for detecting and preventing fraud, waste and abuse. Omnicare requires that its employees, contractors, and agents familiarize themselves with these documents to facilitate compliance with the outlined laws, principles, and standards.

Omnicare is committed to proper and timely documentation of all items and services prior to billing to ensure that all such items and services are actually ordered or performed and that appropriate documentation supports all claims. In furtherance of this commitment, Omnicare has established a compliance program and detailed policies for detecting, preventing, resolving, and reporting fraud, waste and abuse.

Information Regarding the Federal False Claims Acts

The Federal False Claims Act (the "FCA") helps the Federal government combat fraud and recover losses resulting from fraud in Federal programs, purchases, or contracts. The FCA is found at 31 U.S.C. §§ 3729-3733. Several states have enacted similar laws.

A person or entity may violate the FCA by knowingly: (a) presenting a false claim for payment, (b) making or using a false record or statement material to a false claim, (c) delivering less than all Government money or property owed, (d) concealing or knowingly and improperly avoiding an obligation to pay the Government, or (e) conspiring to violate any of the above provisions.

The FCA imposes civil penalties of \$5,500 to \$11,000 per claim, plus three times the amount of damages to the Government for FCA violations. Lawsuits must be filed by the later of either: (1) three years after the violation was discovered by the Federal official responsible for investigating violations (but no more than ten years after the violation was committed), or (2) six years after the violation was committed. In various situations, the government has also attempted to extend the statute of limitations beyond the statutory time frames.

An individual has the right to file a civil suit for him or herself and for the Government to challenge a suspected FCA violation. The suit must be filed in the name of the Government. Such an individual is called a *qui tam* plaintiff or “relator.” Successful relators may receive between 15 and 30 percent of the total amount recovered (plus reasonable costs and attorney fees) depending on the involvement of the relator and whether the Government prosecuted the case. A *qui tam* lawsuit will be dismissed if the lawsuit is based on public information unless the Government opposes dismissal or the relator is the original source of the information.

The FCA contains important protections for whistleblowers. Employees, contractors or agents who file a civil suit to challenge a suspected FCA violation or make other efforts to stop violations of the FCA (including reporting suspected fraud) and consequently suffer discrimination because of their actions (or the actions of others associated with the employee, contractor, or agent in furtherance of such a civil suit or other efforts to stop FCA violations) are entitled to all relief necessary to be made whole. Such relief includes two times their back pay plus interest, reinstatement at the seniority level they would have had except for the discrimination, and compensation for any costs or damages they have incurred. Lawsuits alleging this type of discrimination must be brought within three years of the date the discrimination occurred.

Federal Administrative Remedies

Federal law also provides administrative remedies against any person who makes, or causes someone else to make, a false claim or a false statement in the amount of \$5,000 for each false claim or statement, and an assessment of up to twice the amount of each false or fraudulent claim. The administrative remedies for false claims and statements are found at 31 U.S.C. §§ 3801-3812.

State False Claims Acts

Most states have also passed laws prohibiting false or fraudulent claims. Many of these laws mirror the terms of the federal False Claims Act, but some do not.

False Claim Definition

For the purposes of the administrative remedies provisions, a “false claim” is defined as a claim that the person knows or has reason to know: is false; includes or is supported by any written statement which asserts a material fact which is false; includes or is supported by any written statement that omits a material fact; is false as a result of such omission; and is a statement in which the person making such statement has a duty to include such material fact; or is for payment for the provision of products or services which the person has not provided as claimed. For purposes of the FCA, a “false or fraudulent claim” also means a claim that includes items or services resulting from a violation of the Anti-Kickback Statute, which is found at 42 U.S.C. §§ 1320-7b.

Examples of Activities that Could Result in False Claims Include:

- 1) Payment of an incentive when a patient is referred to an Omnicare business.
- 2) Provision or receipt of free or significantly discounted billing, rent or other services.
- 3) Payment for services in excess of their fair market value.
- 4) Forgiveness of a debt absent a charitable or risk management purpose.
- 5) Billing for supplies or services not provided or provided in less than billed amounts.
- 6) Misrepresenting or overcharging for products or services actually provided.
- 7) Duplicate billing for services actually rendered.
- 8) Falsely certifying services were medically necessary or failure to perform a service.
- 9) Falsely certifying an individual meets the Medicare requirements for certain services.
- 10) Seeking to increase reimbursement by improper billing procedures such as “upcoding” (changing a procedure code in order to obtain higher reimbursement for the procedure actually performed), or “unbundling” (dividing a procedure or service into two or more parts to obtain higher reimbursement).
- 11) Offering to or transferring money, gifts, or other items of value to a private party in order to receive that party’s business.
- 12) Accepting money, gifts, or other items of value from a private party.
- 13) Accepting and failing to timely refund overpayments from the government.

Reporting Responsibilities

All Omnicare employees and contractors have an affirmative obligation to report any ethical misconduct or compliance concerns such as false claims or false statements.

Non-Retaliation

Omnicare will not take retaliatory action against any individual who in good faith reports conduct which violates federal or state laws. Protections afforded those employees and contractors who provide assistance to the government by investigating and reporting fraud, waste, or abuse are outlined in the CVS Health *Code of Conduct*.

Contact Information

Employees and contractors who suspect noncompliance with any laws regarding the submission of false claims, must report their concerns to their manager, the Compliance Officer, or contact the toll free Ethics Line (1-877-CVS-2040). The Ethics Line is available 24 hours per day, 7 days per week, 365 days per year. All calls will be treated in a highly confidential manner to the extent the Company deems possible.

Customers, suppliers, vendors, or other external agents may obtain additional information or report concerns by contacting Omnicare using any of the following methods:

- Phone: Ethics Line (1-877-CVS-2040)
- Email: Ethics.BusinessConduct@cvs.com

- Fax: (847) 559-3835
- Contact CVS Health Compliance Officer:

David Falkowski
Chief Compliance Officer
CVS Health
One CVS Drive
Woonsocket, RI 02895.

References

- Deficit Reduction Act of 2004, Pub. L. 109-171 (2006) (“DRA”)
- 31 U.S.C. §§ 3729 to 3733 [Federal False Claims Act]
- 31 U.S.C. §§ 3801 to 3812 [Federal Administrative Remedies for False Claims and Statements]