

Subject: False Claims Act

POLICY:

The Deficit Reduction Act of 2005 (DRA) mandated changes specific to the Medicaid program to combat fraud, waste, and abuse with the main goal of achieving savings in both the Medicare and Medicaid programs. The DRA requires that providers that make or receive annual Medicaid payments of at least \$5 million must have mandatory false claims recovery education for all employees. The effective date of implementation is January 1, 2007. The DRA mandates compliance education and Mission Hospitals, Inc. is now required to have an effective compliance program in place with policies and procedures in place to detect and prevent fraud, waste and abuse. In addition, policies need to be developed addressing the False Claims Act and whistleblower protections. This same information must be contained in our Employee Handbook.

Mission Hospitals, Inc. has in place a corporate compliance program, *Mission Integrity*, which addresses the required components of a compliance program as outlined by the Office of Inspector General. Please refer to Administrative Policy and Procedure #200.060, "Corporate Compliance Program." A question and answer booklet is published and updated periodically addressing all of the requirements of an effective compliance program as well as the DRA and the False Claims Act.

PURPOSE:

The purpose of this policy is to educate all Mission Hospitals, Inc. personnel, including employees, medical staff, contractors and agents on the federal False Claim Act, the administrative remedies under the Act and the legal protection under the Federal law to given to personnel who report incidents of false claims to regulatory agencies, whistleblower protection, as required by the DRA.

PROCEDURE:

Definitions:

Knowing and Knowingly: means "for purposes of this policy and with respect to information, Mission Hospitals, Inc.:

- has actual knowledge of the information; or,
- acts in deliberate ignorance of the truth or falsity of the information; or
- acts in reckless disregard of the truth or falsity of the information.

And, no proof of specific intent to defraud is required."

Claim: means "for the purposes of this policy, any request, demand, whether under a contract or otherwise, for money or property that is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property that is requested or demanded, or if the Government will reimburse such contractor,

grantee, or other recipient for any portion of the money or property that is requested or demanded.”

Statement: means “for purposes of this policy, any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made:

- with respect to a claim or to obtain the approval or payment of a claim-including relating to eligibility to make a claim; or
- with respect to-including relating to eligibility for-(i) a contract with, or a bid proposal for a contract with; or (ii) a grant, loan, or benefit from, an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under the contract, grant, loan or benefit, or if the United States Government will reimburse the State, political subdivision, or party for any portion of the money or property under the contract, grant, loan or benefit.”

False Claim: means “for purposes of this policy, no payment shall be made for services or items, which are not reasonable and necessary for the diagnosis and treatment of the patient.” A false claim is then a request for payment for a medical service or item that is not reasonable or necessary for the diagnosis and treatment of the patient. Upcoding and unbundling of claims are examples of false or fraudulent claims.

PROCEDURE:

1. Federal False Claims Act (31 USC 3729-33)

Mission Hospitals, Inc. personnel will not knowingly:

- submit or cause to be submitted a false or fraudulent statement or claim for payment to the United States Government;
- 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 United States Government;
- conspire to defraud the United States Government by getting a false or fraudulent claim allowed or paid; or
- knowingly makes, uses, or causes 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 United States Government.

2. Misconduct that is related to the submission of claims to federal healthcare programs (i.e., Medicare, Medicaid, TRICARE, etc.) can be grounds for a civil suit, criminal prosecution, or administrative remedies under the federal False Claims Act.

3. Penalties for violating the federal False Claims Act can be up to three times the value of the false claim, plus from \$5,500 to \$11,000 in fines, per claim. In addition, the government can exclude violators from participating in Medicare, Medicaid and other programs. There is also a federal criminal enforcement scheme for intentional participation in the submission of a false claim.

4. The False Claims Act applies to any person or entity who knowingly presents a false or fraudulent claim to the government for approval or payment.

5. The False Claims Act protects anyone who files a false claims lawsuit from being fired, demoted, threatened, or harassed by their employer for filing the suit. If a court finds that the employer retaliated, the court can order the employer to re-hire the employee and to pay the employee twice the amount of back pay that is owed, plus interest and attorney fees.

6. Consistent with Federal law, Mission Hospitals, Inc. will not discharge, demote, suspend, threaten, harass, or in any other manner discriminate against Mission Hospitals, Inc., personnel in the terms and conditions of their employment because of lawful acts done by Mission Hospitals, Inc. personnel in making a report under the Federal False Claims Act.

7. Mission Hospitals, Inc. has adopted a non-retaliation policy that provides protection for Mission Hospitals, Inc. personnel who make a report in good faith of issues or concerns related to suspected reports of fraud, waste and abuse.

8. Mission Hospitals, Inc. adopted Administrative Policy #200.060 entitled, "Corporate Compliance Program," that provides a detailed procedure for identifying and reporting potential fraud and abuse issues.