



Groups Recover Together  
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## **False Claims Act**

Background: Submission of false information and claims to the federal government, state government, or federal and/or state contractors may constitute a fraud that is actionable by enforcement agencies under the False Claims Act (FCA). The Office of Inspector General (OIG), U. S. Department of Health and Human Service, conducts a large number of Medicaid audits and evaluations to determine improper or fraudulent payments. Section 6302 of the Deficit Reduction Act of 2005 (DRA) mandated that any entity receiving annual payments under a State Medicaid plan of at least \$5 million must: "(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f)); (B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and (C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse."

Purpose: Groups supports the efforts of federal and state authorities in identifying incidents of fraud and abuse and has the necessary and appropriate procedures in place to prevent, detect, report, and correct incidents of fraud and abuse in accordance with contractual, regulatory, and statutory requirements. This policy sets forth the guidelines to be followed by all employees, contractors, vendors, and agents regarding the FCA in detecting, preventing, reporting, and correcting fraud, waste, and abuse.

Responsible Owner: Chief Compliance Officer



## Definitions:

- I. **Fraud:** An intentional (willful or purposeful) deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person. It includes any act that constitutes fraud under applicable Federal or State law.
- II. **Waste:** Practices that, directly or indirectly, result in unnecessary costs to federally funded programs, such as overusing services. Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources.
- III. **Abuse:** Practices that are inconsistent with sound 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 medically necessary or that fail to meet professionally recognized standards for healthcare.
- IV. **Contractor, Vendor, or Agent:** Includes any contractor, subcontractor, agent, vendor, or other person which or who performs services for Groups.

## **POLICY**

- I. Policy Statement
  - A. In the course of its operations, Groups works to prevent, detect, and correct fraud, waste, and abuse, whether through an employee, contractor, vendor, or agent. To that end, all employees, contractors, vendors, and agents, shall be informed of Groups' obligations and requirements under Federal and State False Claims Acts. It is Groups' policy to follow these laws and regulations and utilize the procedures below to ensure continued compliance.
- II. Procedures
  - A. All employees, contractors, vendors, or agents with knowledge of suspected or what they believe may be fraud, waste, or abuse (FWA) situations must report such situations through any of the following methods:
    1. Notifying their direct supervisor; or
    2. Notifying any supervisor or member of management; or
    3. Notifying Human Resources personnel directly or via [hr@joingroups.com](mailto:hr@joingroups.com); or
    4. Notifying Compliance personnel directly or via [compliance@joingroups.com](mailto:compliance@joingroups.com); or
    5. Notifying Compliance via the Hotline



6. Submitting a report through the Incident Report Management System (Agiloft); or
  7. Notifying the Corporate Counsel
- B. Staff receiving a report of potential Fraud/Abuse should immediately inform the Compliance and Privacy Department (Compliance Department) by submitting a report in the Incident Report Management System (Agiloft). Individuals who do not have access to the Incident Report Management System or staff that wish to remain anonymous should submit the report through the compliance hotline or webform. The Compliance Department will review the report and, when necessary, conduct an initial inquiry for the purpose of determining whether there is a reasonable basis to support further investigation. No supervisor or manager should directly confront an employee with the allegation of FWA or otherwise discuss the issue with anyone suspected of engaging in FWA without prior consultation with and authorization from either Human Resources or Compliance.
- C. If the Compliance Department determines that there is a reasonable basis to support further investigation, the Compliance Department will investigate and include other personnel as needed. Facts shall be gathered as promptly as possible.
- D. The Compliance Department shall notify Corporate Counsel as needed. Corporate Counsel shall provide advice to the Compliance Department as appropriate throughout the investigative process.
- E. If FWA is determined to be present, the Compliance Department shall notify the Finance Department, Operations Department, and other personnel as needed. Operations and Finance shall determine the extent of financial liability and assist in planning appropriate courses of action to correct deficiencies and resolve financial liability issues.
- F. Senior leadership may delegate authority to appropriate employees to be responsible for developing effective controls for the prevention, detection, reporting, and correction of potential incidents of FWA.
- G. With oversight and support from the Compliance Department, Groups will establish and maintain methods for detecting, preventing, reporting, and correcting incidents of FWA, maintain a compliance hotline, and a process that identifies employees, contractors, vendors, and agents that are debarred or excluded from participation in federal healthcare programs.
- H. If FWA is identified, appropriate corrective action will be taken to prevent further offenses.
- I. To the extent practical or allowed by law, the Compliance Department will



maintain confidentiality or anonymity of an employee or other complainant when requested. However, absolute confidentiality cannot be promised or guaranteed.

- J. Groups shall cooperate fully with federal and state agencies that conduct healthcare Fraud and Abuse investigations. However, this does not prevent Groups from raising any defenses it may have or require Groups to waive any privileges that it may have.
- K. Groups will take appropriate corrective action against employees, contractors, vendors, and agents found to have committed FWA. Corrective action may include discipline up to and including termination of the employment or other relationship.
- L. All employees, contractors, vendors, and agents should promptly report FWA and participate in and not interfere with any investigation of FWA.
- M. Retaliation or retribution of any kind for reporting issues in good faith or for participating in an investigation in any capacity in good faith is prohibited and will result in corrective action, such as discipline up to and including termination of the employment or other relationship.

### III. Relevant Law

#### A. Federal False Claims Act, 31 U.S.C. § 3729 *et seq.*

1. The provisions under the FCA state that it is a violation to:
  - a) Knowingly present or cause to be submitted a false claim to the government. “Knowingly” means that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance to 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.
  - b) Knowingly use a false record or statement to obtain payment on a false claim paid by the government.
  - c) Engage in a conspiracy to defraud the government by the improper submission for a false claim for payment.
2. Damages and penalties for violating the FCA may include:
  - a) Civil penalties of not less than \$13,508 (minimum) and not more than \$27,018 per violation, plus
  - b) Three times the amount of damages which the government sustains because of the violation.
  - c) Exclusion from participation in Medicare, Medicaid, and other health care programs.



3. The FCA provides for whistleblower protection and the assurance of non-retaliation against an employee, contractor, vendor, or agent who reports any type of false claims and statements. The FCA permits a person with actual knowledge of false claims activity to file a lawsuit on behalf of the government. These *qui tam* or whistleblower provisions of the FCA contain detailed procedures for how to file one of these lawsuits. In certain circumstances, the person who files the lawsuit, known as a *qui tam* relator, may be entitled to share a percentage of any recovery received by the federal government as a result of the lawsuit. The FCA whistleblower provisions also protect employees, contractors, vendors, or agents from retaliation or discrimination in the terms and conditions of their employment based on lawful acts of the employee done in furtherance of an action under the False Claims Act.
4. Examples that may create a false claim include, but are not limited to:
  - a) Billing twice for the same service;
  - b) Billing for services not rendered;
  - c) Prescribing unnecessary drugs;
  - d) Intentionally using improper codes on claims to receive a higher rate of reimbursement;
  - e) Billing for medically unnecessary services or falsifying certificates of medical necessity;
  - f) Unbundling or billing separately for services that should be billed as one;
  - g) Creating false medical records or treatment plans; and
  - h) Giving and/or receiving unlawful inducements for referrals for services.

#### B. Additional Fraud and Abuse Federal Laws

1. Health Care Fraud, 18 U.S.C. § 1347
2. False Statements Relating to Health Care Matters, 18 U.S.C. § 1035
3. Medicare-Medicaid Anti-Fraud and Abuse Amendments, 42 U.S.C. § 1320a-7b(a)
4. Theft or Embezzlement in Connection with Health Care, 18 U.S.C. § 669
5. Obstruction of Criminal Investigation of Health Care Offenses, 18 U.S.C. § 1518



- 6. Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)
- 7. Physician Self-Referral Law aka Stark Law, 42 U.S.C. § 1395nn
- 8. Exclusion Statute, 42 U.S.C. § 1320a-7
- 9. Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a
- 10. Sarbanes-Oxley Act of 2002, P.L. 107-204


C. State Laws

- 1. Many states have enacted laws and regulations designed to prevent and detect health care fraud and abuse within the state. A summary of applicable state laws is included in [Appendix A](#).


IV. Related Documentation

- A. Employee Handbook
- B. Policy 1.8 Whistleblowers and Reporting Improper Activities
- C. Policy 9.01 Vendor Approval Policy

Policy and Procedure Committee: (Approval)

Version #	Role	Name	Approval Date
001	P&P Committee Chair	Jim Harter 	5/17/2023

Chief Technology Officer: (Final Approval)

Version #	Role	Name	Approval Date
001	P&P Deputy Committee Chair	Earl Della Barca 	5/17/2023

Chief Compliance Officer and Corporate Counsel: (Final Approval)



## Appendix A

[Arizona](#)  
[California](#)  
[Florida](#)  
[Georgia](#)  
[Illinois](#)  
[Indiana](#)  
[Iowa](#)  
[Kentucky](#)  
[Louisiana](#)  
[Maine](#)  
[Missouri](#)  
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[New Hampshire](#)  
[New York](#)  
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[Rhode Island](#)  
[South Carolina](#)  
[Tennessee](#)  
[Texas](#)  
[Virginia](#)  
[Washington](#)  
[West Virginia](#)

### Arizona

Arizona makes it unlawful for a person to present or cause to be presented to the State of Arizona or to a contractor:

- (1) a claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed;
- (2) a claim for a medical or other item or service that the person knows or has reason to know is false or fraudulent;
- (3) a claim for payment that the person knows or has reason to know may not be made by the system because:
  - (a) the person was terminated or suspended from participation in the program on the date for which the claim is being made;
  - (b) the item or service claimed is substantially in excess of the needs of the individual or of a quality that fails to meet professionally recognized standards of health care; or



(c) the patient was not a member on the date for which the claim is being made; or

(4) a request for payment that the person knows or has reason to know is in violation of an agreement between the person and the state or the Arizona Health Care Cost Containment System Administration.

Violations of Ariz. Rev. Stat. § 36-2918 are punishable by civil penalties of up to \$2000 per item or service claimed plus an assessment of up to twice the amount claimed for each item or service. The director of the Arizona Health Care Cost Containment System Administration investigates potential violations of this statute and determines whether to assess civil penalties in relation to a violation. See Ariz. Rev. Stat. § 36-2918(B).

In addition, Ariz. Rev. Stat. § 36-2918.01 requires all contractors, subcontracted providers of care, and non-contracting providers to immediately notify the director of Arizona Medicaid in a written report of any cases of suspected fraud or abuse. If the director believes that an incident of fraud or abuse has occurred, the matter shall be referred to the Arizona attorney general. Any person making a complaint or furnishing a report, information, or records in good faith pursuant to the duty to report fraud or abuse is immune from any civil liability by reason of that action unless that person has been charged with or is suspected of the fraud or abuse reported. Any contractor, subcontracted provider of care or non-contracting provider who fails to report pursuant to this section commits an act of unprofessional conduct and is subject to disciplinary action.

## **California**

### California False Claims Laws

The California False Claims Act (the "CFCA") makes it unlawful for any person to:

(a) knowingly present or cause to be presented a false or fraudulent claim for payment or approval;

(b) knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;

(c) conspire to commit a violation of the CFCA;

(d) have possession, custody, or control of public property or money used or to be used by the State or by any political subdivision and knowingly deliver or cause to be delivered less than all of that property;

(e) knowingly make, use, or cause to be made or used a false record or statement material to an obligation to pay or transmit money or property to the State or to any political subdivision, or knowingly conceal or knowingly and improperly avoid, or decrease an obligation to pay or transmit money or property to the State or to any political subdivision; or





(f) be a beneficiary of an inadvertent submission of a false claim, subsequently discover the falsity of the claim, and fail to disclose the false claim to the State or the political subdivision within a reasonable time after discovery of the false claim. See Ca. Govt. Code § 12651.

A violator will be liable to the State or the political subdivision for a civil penalty of not less than \$5,500 and not more than \$11,000 for each act constituting a violation of the CFCA, plus three times the amount of damages which the State sustains because of the act of that person. Certain liabilities may be reduced if the violator furnishes the State with all information known to the violator within thirty (30) days of receiving such information, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. In addition, the CFCA also differs from the federal False Claims Act in that it does not apply to any claim of less than \$500 in value or claims involving workers' compensation or against public entities and employees. See Ca. Govt. Code § 12651.

The California Attorney General may investigate suspected violations of the CFCA and may bring civil action against a person that has violated the CFCA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Ca. Govt. Code § 12652.

#### Whistleblower Protection

The CFCA contains an employee protection provision that provides that any employee, contractor or agent who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under the CFCA or other efforts to stop one or more violations under the CFCA. See Ca. Govt. Code § 12653.

Such relief under CFCA's whistleblower protections include, but are not limited to, the following: reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including punitive damages, litigation costs and reasonable attorneys' fees. See Ca. Govt. Code § 12653.

#### California Medicaid Antifraud Statute

The State of California has also adopted several other false claims statutes that are



intended to prevent fraud and abuse in Medi-Cal, the California Medicaid program.

These laws generally make it unlawful for a person to:

- (a) with intent to defraud, present for allowance or payment any false or fraudulent claim for furnishing services or merchandise;
- (b) knowingly submit false information for the purpose of obtaining greater compensation than that to which he or she is legally entitled for furnishing services or merchandise;
- (c) knowingly submit false information for the purpose of obtaining authorization for furnishing services or merchandise;
- (d) knowingly and willfully execute, or attempt to execute, a scheme or artifice to do either of the following:
  - (i) defraud the Medi-Cal program or any other health care program administered by the department or its agents or contractors; or
  - (ii) obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, the Medi-Cal program or any other health care program administered by the department or its agents or contractors, in connection with the delivery of or payment for health care benefits, services, goods, supplies, or merchandise. A person who violates the above prohibitions, may be subject to up to five years imprisonment and/or civil penalties of up to three times the amount claimed for each item or service (which may be imposed for each day the violation continues). See Ca. Welf. & Inst. Code §§ 14107, 14123.2.

## **Florida**

### Florida False Claims Laws

The Florida False Claims Act (the “FFCA”) makes it unlawful for any person to:

- (a) knowingly present or cause to be presented a false or fraudulent claim for payment or approval;
- (b) knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;
- (c) conspire to commit a violation of the FFCA; or
- (d) knowingly make, use, or cause to be made or used a false record or statement material to an obligation to pay or transmit money or property to the State, or knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the State. See Fla. Stat. § 68.082(2).

A violator will be liable to the State for a civil penalty of not less than \$5,500 and not more than \$11,000 for each act constituting a violation of the FFCA, plus three times the



amount of damages which the State sustains because of the act of that person. Certain liabilities may be reduced if the violator furnishes the State with all information known to the violator within thirty (30) days of receiving such information, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See Fla. Stat. §§ 68.082(2)-(3).

The Department of Financial Services (the “DFS”) may investigate suspected violations of the FFCA and may bring civil action against a person that has violated the DFS. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Fla. Stat. §§ 68.083 & 68.085.

#### Whistleblower Protection

The FFCA contains an employee protection provision that provides that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under the FFCA, including investigation of, testimony for, or assistance in an action filed or to be filed under the FFCA, shall have a cause of action under Fla. Stat. § 112.3187. See Fla. Stat. § 68.088.

Such relief under FFCA’s whistleblower protections include, but are not limited to, the following: reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief; compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action; and payment of reasonable costs, including attorneys’ fees. See Fla. Stat. § 112.3187.

#### Florida Medicaid Antifraud Statute

Florida’s Medicaid antifraud laws state that a person may not:

- (a) knowingly make, cause to be made, or aid and abet in the making of any false statement or false representation of a material fact, by commission or omission, in any claim submitted to the Florida Agency for Healthcare Administration (“AHCA”) or its fiscal agent or a managed care plan for payment;
- (b) knowingly make, cause to be made, or aid and abet in the making of a claim for items or services that are not authorized to be reimbursed by the Medicaid program;
- (c) knowingly charge, solicit, accept, or receive anything of value, other than an authorized copayment from a Medicaid recipient, from any source in addition to



the amount legally payable for an item or service provided to a Medicaid recipient under the Medicaid program or knowingly fail to credit AHCA or its fiscal agent for any payment received from a third-party source;

(d) knowingly make or in any way cause to be made any false statement or false representation of a material fact, by commission or omission, in any document containing items of income and expense that is or may be used by the agency to determine a general or specific rate of payment for an item or service provided by a provider;

(e) knowingly solicit, offer, pay, or receive any remuneration, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under the Medicaid program, or in return for obtaining, purchasing, leasing, ordering, or arranging for or recommending, obtaining, purchasing, leasing, or ordering any goods, facility, item, or service, for which payment may be made, in whole or in part, under the Medicaid program;

(f) knowingly submit false or misleading information or statements to the Medicaid program for the purpose of being accepted as a Medicaid provider;

(g) knowingly use or endeavor to use a Medicaid provider's identification number or a Medicaid recipient's identification number to make, cause to be made, or aid and abet in the making of a claim for items or services that are not authorized to be reimbursed by the Medicaid program. A person who violates the above prohibitions, may be guilty of a felony of the first, second or third degree. See Fla. Stat. §§ 409.920(2)(a)-(b) & 812.035.68.

## **Georgia**

### Georgia Medicaid False Claims Act

The State of Georgia has adopted a State Medicaid False Claims Act (the "GMFCA") which mirrors the federal false claims act and prohibits any person or entity from submitting a false or fraudulent claim to the State of Georgia, including Medicaid. Under the GMFCA, it is unlawful for any person to among other things,:

(1) knowingly present or cause to be presented to the Georgia Medicaid program a false or fraudulent claim for payment or approval;

(2) knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;

(3) conspire to commit a violation under this subsection;

(4) knowingly make, use, or cause to be made or used a false record or statement material to an obligation to pay or transmit property or money to the Georgia Medicaid program, or knowingly conceal or knowingly and improperly



avoid or decrease an obligation to pay or transmit property or money to the Georgia Medicaid program. See Ga. Code Ann. § 49-4-168.1(a).

Violations of the GMFCA are civil offenses and consist of significant monetary penalties of not less than \$5,500 and not more than \$11,000 for each false claim or fraudulent claim, plus three times the amount of damages which the Georgia Medicaid program sustains because of the act. See Ga. Code Ann. § 49-4-168.1(a).

The Georgia Attorney General investigates suspected violations of the GMFCA and may bring a civil action against a person that has violated the GMFCA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Ga. Code Ann. §§ 49-4-168.2(a)-(b) & (h).

Allegations may not be based on public information or on allegations which are already the subject of a civil or administrative proceeding involving the State of Georgia. The individual bringing a claim must be the 'original source', meaning that person has direct and independent knowledge of the information and voluntarily presented it to the state before filing a civil action. See Ga. Code Ann. §§ 49-4-168.2(l).

### Whistleblower Protections

The GMFCA contains an employee protection provision that prohibits an employer from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee, contractor, or agent for lawfully disclosing information regarding a false claims action against the employer.

Such relief under GMFCA's whistleblower protections include, but are not limited to, the following: reinstatement with the same seniority status as if the discrimination had not occurred, twice the amount of back pay, interest on the back pay and compensation for any special damages sustained as a result of the discrimination, including litigation cost and reasonable attorney's fees. See Ga. Code Ann. §§ 49-4-168.4.

### Georgia Medicaid Antifraud Statute

Georgia's antifraud law, the Georgia Medical Assistance Act ("GMAA") makes it unlawful for any person to:

- (1) obtain, attempt to obtain, or retain for himself, herself, or any other person any medical assistance or other benefits or payments under Medicaid, or under a managed care program operated, funded, or reimbursed by the Georgia



Medicaid program, to which the person or provider is not entitled, or in an amount greater than that to which the person or provider is entitled, when the assistance, benefit, or payment is obtained, attempted to be obtained, or retained, by:

- (a) knowingly and willfully making a false statement or false representation;
- (b) deliberate concealment of any material fact; or
- (c) any fraudulent scheme or device; or

(2) knowingly and willfully accept medical assistance payments to which he or she is not entitled or in an amount greater than that to which he or she is entitled or knowingly and willfully to falsify any report or document required under the GMAA. Any person that violates the GMAA shall be guilty of a felony, and punishable by a fine and/or imprisonment. See Ga. Code Ann. §§ 49-4-146.1(b), (c.1), (d), (f) & (g).

## **Illinois**

### **Illinois False Claims Act**

The Illinois Whistleblower Reward and Protection Act (“IWRPA”) makes it unlawful for any person to:

- (a) knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval;
- (b) knowingly make, use, or cause to be made or used, a false record or statement material to a false or fraudulent claim;
- (c) conspire to commit a violation of the IWRPA;
- (d) have possession, custody, or control of property or money used, or to be used, by the State and knowingly deliver, or cause to be delivered, less than all the money or property;
- (e) knowingly make, use or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the State, or knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the State. No proof of specific intent to defraud is required. See 740 Ill. Comp. Stat. Ann. § 175.

A violator will be liable to the State for a civil penalty of not less than \$5,500 and not more than \$11,000 plus three times the amount of damages which the State sustains because of the act of the violator. Penalties may be reduced if the person cooperates with the fraud investigation. See 740 Ill. Comp. Stat. Ann. § 175.

The Illinois Attorney General shall investigate suspected violations of the IWRPA and may bring civil action against a person that has violated the IWRPA. An individual may



also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See 740 Ill. Comp. Stat. Ann. § 175.

### Whistleblower Protections

The IWRPA prohibits retaliation against employees for disclosing information to a government or law enforcement agency, where the employees has reasonable cause to believe that the information discloses a violation of a State or federal law, rule or regulation. In addition, any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action under the IWRPA or other efforts to stop one or more violations of the IWRPA. See 740 Ill. Comp. Stat. Ann. §§ 174-175.

Such relief under IWRPA's whistleblower protections include, but are not limited to, the following: reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including punitive damages, litigation costs and reasonable attorneys' fees. See 740 Ill. Comp. Stat. Ann. § 175.

## **Indiana**

### Indiana False Claims Act

Indiana's state version of the federal False Claims Act makes it unlawful for any person to knowingly or intentionally:

- (a) present a false claim to the State for payment or approval;
- (b) make or use a false record or statement to obtain payment or approval of a false claim from the State;
- (c) with the intent to defraud the State, deliver less money or property to the State than the amount recorded on the certificate or receipt the person receives from the State;
- (d) make or use a false record or statement to avoid an obligation to pay or transmit property to the State;
- (e) conspire with another person to perform an act described above; or
- (f) cause or induce another person to perform an act described above. See Ind. Code § 5-11-5.5-2.





A violator will be liable to the State for a civil penalty of at least \$5,000 and for up to three times the amount of damages sustained by the State. The violator shall also be liable to the State for cost of a civil action brought to recover a penalty or damages. See Ind. Code § 5-11-5.5-2.

The Indiana Attorney General and the Inspector General have concurrent jurisdiction to investigate suspected violations of the Indiana False Claims Act and the Attorney General may bring civil action against a person that has violated the Indiana False Claims Act. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Ind. Code §§ 5-11-5.5-3, 4 & 6.

#### Whistleblower Protections

The Indiana False Claims Act contains an employee protection provision that provides that any employee who is discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by his or her employer because the employee objected to an act or omission described in Ind. Code § 5-11-5.5-2 or initiated testified, assisted, or participated in an investigation, an action or hearing, shall be entitled to relief necessary to make the employee whole. See Ind. Code § 5-11-5.5-8.

Such relief include, but are not limited to, the following: reinstatement with the same seniority status that the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including punitive damages, litigation costs and reasonable attorneys' fees. See Ind. Code § 5-11-5.5-8.

#### Indiana Medicaid Antifraud Statute

Indiana's Medicaid antifraud laws state that a person may not knowingly or intentionally:

- (a) make, utter, present or cause to be presented to the Medicaid program, a Medicaid claim that contains materially false or misleading information concerning the claim;
- (b) obtain payment from the Medicaid program by means of a false or misleading oral or written statement or other fraudulent means;
- (c) acquire a provider number under the Medicaid program except as authorized by law;
- (d) alters with the intent to defraud or falsify documents or records of a provider that are required to be kept under the Medicaid program; or





(e) conceal information for the purpose of applying for or receiving unauthorized payments from the Medicaid program. A person who violates the above prohibitions, may be guilty of the following:

- (i) a Class A misdemeanor;
- (ii) a Level 6 felony if the fair market value of the offense is at least \$750 and less than \$50,00; and
- (iii) a Level 5 felony if the fair market value of the offense is at least \$50,000. See Ind. Code § 35-43-5-7.1.

## **Iowa**

### Iowa False Claims Act

Iowa's False Claims Act ("IFCA") is similar to the federal False Claims Act and imposes liability on persons or corporations who:

- (a) knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval;
- (b) knowingly make, use or cause to be made or used, a false record or statement material to a false or fraudulent claim
- (c) conspire to commit a violation of the IFCA;
- (d) has possession, custody, or control of property or money used, or to be used, by the state and , intending to defraud the state, make or delivers the receipt without completely knowing that the information on the receipt is true;
- (e) knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the State. A violator may be ordered to pay up to three times the actual damages to the State, plus a fine in the amount authorized under the federal False Claims Act. See Iowa Code § 685.2.

The Iowa Attorney General shall investigate suspected violations of the IFCA and may bring civil action against a person that has violated the IFCA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Iowa Code §§ 685.3.

### Whistleblower Protections

The IFCA contains a whistleblower protection provision that provides that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer



because of lawful acts done by the employee, contractor, or agent or associated others in furtherance of an action under IFCA or other efforts to stop one or more violations of the IFCA. See Iowa Code §§ 685.3.

Such relief under IFCA's whistleblower protections include, but are not limited to, the following: reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including punitive damages, litigation costs and reasonable attorneys' fees. See Iowa Code §§ 685.3.

#### Iowa Medicaid Fraud Statute

Iowa law provides that a person who knowingly makes or causes to be made a false statement or misrepresentation of material fact or knowingly fails to disclose material facts in an application or claim for payment of services or merchandise rendered or purportedly rendered by a provider participating in the Iowa medical assistance program (Medicaid) commits a fraudulent practice. See Iowa Code § 249A.51.

### **Kentucky**

#### Kentucky Medicaid Anti-fraud Statute

The Commonwealth of Kentucky has not adopted any false claims acts or statutes that contain qui tam provisions. It has, however, adopted generally applicable medical assistance anti-fraud statute ("KMAFS") that makes it unlawful for a person to submit false and fraudulent claims to the Kentucky Medicaid program. The statute also makes it unlawful for any person to present false information regarding an institution or facility so that it may be licensed or recertified as a Medicaid provider. Violations of the statute are both civil and criminal offenses and are punishable by imprisonment and significant monetary penalties. See Ky. Rev. Stat. § 205.8451, .8463, .8467.

#### Whistleblower Protection

The KMAFS contains an employee protection provision that forbids employers from retaliating or discriminating in any manner against any person who makes a good faith report of fraud, testifies, or is about to testify in any proceeding with regard to any report or investigation. See Ky. Rev. Stat. § 205.8465.

The KMAF's whistleblower provision entitles the whistleblower to recover the actual damages sustained and the costs of the lawsuit, including a reasonable attorney's fee, and permits a civil cause of action to enjoin future violations. See Ky. Rev. Stat. § 205.8465.



## **Louisiana**

### Louisiana False Claims Laws

The Louisiana Medical Assistance Programs Integrity Law (the “LMAPIL”) is a civil statute that helps combat fraud and recover losses resulting from fraud in Louisiana medical assistance programs.

Violations of the LMAPIL include, but are not limited to, illegal remuneration for referrals, knowingly making false claims or statements material to false or fraudulent claims, or submitting claims for unnecessary or substandard goods, services or supplies.

Penalties for violations under LMAPIL include actual damages, civil fines, additional civil monetary penalties, and costs, expenses, fees and attorney’s fees. See La. Rev. Stat. § 46:438.3, 46:438.5.

The Attorney General may investigate suspected LMAPIL violations and may bring civil action to seek recovery from persons who violate the LMAPIL. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See La. Stat. Ann § 46:438.1, 46:439.4.

The State of Louisiana has also adopted a Medicaid fraud statute intended to prevent fraud and abuse as it relates to any department or agency of the State, including the Louisiana Medicaid program. These laws generally prohibit the filing of any false or fraudulent claim or documentation in order to receive compensation from the Louisiana Medicaid program. A person who violates the Medicaid fraud statute will be subject to imprisonment and/or fines. See La. Stat. Ann. § 14:70.1.

### Whistleblower Protection

The LMAPIL contains an employee protection provision that provides that no employee shall be discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner because of any lawful act in furtherance of any action under the LMAPIL, and that violations of the whistleblower provisions allow the employee all relief to which he or she is entitled under state or federal law. See La. Stat. Ann. § 46:440.3.

## **Maine**

### Maine False Claims Act

Maine’s False Claims Act (“MFCA”) imposes civil liabilities on any person, firm, association, partnership, corporation or other legal entity who makes or causes to be made or presents or causes to be presented for payment or approval any claim upon or



against the department [of Health and Human Services] or upon any funds administered by the department [of Health and Human Services] knowing such claim to be false, fictitious or fraudulent or who makes any false written statements for the purpose of obtaining or aiding another to obtain the payment or approval of such a claim or submits any false document that the person does not believe to be true, or who enters into any agreement, combination or conspiracy to defraud the department by obtaining the payment or approval of any false, fictitious or fraudulent claim. The civil penalties for such false claims include, but are not limited to, restitution of excess benefits or payments, the payment of interest, and the greater of treble damages or \$2000 per false claim, costs of the suit and investigation as well as attorney's fees. The MFCA does not contain a qui tam provision. See Me. Rev. Stat. Ann. tit. 22 § 1-15.

#### Maine Whistleblowers Protections Act

Similar to Federal FCA law, the Maine Whistleblowers' Protection Act prohibits public and private employers from retaliating against any employee who discloses, in good faith, a violation of any federal, state, or local law, rule, regulation or ordinance, any deviation in the standard of care, or suspected patient abuse or neglect. This whistleblower protection requires an employee to notify his/her employer of the suspected violation, condition or practice before disclosing it to a government agency or to law enforcement, unless the employee has a specific reason to believe that reports to the employer will not result in promptly correcting the violation. This notice requirement does not apply to reports of suspected patient or resident abuse, neglect or exploitation that employees are required to report under other applicable laws. See Me. Rev. Stat. Ann. tit. 26 §§ 831 et seq.

#### **Missouri**

##### Missouri Anti-fraud Statutes

The Missouri Health Care Payment Fraud and Abuse Act ("MHCPFA") dictates that no health care provider shall knowingly make or cause to be made a false statement or false representation of a material fact in order to receive a health care payment, including but not limited to:

- (1) knowingly presenting to a health care payer a claim for a health care payment that falsely represents that the health care for which the health care payment is claimed was medically necessary, if in fact it was not;
- (2) knowingly concealing or failing to disclose any information with the intent to obtain a health care payment to which the health care provider or any other health care provider is not entitled; or
- (3) knowingly presenting a claim to a health care payer that falsely indicates that any particular health care was provided to a person or persons, if in fact health



care of a lesser value than that described in the claim was provided. See Mo. Rev. Stat. § 191.905.

Penalties for violations of the MHCPFA include, but are not limited to, civil penalties of not less than \$5,000 and not more than \$10,000 for each violation, three times the amount of damages, restitution, and imprisonment. Certain liabilities may be reduced if the violator furnishes the State with all known information within thirty (30) days of receiving such information, provided that the violator did not know of any investigation at the time of disclosure, and cooperates with the investigation. See Mo. Rev. Stat. § 191.905.

The Missouri Attorney General shall have the power to investigate suspected violations and bring action against a person who violated the MHCPFA. While the statute does not contain a qui tam provision, a person who is the original source of the information used by the Attorney General to bring an action shall receive a percentage of any recovery by the Attorney General. See Mo. Rev. Stat. § 191.907, 191.910.

#### Whistleblower Protection

The MHCPFA contains an employee protection provision that provides that an employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding under the MHCPFA. See Mo. Rev. Stat. § 191.908.

Such relief under the employee protection provision includes reinstatement to the employee's position without loss of seniority, two times the amount of lost back pay, and interest on the back pay at the rate of one percent over the prime rate. See Mo. Rev. Stat. § 191.908.

### **Nevada**

#### Nevada False Claims Act

The Nevada False Claims Act ("the NFCA") makes it unlawful for any person to

- (a) knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval;
- (b) knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim;
- (c) have possession, custody, or control of public property or money used, or to be used, by the State or a political subdivision and knowingly deliver or cause to be delivered to the State or a political subdivision less money or property than the



- amount of which the person has possession, custody or control;
- (d) knowingly make, use, or cause to be made or used, a false record or statement that is material to an obligation to pay or transmit money or property to the State or a political subdivision;
  - (e) be a beneficiary of an inadvertent submission of a false claim and, after discovering the falsity of the claim, fail to disclose the falsity to the State or political subdivision within a reasonable time. See Nev. Rev. Stat. Ann. § 357.040

A violator of the NFCA will be liable to the State or political subdivision for a civil penalty of not less than \$5,500 and not more than \$11,000, plus three times the amount of damages sustained by the State or political subdivision because of the act of the person, and the costs of a civil action brought to recover the damages. Certain liabilities may be reduced if the violator furnishes the State with all information known to the violator within thirty (30) days of receiving such information, and fully cooperates with any investigation by the State or political subdivision, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See Nev. Rev. Stat. Ann. §§ 357.040, 357.050

The Nevada Attorney General investigates any alleged violations of the NFCA and may bring a civil action against a person that has violated the NFCA. Furthermore, a district or city attorney may accept a designation from the Nevada Attorney General to investigate any alleged violation of the NFCA. See Nev. Rev. Stat. Ann. § 357.070.

#### Whistleblower Protections

The NFCA contains an employee protection provision that provides that if an employee, contractor or agent is discharged, demoted, suspended, threatened, harassed or discriminated against in the terms and conditions of employment as a result of any lawful act of the employee, contractor, agent or an associate in furtherance of an action or any other effort to stop a violation of the NFCA, the employee, contractor or agent is entitled to all relief necessary to make the employee, contractor or agent whole, including, without limitation, reinstatement with the same seniority as if the discharge, demotion, suspension, threat, harassment or discrimination had not occurred or damages in lieu of reinstatement if appropriate, twice the amount of lost compensation, interest on the lost compensation, any special damage sustained as a result of the discharge, demotion, suspension, threat, harassment or discrimination and punitive damages if appropriate.

#### Nevada Medicaid Antifraud Statute

The State of Nevada has also adopted several other antifraud statutes that are intended



to prevent fraud and abuse in the Nevada Medicaid program. The Nevada Medicaid fraud statute makes it unlawful for any person to commit any of the following acts in relation to the Nevada Medicaid program:

- (a) make a claim or cause it to be made, knowing the claim to be false, in whole or in part, by commission or omission;
- (b) make or cause to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide specific goods or services, knowing the statement or representation to be false, in whole or in part, by commission or omission;
- (c) make or cause to be made a statement or representation for use by another in obtaining goods or services knowing the statement or representation to be false, in whole or in part, by commission or omission; or
- (d) make or cause to be made a statement or representation for use in qualifying as a provider, knowing the statement or representation to be false, in whole or in part, by commission or omission.

Any person guilty of Medicaid fraud will be punished for a Category D felony if the amount of the claim or value of the goods or services obtained or sought to be obtained was greater than or equal to \$650 or a misdemeanor if the amount of the claim or the value of the goods or services obtained or sought to be obtained was less than \$650. Amounts involved in separate violations committed pursuant to a scheme or continuing course of conduct may be aggregated in determining the punishment. See Nev. Rev. Stat. Ann. § 422.540.

## **New Hampshire**

### New Hampshire False Claims Act

The New Hampshire False Claims Act (“the NHFCA”) makes it unlawful for any person to

- (a) knowingly present, or cause to be presented, to an officer or employee of the Department of Health and Human Services, a false or fraudulent claim for payment or approval;
- (b) knowingly 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 Department;
- (c) conspire to defraud the Department by getting a false or fraudulent claim allowed or paid;
- (d) knowingly make, use, or cause 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 Department;
- (e) is a beneficiary of an inadvertent submission of a false claim to the





Department, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the Department within a reasonable time after discovery of the false claim. See N.H. Rev. Stat. Ann. § 167:61-b.

The NHFCA shall not apply if the aggregate of any one or more false claims submitted by the same person to the Department is less than \$5,000 in value. A violator of the NHFCA will be liable to the State for a civil penalty of not less than \$5,500 and not more than \$11,000, plus three times the amount of damages sustained by the State because of the act of the person, and the costs of a civil action brought to recover the damages. The court may assess not less than two to three times the amount of damages the State sustains because of the act of the person. The civil penalty may be waived if violator furnishes the State with all information known to the violator within thirty (30) days of receiving such information, and fully cooperates with any investigation, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See N.H. Rev. Stat. Ann. § 167:61-b.

The New Hampshire Attorney General shall investigate any alleged violations of the NHFCA and may bring a civil action against a person that has violated the NHFCA. See N.H. Rev. Stat. Ann. § 167:61-c.

#### Whistleblower Protections

The NHFCA contains an employee protection provision that provides that if an employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee in furtherance of an action under the NHFCA, the employee is entitled to all relief necessary to make the employee whole, including reinstatement with the same seniority as if the discharge, demotion, suspension, threat, harassment or discrimination had not occurred, twice the amount of back pay, interest on the back pay, and any special damages sustained as a result of the discharge, demotion, suspension, threat, harassment or discrimination and punitive damages if appropriate. See N.H. Rev. Stat. Ann. § 167:61-c.

#### New Hampshire Medicaid Antifraud Statute

Under the New Hampshire Medicaid antifraud statute, a person commits Medicaid fraud when the person:

- (a) knowingly makes, presents or causes to be made or presented, with intent to defraud, any false or fraudulent claim for payment for any good, service, or accommodation for which payment may be made in whole or in part by Medicaid;
- (b) knowingly makes, presents, or causes to be made or presented, with intent to





defraud, any false or fraudulent statement or representation for use in determining rights to benefits or payments which may be made in whole or in part by Medicaid;

(c) knowingly makes, presents, or causes to be made or presented, with intent to defraud, any claim for payment, for any good, service, or accommodation which is not medically necessary;

(d) intentionally destroys or conceals or causes to be destroyed or concealed any book, record, document, data, or instrument required to be kept or which is kept as documentation;

(e) knowingly makes, presents, or causes to be made or presented, with intent to defraud, any claim for payment for any good, service, or accommodation for which payment may be made in whole or in part by Medicaid, and the person who furnishes the good, service, or accommodation:

(1) was not licensed by the appropriate licensing authority; or

(2) was licensed by the appropriate licensing authority but such license was obtained through a misrepresentation of material fact, including cheating on any examination required for licensing.

A violator of the New Hampshire Medicaid antifraud statute shall be guilty of a class B felony. See N.H. Rev. Stat. Ann. § 167:61-a.

## **New York**

### **New York False Claims Act**

The New York False Claims Act (the “NYFCA”) makes it unlawful for any person to:

(1) knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval;

(2) knowingly make, use, or cause to be made or used, a false record or statement material to a false or fraudulent claim;

(3) knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to a government entity, or knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to a government entity; or

(4) conspire to commit one or more of the above listed violations. See N.Y. State Fin. Law § 189.

A violator of the NYFCA will be liable to the State for three times the amount of damages sustained by the State and attributable to the violator, plus a civil penalty of at least \$6,000 but no more than \$12,000. Certain liabilities may be reduced if the violator



furnishes the New York Attorney General with all information known to the violator within thirty (30) days of receiving such information, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See N.Y. State Fin. Law § 189.

The New York Attorney General investigates suspected violations of the NYFCA and may bring a civil action against a person that has violated the NYFCA. An individual may also bring a private civil action on behalf of the individual and the State, and in the event that the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See N.Y. State Fin. Law § 190.

### Whistleblower Protections

The NYFCA contains an employee protection provision that prohibits an employer from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee, contractor, or agent for lawfully disclosing information regarding a false claims action against the employer. An employer who violates the employee protection provision is liable to the affected employee, contractor, or agent for all relief necessary to make such person whole, including reinstatement with the same seniority status as if the discrimination had not occurred, twice the amount of back pay, interest on the back pay and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. See N.Y. State Fin. Law § 191.

Additionally, New York law contains an employee protection provision that prohibits an employer from taking any retaliatory action against an employee because such employee

- (1) discloses or threatens to disclose any activity, policy or practice of the employer that the employee reasonably believes health care fraud; or
- (2) provides information to a public body regarding, or objects to participate in, any activity, policy or practice of the employer that the employee reasonably believes is in violation of a federal or state law, rule, or regulation. Retaliatory action includes discharging, disciplining, or otherwise taking an adverse action against such employee. An employer who violates this employee protection provision may be liable to the affected employee for reinstatement, restoration of benefits, back pay and reasonable costs and attorney's fees. Such employer may also be subject to a civil penalty of up to \$10,000. See N.Y. Lab. Law § 740.

### New York Medicaid Antifraud Statute

New York's medical assistance antifraud laws prohibit certain fraudulent activities in



connection with certain New York health care benefit programs, including New York's Medicaid program. Under New York law, it is unlawful for any person to knowingly, by means of a false statement or representation, by deliberate concealment of any material fact, or by other fraudulent scheme or device on behalf of himself or others, attempt to obtain payment from public funds for services or supplies furnished under New York's Medicaid program. A statement or representation includes any claim for payment made to the State, a political subdivision of the State, or an entity performing services under contract to the State, or any acknowledgment, certification, claim, ratification or report of data which serves as the basis for a claim or a rate of payment. See N.Y. Soc. Serv. Law § 145-b.

A violator may be subject to civil damages equal to three times the amount by which any figure is falsely overstated or, in the case of non-monetary false statements or representations, three times the amount of damages which the State, political subdivision of the State, or entity performing services under contract to the State or political subdivision of the State sustain as a result of the violation or \$5,000, whichever is greater. See N.Y. Soc. Serv. Law § 145-b.

Additionally, under New York law, any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining greater compensation than that to which he or she is legally entitled, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under New York's Medicaid program is guilty of a criminal offense punishable by fines and imprisonment. See N.Y. Soc. Serv. Law § 366-b.

## **Ohio**

### Ohio Medicaid Antifraud Statutes

The Ohio Medicaid Fraud Statute ("OMFS") makes it unlawful for any person to:

- (1) knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the Ohio Medicaid program;
- (2) with purpose to commit fraud or knowing that the person is facilitating fraud, charge, solicit, accept, or receive any property, money, or other consideration for goods or services in addition to the amount of reimbursement such person is entitled to under the Ohio Medicaid program;
- (3) knowingly alter, falsify, destroy, conceal, or remove any records that are necessary to fully disclose the nature of all goods or services for which a claim for payment was submitted to, or for which reimbursement was received from,



the Ohio Medicaid program within six years after such claim or payment was made. See Ohio Rev. Code § 2913.40.

A person who violates the OMFS is guilty of Medicaid fraud which is at minimum a misdemeanor of the first degree, punishable by fines plus costs of the investigation and prosecution of the violation. If the value of the property, services, or funds obtained in violation of the OMFS is at least \$1,000, and less than \$7,500, Medicaid fraud is a felony of the fifth degree. If the value of the property, services, or funds obtained in violation of the OMFS is at least \$7,500 and is less than \$150,000, Medicaid fraud is a felony of the fourth degree. If the value exceeds \$150,000, Medicaid fraud is a felony of the third degree. See Ohio Rev. Code § 2913.40.

### Ohio Medicaid Provider Offenses

Under Ohio law, no Medicaid provider shall

- (a) by deception, obtain or attempt to obtain payments under the Medicaid program to which the provider is not entitled;
- (b) willfully receive payments to which the provider is not entitled;
- (c) willfully receive payments in a greater amount than that to which the provider is entitled;
- (d) falsify any report or document required by state or federal law, rule, or provider agreement relating to Medicaid payments. See Ohio Rev. Code Ann. § 5164.35.

A violator will be liable for civil penalties including payment of interest on the amount of the excess payments at the maximum interest rate allowable on the date the payment was made to the provider for the period from the date upon which payment was made, to the date upon which repayment is made to the state, as well as payment of an amount equal to three times the amount of any excess payments, of not less than \$5,000 and not more than \$10,000 for each deceptive claim or falsification, and all other reasonable expenses the court determines. In addition, the Medicaid director shall terminate the provider's Medicaid agreement and stop payment to the provider for Medicaid services. See Ohio Rev. Code Ann. § 5164.35.

### Whistleblower Protections

Ohio law contains an employee protection statute that prohibits an employer from taking any disciplinary or retaliatory action against an employee because such employee, in good faith, reports to the appropriate authority a violation or suspected violation of any federal, state, or local law, ordinance, regulation, or rule and the employee reasonably believes that the violation is a felony or an improper solicitation for a contribution. An employer who violates this employee protection may be liable to the affected employee for injunctive relief or actual damages, including reinstatement, restoration of benefits



and back pay. See Ohio Rev. Code § 4113.52.

## **Rhode Island**

### Rhode Island False Claims Act

Rhode Island's False Claims Act (the "RIFCA") is similar to the federal False Claims Act and prohibits any person or entity from submitting a false or fraudulent claim to the State of Rhode Island, including Rhode Island's Medicaid program. Under the RIFCA, it is unlawful to, among other things:

- (1) knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval;
- (2) knowingly make, use, or cause to be made or used, a false record or statement material to a false or fraudulent claim;
- (3) knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to a government entity, or knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to a government entity; or
- (4) conspire to commit one or more of the above listed violations. A violator shall be liable to the State for three times the amount of damages sustained by the State and attributable to the violator, plus a civil penalty of at least \$5,500 but no more than \$11,000. The violator shall also be liable to the Rhode Island Attorney General for the costs of a civil action brought to recover such damages. See R.I. Gen. Laws § 9-1.1-3.

The Rhode Island Attorney General investigates suspected violations of the RIFCA and may bring a civil action against a person that has violated the RIFCA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See R.I. Gen. Laws § 9-1.1-4.

### Whistleblower Protections

The RIFCA contains an employee protection provision that prohibits an employer from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee, contractor, agent, or associate for engaging in any lawful action in furtherance of a false claims action against the employer. An employer who violates the employee protection provision is liable to the affected person for all relief necessary to make such person whole, including reinstatement with the same seniority status as if the discrimination had not occurred, twice the amount of back pay, interest on the back pay and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. See R.I. Gen.



Laws § 9-1.1-4.

### Rhode Island Medical Assistance Fraud Law

Rhode Island's Medical Assistance Fraud Law (the "RIMAFL") contains a statute that prohibits certain fraudulent activities in connection with Rhode Island's Medicaid program. Under RIMAFL, it is unlawful to, among other things,

- (1) present for authorization or payment any false or fraudulent claim or cost report for services or merchandise payable by the Rhode Island Medicaid Program;
- (2) present for authorization or payment any claim or cost report for medically unnecessary services or merchandise payable by the Rhode Island Medicaid Program;
- (3) submit or cause to be submitted false information for the purpose of obtaining greater compensation than that to which the person is legally entitled, for furnishing services or merchandise payable by the Rhode Island Medicaid Program;
- (4) submit or cause to be submitted false information for the purpose of obtaining authorization to furnish services or merchandise payable by the Rhode Island Medicaid Program;
- (5) submit or cause to be submitted a claim, cost report, or other document that fails to make a full disclosure of material information;
- (6) solicit, receive, offer, or pay any remuneration to induce or reward referrals;
- (7) submit or cause to be submitted a duplicate claim for services, supplies, or merchandise for which the provider has already received or claimed reimbursement from another source;
- (8) submit or cause to be submitted a claim for services or merchandise that was not rendered to the recipient, or which includes costs or charges unrelated to what was rendered to the recipient;
- (9) submit or cause to be submitted a claims which are intentionally not documented and/or are medically unnecessary;
- (10) submit or cause to be submitted a claim that materially misrepresents the service, its cost, when the service was provided, the identity of the recipient, or the identity of the provider;
- (11) submit or cause to be submitted a claim for a services or merchandise at a fee that exceeds the provider's lowest fee for the provision of the service to the general public;
- (12) submit or cause to be submitted a claim for services or merchandise which was not rendered by the provider;
- (13) render or provide services or merchandise without authorization or consent;
- (14) charge a recipient in addition to or in excess of the rates established by the



Rhode Island Medicaid program;

- (15) enter into an agreement to obtain aid or reimbursement for another party who is not entitled to such aid or reimbursement; or
- (16) make a material false statement when applying to enroll as a Rhode Island Medicaid provider. See R.I. Gen. Laws § 40-8.2-3.

Violators of RIMAFL are subject to expulsion from the Rhode Island Medicaid program or a suspension of no more than two years. Violators are also subject to injunctive relief and a civil penalty of no more than \$1,000. Individuals injured by the violation may also bring a civil action to recover treble damages from violator. See R.I. Gen. Laws §§ 40-8.2-5; 40-8.2-11; 40-8.2-12.

#### Additional Rhode Island Whistleblower Protections

Rhode Island's Whistleblowers' Protection Act (the "RIWPA") contains an employee protection provision that prohibits an employer from discharging, threatening, or otherwise discriminating against an employee because the employee

- (1) reports or is about to report to a public body, verbally or in writing, a violation of a federal, state, or local law, regulation or rule which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false;
- (2) is requested by a public body to participate in an investigation, hearing, or inquiry held by that public body, or a court action;
- (3) refuses to violate or assist in violating federal, state, or local law, rule or regulation; or
- (4) reports verbally or in writing to the employer or to the employee's supervisor a violation, of a federal, state, or local law, regulation or rule which the employee knows or reasonably believes has occurred or is about to occur, unless the employee knows or has reason to know that the report is false. An employer who violates this employee protection provision may be liable to the affected employee for injunctive relief and actual damages, including reinstatement, restoration of benefits and back pay. See R.I. Gen. Laws §§ 28-50-3; 28-50-4; 28-50-5.

### **South Carolina**

#### South Carolina False Claims Laws

South Carolina has enacted a statute that makes it unlawful for any person to knowingly and willfully:

- (1) make or cause to be made a false claim, statement, or representation of material fact upon requesting payment or reimbursement from the State's medical





assistance or Medicaid program;

(2) make or cause to be made a false claim, statement, or representation of material fact on a report, certificate, or similar document submitted to a state or federal agency that administers the South Carolina's Medicaid program in order for the provider to qualify or remain qualified under South Carolina's Medicaid program;

or

(3) conceal or fail to disclose any material fact, event, or transaction which affects the provider's initial or continued entitlement to payment or the amount of payment under South Carolina's Medicaid program.

(4)

A person found to have violated this statute is guilty of a misdemeanor and subject to up to three years imprisonment and a fine of up to \$1,000 per offense. The South Carolina Attorney General may also bring action to recover up to treble damages of the amount of overstatement or overpayment. The court may also impose a penalty of \$2,000 per each false claim. The state agency that administers the Medicaid program may also impose administrative sanctions. See S.C. Code Ann. § 43-7-60; S.C. Code Ann. Regs. 126-403.

In addition, a person who knowingly causes a false claim to be presented for payment by the State commits a criminal offense. If the claim amount is more than \$10,000, the individual is subject to up to ten years in prison, a fine of up to \$5,000, or both. If the claim is more than \$2,000, the individual is subject to a fine in an amount to be decided by the court, up to five years in prison, or both. False claims of \$2,000 or less are subject to a fine of up to \$1,000, up to thirty days in prison, or both. See S.C. Code Ann. § 38-55-170.

## **Tennessee**

### Tennessee False Claims Act

The Tennessee's False Claims Act ("TFCA") makes it unlawful for any person to:

- (1) knowingly present or cause to be presented to the State a false claim for payment or approval;
- (2) knowingly make, use, or cause to be made or used a false record or statement to get a false claim paid or approved by the State;
- (3) conspire to defraud the State by getting a false claim allowed or paid;
- (4) knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay money to the State; or
- (5) discover an inadvertent false claim and fail to disclose it to the State within a reasonable time after discovery of the false claim. An individual who violates the TFCA is liable to the State for three times the amount of damages that the State





sustains because of the violator, and for a civil penalty of not less than \$2,500 and not more than \$10,000 for each claim. The TFCA does not apply to false claims in the amount of less than \$500. See Tenn. Code Ann. § 4-18-103.

The Tennessee Attorney General will investigate suspected violations of the TFCA and may bring civil action against a person that has violated the TFCA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Tenn. Code Ann. § 4-18-104.

### Whistleblower Protection

The TFCA contains an employee protection provision that protects any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed under the TFCA. See Tenn. Code Ann. § 4-18-105

Such relief under TFCA's whistleblower protections include the following: reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained due to the discrimination, including litigation costs and reasonable attorneys' fees. See Tenn. Code Ann. § 4-18-105

### TENNESSEE MEDICAL ASSISTANCE ACT

Tennessee has also enacted a generally applicable Medicaid antifraud statute called the Tennessee Medical Assistance Act ("TMAA"). The TMAA makes it unlawful for any person to:

- (1) knowingly present or cause to be presented a false or fraudulent claim for payment or approval under the Medicaid program;
- (2) knowingly make, use, or cause to be made or used a false record or statement material to a false or fraudulent claim under the Medicaid program;
- (3) knowingly make, use, or cause to be made or used a false record or statement material to an obligation to pay money to the State;
- (4) knowingly conceal, avoid, or decrease an obligation to pay money to the State; or
- (5) knowingly conspire to commit a violation of the TMAA. An individual or entity that violates the TMAA is liable to the State for a civil penalty between \$5,000 and



\$25,000, plus three times the amount of damages sustained by the State as a result of the violation. See Tenn. Code Ann. § 71-5-182.

The Tennessee Attorney General may investigate suspected violations of the TMAA and may bring civil action against a person that has violated the TMAA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Tenn. Code Ann. § 71-5-183.

#### Whistleblower Protection

The TMAA contains an employee protection provision that protects any employee, contractor, or agent who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or an associate in furtherance of an action to stop a violation of TMAA. See Tenn. Code Ann. § 71-5-183(g).

Such relief under TMAA's whistleblower protections includes the following: reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained due to the discrimination, including litigation costs and reasonable attorneys' fees. See Tenn. Code Ann. § 71-5-183(g).

## **Texas**

### Texas False Claims Laws

The Texas False Claims Act makes it unlawful for a person to:

- (1) knowingly present or cause to be presented a false claim;
- (2) solicit or receive, directly or indirectly, any remuneration or other inducement for referrals; or
- (3) fail to maintain documentation to support a claim for payment in accordance with the medical assistance program requirements. A violator of the Texas False Claims Act will be liable to the State for the amount paid as a result of the violation, plus interest. The violator must also pay an administrative penalty that will not exceed twice the amount paid as a result of a violation. In addition, a person who accepts remuneration in violations of the Texas False Claims Act is also subject to criminal liability, punishable by imprisonment. See Tex. Hum. Res. Code §§ 32.039, 320391.



### Texas Medicaid Antifraud Statute

The State of Texas has also adopted a Medicaid anti-fraud statute that is intended to prevent fraud and abuse in the Texas Medicaid program. Under the Texas Medicaid Fraud Prevention act (“TMFP”), makes it unlawful for a person to:

- (1) knowingly make, cause to be made, induce, or seek to induce the making of a false statement or misrepresentation of material fact concerning the conditions or operation of a facility when qualifying for certification;
- (2) knowingly pay, charge, solicit, accept, or receive a gift, money, donation, or other consideration as a condition to the provision of a service under the Medicaid program;
- (3) knowingly present or cause to be presented a claim for payment under Medicaid for a service that has been not approved by a treating physician or is substantially inadequate or inappropriate; or
- (4) knowingly make, use, or cause the making or use of a false record statement that is material to an obligation to pay or transmit money under the Medicaid program, or knowingly and improperly avoid or decrease an obligation to pay or transmit money under the Medicaid program. See Tex. Hum. Res. Code § 36.002.

An individual who violates the TMFP is subject to the following remedies:

- (1) repayment of the benefit received as a result of the unlawful act, plus interest and two times the amount of the payment of the unlawfully received benefit;
  - (2) a civil penalty of no less than \$5,500 and no more than \$11,000 if the act does not cause injury to an elderly person, a person with a disability, or a person under 18 years of age. If the injury is to an individual in one of those categories, the maximum penalty is \$15,000;
  - (3) payment of court costs, reasonable attorney’s fees, witness fees, and deposition fees associated with the State’s investigation and relief; and
  - (4) suspension or revocation of the violator’s professional license or certification.
- See Tex. Hum. Res. Code §§ 36.005; 36.007, 36.051, 36.052.

The attorney general may investigate suspected violations of the TMFP and may bring civil action against a suspected violator. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Tex. Hum. Res. Code § 36.101.

### Whistleblower Protections

The TMFP contains an employee protection provision that provides that any employee,



contractor, or agent who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of a lawful act taken by the person or associates in reporting a violation of the TMFP is entitled to relief. Such relief under the whistleblower protections include reinstatement with the same seniority status that the person would have had but for the discrimination and not less than two times the amount of back pay, interests on the back pay, and compensation for any special damages sustained due to the discrimination, including litigation costs and reasonable attorney's fees. See Tex. Hum. Res. Code § 36.115.

## **Virginia**

### Virginia False Claims Laws

The Virginia Fraud Against Taxpayer Act ("VFATA") makes it unlawful for any person to:

- (1) knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval;
- (2) knowingly make, use, or cause to be made or used, a false record or statement material to a false or fraudulent claim;
- (3) conspire to commit a violation of the VFATA;
- (4) be authorized to make or deliver a document certifying receipt of property used, or to be used, by the Commonwealth and knowingly deliver, or cause to be delivered, less than all such money or property;
- (5) knowingly make, use, or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Commonwealth or knowingly conceal or knowingly and improperly avoid or decreases an obligation to pay or transmit money or property to the Commonwealth. See Va. Code Ann. § 8.01-216.3.

A violator will be liable to the Commonwealth for a civil penalty of not less than \$ 5,500 and not more than \$ 11,000, plus three times the amount of damages which the Commonwealth sustains because of the act of that person. The violator would also be liable to the Commonwealth for reasonable attorney fees and costs of civil action brought to recover such penalties or damages. Certain liabilities may be reduced if the violator furnishes the Commonwealth with all information known to the violator within thirty (30) days of receiving such information, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See Va. Code Ann. § 8.01-216.3.

The Virginia Attorney General shall investigate suspected violations of the VFATA and may bring civil action against a person that has violated the VFATA. An individual may



also bring a private civil action on behalf of the individual and the Commonwealth. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See Va. Code Ann. §§ 8.01-216.4, 216.5, 216.7

### Whistleblower Protections

The VFATA contains an employee protection provision that provides that any employee, contractor or agent who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under the VFATA or other efforts to stop one or more violations under the VFATA. See Va. Code Ann. § 8.01-216.8

Such relief under VFATA's whistleblower protections include, but are not limited to, the following: reinstatement with the same seniority status that the employee, contractor, or agent would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including punitive damages, litigation costs and reasonable attorneys' fees. See Va. Code Ann. § 8.01-216.8.

### Virginia Medicaid Antifraud Statute

The Commonwealth of Virginia has also adopted several other false claims statutes that are intended to prevent fraud and abuse in the Virginia Medicaid program. These laws generally make it unlawful for any person to:

- (1) knowingly and willfully make or cause to be made any false statement or false representation of material fact in any application for any payment under medical assistance;
- (2) knowingly and willfully conceal or cause to be concealed any material facts;
- (3) knowingly and willfully engage in any fraudulent scheme or device, including, but not limited to, submitting a claim for services, drugs, supplies or equipment that were unfurnished or were of a lower quality, or a substitution or misrepresentation of items billed;
- (4) knowingly and willfully make or cause to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly and willfully falsify, conceal or cover up by any trick, scheme or device a material fact, causing a material fact to be falsified, concealed, or covered up in such a manner in connection with such application or payment; or
- (5) knowingly, willfully, and fraudulently make or cause to be made, or induce or seek to induce the making of, any false statement or representation of a material fact with respect to the conditions or operations of any institution or facility in



order that such institution or facility may qualify, either upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, or home care organization. A person who violates the above prohibitions, may be subject to jail time and/or civil penalties. See Va. Code Ann. §§ 18.2-498.3, 32.1-312, 32.1-314, 32.1-315.

## **Washington**

### Washington Medicaid False Claims Act

Under Washington's Medicaid False Claims Act (the "WMFCA"), any person who

- (1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- (2) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- (3) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the government entity and, intending to defraud a government entity, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (4) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the government entity, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the government entity; or
- (5) conspires to commit one or more of the above listed violations. See RCW 74.66.020.

A violator will be liable to the State for three times the amount of damages sustained by the State and attributable to the violator, plus a civil penalty of at least \$5,500 but no more than \$11,000. The violator shall also be liable to the Attorney General for the costs of a civil action brought to recover such damages. Certain liabilities may be reduced if the violator furnishes the Attorney General with all information known to the violator within thirty (30) days of receiving such information, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See RCW 74.66.020.

The Washington Attorney General shall investigate suspected violations of the WMFCA and may bring civil action against a person that has violated the WMFCA. An individual may also bring a private civil action on behalf of the individual and the State. In the event the qui tam action is successful, the individual bringing the civil action may be awarded a percentage of the funds recovered. See RCW 74.66.050, 060.



### Whistleblower Protections

The WMFCA contains an employee protection provision that prohibits an employer from discharging, demoting, suspending, threatening, harassing, or otherwise discriminating against an employee, contractor, or agent for lawfully disclosing information regarding a false claims action against the employer.

Such relief under WMFCA's whistleblower protections include, but are not limited to, the following: reinstatement with the same seniority status as if the discrimination had not occurred, twice the amount of back pay, interest on the back pay and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees. See RCW 74.66.090.

### Washington Medicaid Antifraud Statute

Washington also prohibits certain fraudulent activities in connection with any Washington health care benefit program, including Medicaid. Washington's antifraud law prohibits a person from obtaining or attempting to obtain payments in excess of the amount to which such person is entitled by means of willful false statements, misrepresentation, concealment of material facts, misrepresentation of items billed, or willfully billing for purportedly covered items which were in fact not covered by Washington's Medicaid program. Any person that violates this section must repay the amounts wrongfully obtained plus interest and may be subject to a civil penalty in an amount up to three times the amount of the excess payment received. See RCW 74.09.210.

### Whistleblower Protections

Washington's antifraud law also contains an employee protection provision that prohibits an employer allowing any workplace reprisal or retaliatory action against an employee who in good faith reports a violation of Washington's Medicaid antifraud provision. Retaliatory action includes denying adequate staff to fulfill duties, causing frequent staff changes, causing frequent and undesirable office changes, refusing to assign meaningful work, causing an unwarranted and unsubstantiated report of misconduct, causing unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demoting, reducing pay, denying promotion, suspending, dismissing, denying employment, a supervisor or superior behaving in or encouraging coworkers to behave in a hostile manner toward the whistleblower, a change in the physical location of the employee's workplace, or a change in the basic nature of the employee's job. An employer who violates this employee protection provision may be liable to the affected employee for restoration of benefits, back pay, and any increases





in compensation that would have occurred, all with interest. Such employer may also be subject to a civil penalty of up to \$5,000. The identity of a whistleblower who complains, in good faith, to the authorities about a suspected violation of the Medicaid antifraud provision may remain confidential if requested. See RCW 74.09.315.

### Additional Washington False Claims Statutes

Additional false claims provisions prohibit any person from

- (1) knowingly making or causing to be made any false statement or false representation of a material fact in any application for payment under any state health care benefit program;
- (2) at any time knowingly making or causing to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly falsifying or concealing a material fact in connection with such application for payment, or
- (3) knowingly concealing the occurrence of any event affecting a person's right to have payment made for a health care service with the intent to obtain a health care payment to which the person or any other person is not entitled or in an amount greater than that which the person or any other person is entitled. Each violation of this provision is a class C felony, provided that any fine imposed will not exceed \$25,000. See RCW 74.09.230, 48.80.030.

## **West Virginia**

### West Virginia Antifraud Statute

The State of West Virginia has not adopted any false claims acts or statutes that contain qui tam or whistleblower provisions that are similar to those found in the federal False Claims Act. It has, however, adopted a generally applicable Medicaid Fraud Control Act that makes it unlawful for a person to:

- (a) knowingly make or cause to be made a false statement or false representation of any material fact in an application for medical assistance under the medical programs of the Department of Health and Human Resources;
- (b) knowingly make or cause to be made a false statement or false representation of any material fact necessary to determine the rights of any other person to medical assistance under the medical programs of the Department of Health and Human Resources; and
- (c) knowingly and intentionally conceal or fail to disclose any fact with the intent to obtain medical assistance under the medical programs of the Department of Health and Human Resources to which the person or any other person is not entitled. A violator will be liable to the State for a civil penalty not to exceed \$10,000 and/or imprisonment of not less than one nor more than ten years. See





W. Va. Code Ann. § 9-7-4.