

FAMILY PLANNING ASSOCIATES MEDICAL GROUP	FALSE CLAIMS LAWS POLICY	Page: 1 of 4
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I. SCOPE:

This policy applies to all Family Planning Associates Medical Group (“FPAMG”) employees, including management (“Employee”) and any contractors, agents, or others that furnish health care items or services to or on behalf of FPAMG, including but not limited to physicians, nurses and any entity/individual performing billing or coding functions or monitoring the health care provided by FPAMG (“Covered Agents”).

II. PURPOSE:

The purpose of this policy is to comply with certain requirements set forth in the Deficit Reduction Act of 2005 with regard to federal and state false claims laws.

III. POLICY:

In accordance with Section 1396a(a)(68) of Title 42 of the United States Code (“U.S.C.”), as enacted by the Deficit Reduction Act of 2005, all Employees and Covered Agents shall receive information regarding the federal False Claims Act (“FCA”), applicable state false claims laws, remedies available under these provisions and how employees and others can use such laws, including the whistleblower protections available.

FPAMG intends that its Employees and Covered Agents help prevent and detect fraud, waste and abuse in federal and state health care programs. To this end, FPAMG:

- is committed to fully complying with all applicable federal and state laws and regulations related to the filing of claims with government agencies, including Medicare and Medi-Cal;
- shall promptly investigate reports of violations of federal or state laws or regulations and taking corrective action where appropriate;
- prohibits any retaliatory action against an Employee or Covered Agent for reporting concerns regarding potential violations of any federal or state laws or regulations;
- shall report detected legal violations to state or federal regulatory authorities as appropriate; and

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- shall render appropriate discipline for the failure of any Employees or Covered Agent to comply with applicable federal or state laws or regulations.

There are numerous activities that may result in the inadvertant submission of a false claim. Although FPAMG has procedures in place to prevent this from happening, there are various activities and issues that Employees and Covered Agents should take note of, and report if they have a good faith belief that any of these activities are not being carried out in full compliance with the laws and regulations. Such activies include, but are not limited to:

- Making false statements regarding a claim for payment;
- Falsifying information in the medical record;
- Double-billing for items or services;
- Billing for services or items not performed or never furnished

FPAMG encourage all Employees and Covered Agents to be aware of the laws regarding fraud and abuse and false claims and to identify, report and resolve any issues immediately. FPAMG encourages Employees to report concerns to their immediate supervisor when appropriate. If the supervisor is not deemed to be the appropriate contact or if the supervisor fails to respond quickly and appropriately to the concern, then the individual should discuss the situation with another member of FPAMG’s management. Covered Agents are encouraged to report any concerns to a member FPAMG’s management. In addition, Employees and Covered Agents may submit concerns by mailing a letter to FPAMG’s address and marking the letter as “Attention Management - Confidential.” While FPAMG encourages the disclosing individual to include his/her name so that the allegation can be more thoroughly investigated, the raising of honest concerns anonymously is acceptable

EXPLANATION of the law:

The FCA authorizes federal prosecutors to file a civil action against any person or entity that knowingly files a false claim with a federal health care program, including the Medicare or Medicaid programs. The FCA applies to providers, beneficiaries, and health plans doing business with the federal government, billing companies, contractors, and other persons or entities connected with the submission of claims to the government. The government can use the FCA against both organizations and individuals who commit acts prohibited by the FCA.

The FCA applies to any person or entity who:

- (1) knowingly presents or causes to be presented, a false or fraudulent claim for payment or approval to an officer or employee of the United States government;

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- (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government;
- (3) conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or
- (4) knowingly makes, uses, or causes to be made or used, a false record or statement, or to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

A party that commits any prohibited act under the FCA is liable to the federal government for a civil penalty of not less than \$5,500 and not more than \$11,000, plus three times the amount of damages that the government sustains because of the act of that party. Parties that submit false claims may also be subject to criminal prosecution, other monetary penalties and exclusion from federal and state healthcare programs.

The FCA authorizes what are known as *qui tam* actions and awards to *qui tam* plaintiffs. The FCA's *qui tam* provisions permit private persons to: (1) sue, on behalf of the government, persons or entities who knowingly have presented the government with false or fraudulent claims; and (2) share in any proceeds ultimately recovered as a result of the suit.

The FCA includes provisions to discourage employers from retaliating against employees for initiating *qui tam* lawsuits. Any employee who is terminated, demoted, suspended or in any way discriminated against because of acts in support of an action under the FCA has a right to sue the employer for reinstatement, back pay and other damages.

In addition to the federal FCA, California has its own false claims act, which is triggered by claims for payment submitted to the state and its agencies. The California false claims act is very similar to the FCA in terms of the types of acts that give rise to liability.

As with the federal False Claims Act, if a private person brings a claim on behalf of the state government, it is also known as a *qui tam* lawsuit. When a private citizen chooses to file such a lawsuit for health care fraud on behalf of the state government under state law, it must be done in a state Superior Court, and a copy of the complaint must be sent to the Attorney General of the State of California. As with the federal False Claims Act, the identity of the complainant is not revealed to the defendant. The government can choose not to proceed with the action, but even if this occurs, the private citizen can continue with his or her suit against the defendant.

California law provides that a violator of its false claims act is required to pay three times the amount in damages that the state government incurred. It also provides for potential civil

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liability up to \$10,000 for each false claim submitted as well as the reasonable costs of the suit, including reasonable attorneys' fees. Employees acting as whistleblowers are also protected from retaliation under California law. As with federal law, a whistleblower bringing a *qui tam* may also collect a monetary award, but only if the government recovers money.

There can also be criminal consequences under state law for the making of false claims or statements under Welfare & Institutions Code section 14107 and Penal Code section 72. Welfare & Institutions Code section 14107.12 also provides for a "reward" for any individual who furnishes information leading to the recovery of funds and a criminal conviction.

Employees and Covered Agents with questions regarding this policy should contact the Administrator at 562-862-8282, or through the FPAMG website by email to info@fpamg.net.

IV. REFERENCES:

CA Govt. Code § 12650-12656

CA Welfare & Institutions Code § 14107

31 U.S.C. § 3729-3733

Deficit Reduction Act of 2005, Sections 6031, 6032