

# False Claims - Whistleblower Protection Policy

UW Medical Foundation

Effective Date: August 7, 2006

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## I. PURPOSE:

The Deficit Reduction Act of 2005, signed into law on February 8, 2006, requires each large health care provider which receives a certain value of Medicaid funds to inform its employees about (1) the organization's compliance plan for detecting and preventing fraud and abuse, and (2) federal and state false claims laws and the protections provided for employees who report suspected false claims. This policy implements these requirements.

## II. POLICY:

The University of Wisconsin Medical Foundation, Inc. ("UWMF"), maintains a compliance plan in order to detect and prevent fraud and abuse. UWMF compliance and other staff educate UWMF employees regarding the nature and requirements of the organization's compliance plan and provide employees with the information necessary to detect and protect against fraud and abuse from occurring within UWMF. Such training occurs through the initial orientation process and is ongoing through various compliance activities which occur on an annual basis.

## III. PROCEDURE:

UWMF provides training to its employees regarding the requirements of the False Claims Act and protection for employees who report suspected false claims or other fraud and abuse. Such training includes information about the False Claims Act and Wisconsin's "Health Care Worker Protection" statute.

### A. THE FALSE CLAIMS ACT

#### 1. Understanding the False Claims Act

The False Claims Act is a federal law that prohibits an individual or organization who receives money from the federal government from submitting a request for payment knowing that such request contains false information. An organization, such as UWMF, may be held liable under the False Claims Act if it knew, should have known, or disregarded information indicating that a claim submitted to the federal government for payment of health care services contained false information. Examples of actions which violate the False Claims Act include, but are not limited to, the following:

- i. Submitting a claim for services that were not provided;
- ii. Submitting a claim for services paid by a source other than the federal government, or paid for by the government under a different program (e.g. Medicaid instead of Medicare);
- iii. Submitting a claim for services that were not "medically necessary" under federal billing rules; and
- iv. Submitting a claim for services which is coded as "more complex" than otherwise indicated in the patient's medical record, in order to receive higher reimbursement.

#### 2. False Claims Act Penalties

Under the False Claims Act, the federal government can assess a fine of between \$5,000 and \$10,000 per falsely submitted claim, plus up to three times the amount of total fines depending on the circumstances.

#### 3. False Claims Act Whistleblower Protections

The False Claims Act provides protection for employees who report suspected false claims. Employees who are terminated, demoted, suspended, or otherwise mistreated for reporting suspected false claims are entitled, under the False Claims Act, to reinstatement of their earlier position, back pay, and compensation for any other special damages which result from retaliation.

### B. WISCONSIN HEALTH CARE WORKERS PROTECTION ACT

#### 1. Whistleblower Protections for Health Care Workers

Wisconsin laws protect employees of health care facilities or health care providers from

discipline at work for the good faith reporting of (1) any potential violations of state or federal law by the health care facility or provider, or (2) any situation where care is provided in a manner that violates state or federal standards or laws or recognized clinical or ethical standards. Employees who believe they have been wrongfully disciplined may file a complaint with the Equal Rights Division of the Department of Workforce Development, within 300 days after the retaliation occurred.

2. Penalties

Health care facilities or health care providers who wrongfully discipline employees in retaliation of that employee's good faith reporting may be subject to civil penalties of up to \$10,000.

C. UWMF MEASURES TO DETECT, PREVENT, AND REPORT FRAUD

UWMF strives to prevent, detect, and report violations of state and federal laws, and expects that its employees will do the same. UWMF utilizes the following measures in its efforts to remain compliant with all applicable state and federal laws:

1. Policies and Procedures

UWMF has a number of policies and procedures related to detecting and responding to complaints of potential fraud. The most relevant policies in existence at this time include the UWMF Business Conduct-Compliance Standards Policy, the Compliance Plan Policy, and the Retaliation Protection for Health Care Workers Policy. These policies are currently available for review by UWMF employees on u-Connect.

2. Chief Compliance Officer and Compliance Support Committee

UWMF's Chief Compliance Officer may be reached at 821-4144 to answer any compliance-related questions or receive reports of any compliance-related concerns.

UWMF's Compliance Support Committee meets regularly to discuss changes in laws, identify risks, develop plans for addressing changes in laws and/or risks, and otherwise provide compliance oversight support to the Chief Compliance Officer.

3. Compliance Hotline Compliance Department

UWMF maintains a "hotline" which staff can call to report compliance concerns anonymously. The number is 821-4130. All reports to the hotline are internally investigated to determine whether or not a violation of state and/or federal law has occurred. All violations are handled according to the UWMF Compliance Plan.

4. Training

UWMF provides training regarding compliance issues at New Employee Orientation and on an annual basis. Departments with higher risk for compliance violations, such as billing and coding, receive additional training as necessary.

5. Auditing and Monitoring

UWMF's Chief Compliance Officer develops and conducts an annual plan for monitoring and auditing potential compliance risks.

6. Response to Compliance Concerns

UWMF immediately investigates, and if appropriate, delays the submission of claims when any compliance issues (e.g. improper coding) are brought to its attention internally (from auditing or from registered complaints by internal staff) or externally (from state and/or federal agencies). UWMF cooperates fully with state and/or federal agencies investigating any potential compliance concern.

**IV. REFERENCES AND RESOURCES:**

- Deficit Reduction Act of 2005, to be codified at 42 U.S.C. § 1396a(a).
- False Claims Act, 31 U.S.C. § 3729 et seq.
- "Health Care Worker Protection" Statute. Wis. Stat. 146.997 (2005-2006).
- UWMF Business Conduct - Compliance Standards Policy (available on u-Connect).
- UWMF Compliance Plan Policy (available on U-Connect).
- UWMF Retaliation Protection for Health Care Workers Policy (available on u-Connect).

**VII. AUTHOR AND REVIEW:**

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Review:

- Claudia Jane Sanders, Vice President of Legal Services
- Amanda K. Reese, Legal Services Coordinator
- Senior Management Team

Committee Approval: Senior Management Team / August 7, 2006

Approved: Peter H. Christman, Executive Vice President / August 7, 2006