

**University of Wisconsin Medical Foundation, Inc.**

<b>Policy Name: False Claims – Whistleblower Protection Policy</b>		<b>Policy Number:</b>	
<input type="checkbox"/> <b>New</b>	<input checked="" type="checkbox"/> <b>Revised</b>	<b>Effective Date: October 1, 2013</b>	
<b>If Revised, Supersedes Policy Dated:</b>		<b>August 7, 2006</b>	
<b>Approved By (Name): Peter H. Christman</b>		<b>Title: Executive Vice President</b>	
<b>Reviewed</b>			

**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 UWWMF, 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. The Patient Protection and Affordable Care Act (PPACA) signed on March 23, 2010 added that overpayments under Medicare and Medicaid must be reported and returned within 60 days of discovery. 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 \$5,500 and \$11,000 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 this policy, False Claims – Whistleblower Protection Policy. These policies are currently available for review by UWMF employees on u-Connect.

### **2. Compliance Officer and Compliance Support Committee**

UWMF's Compliance Officer may be reached at 821-4137 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 Compliance Officer.

### **3. Compliance Hotline Compliance Department**

UWMF maintains a "hotline" which staff can call to report compliance concerns. 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. Employees can also report anonymously through an on-line tool found on the UWMF Compliance page on U-Connect. 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 Compliance Officer develops and conducts an annual plan for monitoring and auditing potential compliance risks.

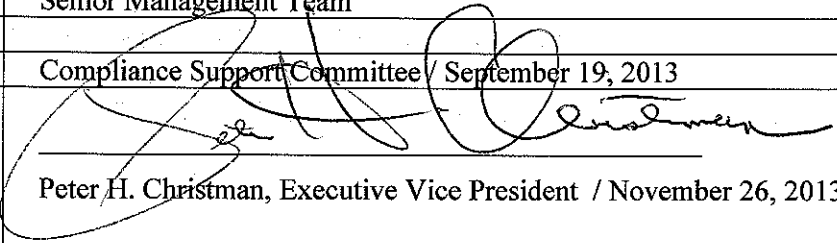
**6. Response to Compliance Concerns**

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).
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**VII. AUTHOR AND REVIEW:**

<b>Author</b>	UWMF Compliance Officer
<b>Review</b>	Vice President of Compliance and Legal Services; Associate Counsel and Privacy Officer Senior Management Team
<b>Committee Approval</b>	Compliance Support Committee / September 19, 2013
<b>Approved</b>	 Peter H. Christman, Executive Vice President / November 26, 2013