

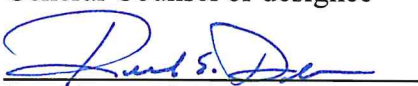


**SOUTH GEORGIA HEALTH SYSTEM
SYSTEM POLICIES AND PROCEDURES**

<p>TITLE: Education About False Claims Recoveries</p> <p>APPROVALS:</p> <p>Function Approval:  Compliance Officer</p> <p>Legal:  General Counsel or designee</p> <p> President and Chief Executive Officer</p>	<p>FACILITIES:</p> <p><input checked="" type="checkbox"/> SGMC</p> <p><input checked="" type="checkbox"/> SGMC Berrien Campus</p> <p><input checked="" type="checkbox"/> SGMC Lanier Campus</p> <p><input checked="" type="checkbox"/> SGMC Lakeland Villa</p> <p><input checked="" type="checkbox"/> SGMC Physician Network</p>	<p>SYSTEM POLICY NUMBER: 3.010 (HPP100)</p> <p>FUNCTION:</p> <p><input type="checkbox"/> 1.000 Administrative/Operations</p> <p><input type="checkbox"/> 2.000 Clinical Services</p> <p><input checked="" type="checkbox"/> 3.000 Compliance</p> <p><input type="checkbox"/> 4.000 Environment of Care</p> <p><input type="checkbox"/> 5.000 HIPAA</p> <p><input type="checkbox"/> 6.000 Finance</p> <p><input type="checkbox"/> 7.000 Human Resources</p>
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PURPOSE

The purpose of this Education About False Claims Recoveries Policy (this “Policy”) is to establish a method for providing educational information to employees, contractors and agents regarding false claims recovery statutes and regulations and SGHS efforts to deter fraud, waste and abuse.

APPLICATION

This Policy shall apply to SGHS, which, as used in this Policy, means South Georgia Health System and all facilities, entities and locations associated therewith or related thereto including South Georgia Medical Center (“SGMC”), SGMC Berrien Campus, SGMC Lanier Campus, SGMC Lakeland Villa and SGMC Physician Network.

DEFINITIONS

Claim (a) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that — (i) is presented to an officer, employee or agent of the United States; or (ii) is made to a contractor, grantee or other recipient, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest, and if the United States Government — (1) provides or has provided any portion of the money or property requested or demanded or (2) will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded; and (b) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual’s use of the money or property;

Knowing and Knowingly (a) mean that a person, with respect to information — (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in

reckless disregard of the truth or falsity of the information; and (b) require no proof of specific intent to defraud;

Material means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property;

Obligation means an established duty, whether or not fixed, arising from an express or implied contractual, grantor/grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation or from the retention of any overpayment; and

SGHS Facilities, as used in this Policy, means SGMC, SGMC Berrien Campus, SGMC Lanier Campus and SGMC Lakeland Villa. Individually, such SGHS Facilities are referred to in this Policy as an *SGHS Facility*.

POLICY

SGHS Facilities provide employees, contractors and agents with the following educational information related to statutes and regulations dealing with false claims recoveries. Such information is provided by dissemination of this policy to SGHS Facility employees, contractors and agents.

I. Federal Laws

A. False Claims Act (31 U.S.C. §§ 3729-3733)

The False Claims Act (sometimes, the “FCA”) provides, in pertinent part, that:

(a) 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) Conspires to commit a violation of (1-7).
- (4) Has possession, custody or control of property or money used, or to be used by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- (5) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- (7) 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, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$11,803 and not more than \$23,607 as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461) plus 3 times the amount of damages which the Government sustains because of the act of that person.

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example includes a physician who submits a bill to

Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this includes a government contractor who submits records that he knows (or should know) is false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he or she may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” includes a hospital who obtains interim payments from Medicare throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

B. Whistleblower Provisions – Qui Tam Lawsuits

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. § 3730 (b). These private parties, known as “qui tam relators,” may share in a percentage of the proceeds from an FCA action or settlement. Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

C. Nondiscrimination against Whistleblowers

A whistleblower may not be discriminated or retaliated against in any manner by their employer by virtue of bringing the claim. A whistleblower who is discriminated against by his or her employer because of lawful acts done by the whistleblower on behalf of the whistleblower or others in furtherance of an action under the FCA, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, is entitled to all relief necessary to make the whistleblower whole.

Whistleblowers who prosecute clearly frivolous qui tam claims can be held liable to the defendant for its attorneys’ fees and costs.

D. Administrative Remedies for False Claims (31 USC Chapter 38. §§ 3801 - 3812)

The Administrative Remedies for False Claim allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$11,803 for each claim. The agency may also recover twice the amount of the claim. Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

II. Georgia Laws

A. Georgia Medicaid False Claims (O.C.G.A. § 49-4-168.1-6)

The Georgia Medicaid False Claims Act (“Georgia False Claims Act” or “Medicaid Act”) provides that persons who make false or fraudulent Medicaid claims are subject to civil penalties and damages.

False or fraudulent Medicaid claims include any person who:

- (1) Knowingly presents or causes to be presented to the Georgia Medicaid program 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 to get a false or fraudulent claim paid or approved by the Georgia Medicaid program;
- (3) Conspires to defraud the Georgia Medicaid program by getting a false or fraudulent claim allowed or paid;
- (4) Has possession, custody or control of property or money used or to be used by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate of receipt;
- (5) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (6) Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the Georgia Medicaid program who lawfully may not sell or pledge the property; or
- (7) Knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay, repay, or transmit money or property to the State of Georgia shall be liable to the State of Georgia for a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each false or fraudulent claim, plus three times the amount of damages which the Georgia Medicaid program sustains because of the act of such person. (§168.1)

The Georgia Attorney General is authorized to:

- (1) investigate suspected, alleged and reported violations of the Medicaid Act; and
- (2) bring a civil action against a person who the Attorney General finds has or is violating the Medicaid Act. (§168.2)

B. Whistleblower Provisions – Qui Tam Lawsuits

All civil actions under the Georgia False Claims Act shall be filed pursuant to Section 168.2 within six years after the date the violation was committed, or three years after the date when facts material to the right of civil action are known or reasonably should have been known by the state official charged with the responsibility to act in the circumstances, whichever occurs last; provided, however, that in no event shall any civil action be filed more than ten years after the date upon which the violation was committed.

If the Attorney General declines to bring a civil action, the whistleblower bringing the action can proceed on his/her own, in state court, and if the action is successful, receive a portion of the proceeds of the civil action or settlement of the claim. If the whistleblower is not successful in such civil action, the court may order the whistleblower to pay the defendant's attorneys' fees and expenses.

If the Attorney General (or individual) proceeds in the action, the whistleblower may continue to participate in the civil action, subject to the Attorney General's and the court's limitations, if any, and receive a lesser portion of the proceeds of the civil action or settlement of the claim.

A whistleblower who is convicted of criminal conduct arising from his/her role in the violation of the Medicaid Act shall not receive any share of the proceeds.

C. Nondiscrimination Against Whistleblowers

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 a civil action under the Georgia False Claims Act, including investigation for, initiation of, testimony for, or assistance in a civil action filed or to be filed under this article, shall be entitled to all relief necessary to make the employee whole.

D. Georgia Medicaid Fraud Law (O.C.G.A. § 49-4-146.1)

It shall be unlawful:

(1) For any person or provider to obtain, attempt to obtain, or retain for himself, herself, or any other person any medical assistance or other benefits or payments under this article, 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;

(c) Any fraudulent scheme or device; or

(2) For any person or provider knowingly and willfully to 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 this article.

Any person violating paragraph (1) or (2) of the Georgia Medicaid Fraud Law section shall be guilty of a felony and, upon conviction, shall be punished for each offense by a fine of not more than \$10,000.00, or by imprisonment for not less than one year nor more than ten years, or by both such fine and imprisonment. In any prosecution under the Georgia Medicaid Fraud Law section, the state has the burden of proving beyond a reasonable doubt that the defendant intentionally committed the acts for which he or she is charged.

E. Georgia Taxpayer Protection Against False Claims (O.C.G.A. § 23-3-121)

The Georgia Taxpayer Protection Against False Claims Act ("TPAFCA") expands Georgia's false claims laws beyond Medicaid. TPAFCA imposes civil liability on any individual or entity that knowingly submits a false or fraudulent claim or knowingly and improperly avoids an obligation to the state or a local government.

Specifically, TPAFCA states:

(a) Any person, firm, corporation or other legal entity that:

(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) Conspires to commit a violation of paragraph (1), (2), (4), (5), (6), or (7) of this subsection;
- (4) Has possession, custody or control of property or money used, or to be used, by the state or local government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- (5) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the state or local government and, intending to defraud the state or local government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or local government who lawfully may not sell or pledge the property; or
- (7) 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 state or local government, or knowingly conceals, knowingly and improperly avoids, or decreases an obligation to pay or transmit money or property to the state or a local government shall be liable to the State of Georgia for a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each false or fraudulent claim, plus three times the amount of damages which the state or local government sustains because of the act of such person.

Enforcement and Whistleblowers

The Georgia Attorney General is authorized to investigate suspected, alleged, and reported violations of TPAFCA. The Attorney General may delegate authority to a district attorney or other local government official to investigate and prosecute (on the Attorney General's behalf) violations that may have resulted in damages to the local government. Subject to certain exclusions, a civil action may also be brought by a private person upon written approval by the Attorney General, in the name of the State of Georgia or local government.

If the state or local government proceeds with a civil action brought by a private person, that person shall receive a percentage of the proceeds of the claim or settlement. If the state or local government does not proceed with a civil action, the person bringing the civil action shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. If it is found that the person bringing the action planned and initiated the violation, the share of the proceeds shall be reduced (and eliminated if the person is convicted of criminal conduct).

Civil actions must be filed within six years after the date the violation was committed or three years after the date when facts material to the right of civil action are known or reasonably should have been known by the state or local government official responsible to act, whichever occurs last; provided, however, that in no event shall any civil action be filed more than ten years after the date the violation occurred.

Nondiscrimination Against Whistleblowers

Any employee, contractor or agent shall be entitled to all relief necessary to make that employee, contractor or agent whole if they are discharged, demoted, suspended, threatened, harassed or discriminated against in their employment because of lawful acts done in furtherance of a civil action under TPAFCA or other efforts to stop violations of TPAFCA.

Relief includes 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 litigation costs and reasonable attorneys' fees. A civil action may be brought to enforce this, but not more than three years after the date when the discrimination occurred.

Interaction with Georgia Medicaid False Claims Act

If a civil action can be commenced under the Georgia False Claims Act, the claimant shall proceed under that law.

III. SGHS Policies for Detecting and Preventing Fraud, Waste and Abuse

SGHS Facilities have adopted the Policies and Procedures, summarized as follows, to comply with applicable statutes and regulations which prohibit submission of claims, and other actions that constitute fraud, waste, abuse or false claims ("FWA Policies").

A. SGHS Code of Conduct (Principles Relevant to Fraud, Waste, Abuse and False Claims)

Principle 1.2 - Health Care Regulatory Laws

SGHS expects its employees and contractors to refrain from conduct that may violate health care regulatory laws. These laws prohibit (1) the submission of false, fraudulent or misleading claims to any government entity or third-party payer, including claims for services not rendered, claims which characterize the service differently than the service actually rendered or claims which do not otherwise comply with applicable program or contractual requirements; (2) direct, indirect or disguised payments in exchange for the direct or indirect referral of patients; (3) referrals to entities under certain circumstances and (4) making false representations to any person or entity in order to gain or retain participation in a governmental program or to obtain payment for any service.

B. SGHS Facility Code of Ethics

The SGHS Code of Ethics communicates to the administration, employees, medical staff, students, volunteers and vendors the expectations of the Hospital Authority of Valdosta and Lowndes County, Georgia and each SGHS Facility on ethical behavior relating to SGHS's patients and others with whom SGHS works and interacts.

C. SGHS Compliance Reporting and Anti-Retaliation Policy

In general, the Compliance Reporting and Anti-Retaliation Policy states that any employee or other person acting on behalf of an SGHS Facility, who has knowledge of activities that he/she believes may violate the law, has an obligation, promptly to report the matter to his/her immediate supervisor, through the Compliance Hotline, directly to the Compliance Officer or by any other means so permitted in the Compliance Reporting and Anti-Retaliation Policy. Reports may be made anonymously, and employees will not be penalized for truthful reports.

Failure to report known violations, failure to detect violations due to negligence or reckless conduct and making false reports shall be grounds for disciplinary action, including immediate termination.

No SGHS Facility employee or person acting on behalf of SGHS who, in good faith, reports suspected misconduct shall be retaliated against or otherwise disciplined by SGHS Facility or any SGHS Facility employee because of such reporting.

Each SGHS Facility will take steps to achieve compliance with its standards by:

- Utilizing monitoring and auditing systems reasonably designed to detect misconduct by its employees and others acting on its behalf;
- Having in place and publicizing a reporting system whereby employees and others acting on behalf of SGHS can report misconduct by others without fear of retaliation; and
- Investigating suspected reports of non-compliance.

D. SGHS Concurrent Compliance Review Policy

Monthly audits of documentation and billing of claims involving federally-funded and state-funded patients are performed.

All SGHS Facility employees are expected to comply with all SGHS Fraud, Waste and Abuse Policies.

In regard to contractors and agents of an SGHS Facility that perform billing or coding functions for an SGHS Facility, or that furnish or authorize the furnishing of Medicare or Medicaid health care items or services on behalf of an SGHS Facility or that are involved in monitoring of health care provided by the SGHS Facility (“Contractors and Agents”), such persons shall abide by the SGHS Fraud, Waste and Abuse Policies as to the work the Contractor or Agent performs for the SGHS Facility, as such policies are relevant and applicable to the Contractor’s or Agent’s interaction with the SGHS Facility. Additionally, to the extent that the implementation of the SGHS Fraud, Waste and Abuse Policies provide for monitoring and auditing claims for services, contractors and agents will participate, as applicable, with these reviews and audits.

Each SGHS Facility will provide employees, contractors and agents with a description of SGHS’s efforts to prevent fraud, waste and abuse. Such information is provided by dissemination of this Policy or any other appropriate SGHS compliance policies to SGHS Facility employees, contractors and agents.

A discussion of efforts to deter fraud, waste and abuse is contained in the SGHS Employee Handbook, as amended from time to time and it will be disseminated to all SGHS Facility employees.

RESPONSIBILITY

The individuals(s) and department(s) primarily responsible for the content of this Policy:
SGHS Compliance Officer.

POLICY HISTORY

Original Adoption Date: 12/20/06 (Originally HPP 100)

Review/Revision History:

Revised: 7/14/08

Revised and Renumbered to SPP 3.002: 2/9/17

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Revised: November 17, 2021