

Vendor Alert
October 18, 2017
Fraud, Waste and Abuse

MedStar Family Choice is committed to complying with federal and state laws and regulations. This educational notice is intended to provide you with information on laws pertaining to the prevention and detection of fraud, waste and abuse, in accordance with the requirements of the federal Deficit Reduction Act of 2005. This document also describes the procedures in place within MedStar Health and MedStar Family Choice for detecting and preventing fraud, waste and abuse.

In addition, MedStar Family Choice is required under the District of Columbia False Claims Act, to establish and disseminate written policies which must also be adopted by its contractors or agents. Please find attached the MedStar Family Choice policy "*Compliance with Applicable Federal and State False Claims Acts*" for your review and adoption.

The MedStar Office of Corporate Business Integrity (OCBI) provides all MedStar facilities with compliance oversight, billing integrity support, occurrence reporting and resolution, and training and education. MedStar Health employees are required to take the annual Centers for Medicare and Medicaid Fraud, Waste and Abuse training. In addition, MedStar Health's Internal Audit department conducts routine independent audits of business practices, and all financial managers are required to attend training on the Financial Manager's Code of Ethics and reporting obligations. Employees, physicians, contractors and patients are encouraged to report privacy, financial reporting, human resources, and other compliance concerns by making an anonymous and confidential call to the MedStar Health Integrity Hotline by calling toll-free (1-877-811-3411). The hotline is available 24 hours a day. Employees, physicians, contractors and patients can also email OCBI at compliance@medstar.net. You may also contact the MedStar Family Choice Director of Medicaid Contract Oversight by calling (410) 933-2283 or the MedStar Family Choice Director of Medicare Compliance at (202) 243-5419. Retaliation for reporting in good faith an actual or potential violation or problem, or for cooperating in compliance, legal, or human resources investigation, is expressly prohibited by MedStar policy.

Requirements Pertaining to False Claims and Statements

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Federal False Claims Act

The federal False Claims Act, 31 U.S.C. §§ 3729-3733, applies to persons or entities that knowingly and willfully submit, cause to be submitted, or conspire to submit a false or fraudulent claim, or that use a false record or statement in support of a claim for payment to a federally-funded program. The phrase "knowingly and willfully" means that the person or entity had actual knowledge of the falsity of the claim, or acted with deliberate ignorance or reckless disregard of the truth or falsity of the claim. Persons or entities that violate the federal False Claims Act are subject to civil monetary penalties (42 U.S.C. § 1320a-7a) and payment of damages due to the federal government.

Under the False Claims Act, those who knowingly submit, or cause another person or entity to submit, false claims for payment of government funds are liable for three times the government's damages plus civil penalties per false claim.

The False Claims Act civil penalties have recently increased due to adjustments for inflation to between \$10,781 and \$21,916 per claim, plus three times the amount of damages that the federal government sustains because of the false claim.

The federal False Claims Act provides that any person with actual knowledge of false claims or statements submitted to the federal government may bring a False Claims Act action in the government's name against the person or entity that submitted the false claim. This is known as the False Claims Act's "qui tam" or whistleblower provision. Depending on the outcome of the case, a whistleblower may be entitled to a portion of the judgment or settlement. The federal False Claims Act provides protection to whistleblowers that are retaliated against by an employer for investigating, filing or participating in a False Claims Act lawsuit.

State False Claims Acts

A number of states have enacted false claims acts in an attempt to prevent the filing of fraudulent claims to state-funded programs. The District of Columbia has established such an Act under Title 2, Chapter 3 of the District of Columbia Code. The District of Columbia law provides that any person who knowingly presents, or causes to be presented, a false claim, record or statement for payment by the District, or conspires to defraud the District by getting a false claim paid can be liable to the District for penalties and damages. District of Columbia law allows whistleblowers to bring claims under certain circumstances, and protects whistleblowers from retaliation by employers. Virginia has a similar law, known as the Taxpayers Against Fraud Act, established under Chapter 3 of Title 8.01 of the Virginia Code. Virginia's law also permits whistleblowers to bring actions in the name of the Commonwealth of Virginia and protects whistleblowers from discrimination by employers. Maryland has a similar law, entitled the Maryland False Health Claims Act of 2010, originally enacted as Maryland Senate Bill 279. The Maryland law prohibits actions constituting false claims against state health plans or programs, permits whistleblowers to bring actions under the law, and provides protection for whistleblowers from retaliation. In Maryland, the civil penalty can be up to \$10,000 for each violation. There can be an additional penalty of up to three times the amount of the damages that the State sustains. Depending on the outcome, the whistleblower may be entitled to a portion of the judgment or settlement.