



**Federal False Claims Act (FCA)
Medicaid Integrity Plan-Deficit Reduction Act**

Effective Date: January 1, 2007

Pursuant to the Deficit Reduction Act of 2005, Section 6032 and Sections 3729 through 3733 of Title 31 of the United States Code, Imagine!, its employees, contractors, and agents shall comply with the Federal False Claims Act and related state requirements. These policies and procedures may be amended to address requirements as directed by the State of Colorado, Health Care Policy and Financing, and the Colorado Department of Human Services.

Policy

Imagine! is committed to following local, State and Federal laws, rules and regulations that address the prevention, detection, reporting, and correction of fraud, waste, and abuse of public funding. Complaints regarding acts which violate the False Claims Act, such as false claims or attempts to defraud health care programs will be promptly reported, investigated, and remedied, as appropriate and required by law.

Definitions

Fraudulent and abusive claims activities may include:

- Knowingly billing for services not rendered
- Knowingly including improper entries on cost reports
- Knowingly assigning incorrect codes to secure higher reimbursement for services rendered
- Knowingly characterizing unallowable services or costs in a way that secures reimbursement
- Not seeking payment from beneficiaries who may have other primary payment sources
- Knowingly falsifying, forging, altering, or destroying documents to secure payment

The terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

Procedures

Preventing and Detecting False Claims

All Imagine! employees, contractors, vendors and agents are required to participate in the prevention, detection and reporting of fraud, waste and abuse of resources. Detailed information regarding the False Claims Act shall be provided all Imagine! employees, agents and contractors.

All individuals who engage in financial documentation and billing will be responsible for ensuring that information is accurate and does not constitute fraud as defined above. Entities who are responsible for the monitoring of programs and services will also be responsible for verifying that documentation and billing is accurate and reflective of the services provided to individuals. Information that is not reconcilable and is not intentionally falsified is to be corrected prior to the submission of any billing. If it has been determined that a fraudulent or abusive act has occurred, the act is to be reported following reporting procedures below.

Reporting Suspicions of Fraudulent Claims

If an employee, contractor or agent of Imagine! believes that a representative of Imagine! is fraudulently billing for services as described above, he/she should immediately contact a member of administration, the Executive Director or designated compliance officer, or the Imagine! hotline. Complaints regarding acts which violate the False Claims Act, such as false claims or attempts to defraud health care programs will be promptly reported, investigated, and remedied, as appropriate and required by law.

Imagine! will thoroughly investigate any and all allegations of violations of the FCA on the part of Imagine! employees. Imagine!'s Chief Executive Officer has sole responsibility and authority to direct all investigative and follow-up activities.

Reports of suspected or observed acts shall include:

- Name(s) of individuals involved in the suspected or observed fraudulent act
- When the suspected or observed fraudulent act occurred
- Where the suspected or observed fraudulent act occurred
- Which programs, departments, and/or individuals were affected by the fraudulent act
- A thorough description of the suspected or observed act
- Name(s) of individuals who have first hand knowledge of the suspected or observed act
- Name(s) of other individuals who may have knowledge of the suspected or observed act

Protection for Reporting Fraudulent Claims

The FCA provides protection from retaliation by their employer to employees who act as whistleblowers. An employee may not be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h).

1400 Dixon Avenue, Lafayette, Colorado 80026-2790
Phone: 303-665-7789 Fax: 303-665-2648
www.imaginecolorado.org

Retaliation against an employee or other reporting individual because that individual, in good faith, reported a violation or assisted in a complaint investigation is strictly prohibited. If an individual feels that retaliation has occurred, a complaint regarding the retaliation is to be filed with the Imagine! Chief Executive Officer or designee within forty-five days. If the employee can demonstrate that he or she was the victim of such retaliation, the employee is entitled to reinstatement, double back pay plus interest and reimbursement of other costs and damages.

However, the FCA also provides that any person who brings an action for the purpose of harassing the employer, and/or the case has no merit, the whistleblower may have to pay the defendant for its legal fees and the costs of its defense.

Administrative Remedies and Penalties

Violations of this policy as well as actual wrongdoings in the areas of fraud, waste, and abuse may have severe consequences including, but not limited to, civil and criminal penalties as allowed under applicable federal and state laws including the False Claims Act.

The FCA allows individuals who have first-hand knowledge of fraudulent billing as described above to sue the entity that submitted the false claim on behalf of the United States. These are called “qui tam” lawsuits and are also known as “whistleblower 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 (whistleblower), 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.

Additionally, another Federal statute, *the Federal Administrative Remedies for False Claims, 31 USC Sections 3801 through 3812*, creates a penalty for submitting a false claim of up to \$5,000 per claim and twice the amount of the claim. This law is violated when a false claim is submitted, not when it is paid. Under this statute, investigations and recoveries are handled by federal agencies, not the courts. Although private individuals may report violations to the government, there is no option for the whistleblowers to share in the amounts recovered.

Failure to meet the requirements of the False Claims Act may result in the forfeiture of all Medicaid payments during the period of noncompliance.

Education About the False Claims Act

Imagine! will ensure that all employees, contractors, vendors and agents are informed of the False Claims Act and related acts creating the need for this policy. Imagine! employees will be

provided this information as part of their employment orientation and training. Contractors, vendors and agents will be provided a copy of this policy to ensure compliance.

Any new employee, contractor, vendor or agent will also receive the same information at the time of employment or when entering into a written agreement with Imagine!