



Policy Name:	False Claims Act and Reporting	
Publication (Effective) Date:	03/06/2020	Version Number: 3.0
Review Date:		
Pertinent Regulatory Basis:	31 U.S.C. §§ 3729–3733; Neb. Rev. Stat. 68-936; Iowa Code §§ 685.1 – 685.7	
Approved by:	Immanuel Corporate Compliance Officer, Tracy Durbin	
Related Policies:	POLICY - Reporting Investigation	
Related Forms:		
Applies to:	All	
Specific Location: <small>(Use only if specific to one location)</small>		

Policy Statement:

Immanuel is dedicated to ensuring proper billing practices and the validity of all claims. Any employee, contractor, vendor or agent who knows or learns of any false claim or billing practice that violates applicable law must report the information in accordance with Immanuel's Reporting and Internal Investigations' policy.

Definitions:

Claim – an application (bill) for payment for items or services under a federal health care program, such as Medicare or Medicaid.

Knowingly – An individual acts “knowingly” if the person acts upon actual knowledge of the information or acts in deliberate ignorance or reckless disregard of whether the information is true or false.

Procedure:

SECTION 1. FEDERAL FALSE CLAIMS ACT

1.1. General Provisions. The False Claims Act allows the federal government to file a civil action against any person or entity that knowingly files a false claim with a federal health care program. A person may be prosecuted under the False Claims Act for any of the following claims-related acts:

- (a) The person has knowledge of presenting or causing to be presented a false or fraudulent claim for payment or approval to an officer or employee of the federal government.
- (b) The person 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 federal government.
- (c) The person conspires to defraud the federal government by getting a false or fraudulent claim allowed or paid.

(d) The person knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

1.2. Examples of False Claims. The following are examples of conduct that could lead to potential liability under the False Claim Act. The examples listed below are not the only instances in which the False Claim Act may be violated.

- Knowingly making false statements on a cost report.
- Falsifying information in the medical records such as treatment plans.
- Billing for services not medically necessary.
- Unlawfully giving health care providers inducements in exchange for services or referrals.
- Submitting bills for services never performed.
- Failure to timely return overpayments.
- Failure to provide quality of care services to residents/participants.
- Billing for incorrect level of service.
- Violation of another law, for example a claim was submitted appropriately, but the service was the result of an illegal relationship between a physician and Immanuel.

1.3. Penalties – Penalties for violating the False Claims Act range from:

- (a) Civil penalty between \$10,781 and \$21,563 plus an additional penalty of three times the damages sustained by the federal government as a result of the violation.
- (b) Civil or criminal sanctions under other laws.
- (c) A person may qualify for reduced penalties if he or she reports his or her violation of the False Claims Act within thirty (30) days of the violation, assuming such report is made before any government investigation and assuming the person cooperates with any resulting investigation. This comprehensive penalty scheme makes it very important for health care organizations such as Immanuel to implement and ensure effective billing policies and practices that result in proper claims.
- (d) In addition to the penalties described above for violations of the federal False Claims Act, additional penalties (typically up to \$5,000 per claim in addition to double the amount of the claim) may also be assessed against any person who knowingly makes, presents, submits, or causes to be made, presented, or submitted, a false claim accompanied by certain statements or omissions.
- (e) A statute of limitations says how much time may pass before an action may no longer be brought. Under the federal False Claims Act, the statute of limitations is six years after the date of the violation or three years after the date when the

government knew or should have known facts material to the right of action, but no later than ten years after the date on which the violation was committed.

SECTION 2. NEBRASKA FALSE MEDICAID CLAIMS ACT

2.1. General Provisions - The Nebraska False Medicaid Claims Act is similar to the federal False Claims Act; for example, a person violates the Nebraska Act if he or she:

- (a) Knowingly presents or causes to be presented to an officer or employee of the State of Nebraska a false or fraudulent claim for payment or approval.
- (b) Knowingly makes or uses, or causes to be made or used, a false record or statement to obtain payment or approval by the State of Nebraska of a false or fraudulent claim.
- (c) Conspires to defraud the State of Nebraska by obtaining payment or approval by the State of Nebraska of a false or fraudulent claim.
- (d) Knowingly makes, uses, or causes to be made or used, a false record or statement with the intent to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State of Nebraska.
- (e) A person can also violate the Nebraska Act by charging, soliciting, accepting, or receiving anything of value that is known by the person to be beyond that which is legally payable under the Nebraska Medicaid program. If a person knowingly benefits from an inadvertent submission of a false Medicaid claim, the person will violate the Nebraska Act if he or she does not report the claim to the Nebraska Department of Health and Human Services within sixty (60) days (though no reporting requirement exists if the beneficiary first discovers the claim's falsity more than six (6) years following the claim's submission).

2.2. Record Retention - Any person who submits a claim pursuant to the Nebraska Act must keep records for at least six (6) years. Records as are necessary to fully disclose the nature of all goods or services for which the claim was submitted or payment received, and all income and expenditures upon which rates of payment were based.

2.3. Penalties - Penalties for violating the Nebraska Act include civil penalties of up to \$10,000 per false Medicaid claim in addition to damages of up to three times the amount of the false claim submitted. As with the federal False Claims Act, a person may qualify for reduced penalties if he or she reports his or her violation of the Nebraska Act within 30 days of the violation, assuming such report is made before any government investigation and assuming the person cooperates with any resulting investigation.

SECTION 3. IOWA FALSE CLAIMS ACT

3.1. General Provisions - The Iowa False Claims Act states:

- (a) A person who commits any of the following acts is liable to the state for a civil penalty of not less than \$5,000 and not more than \$10,000, plus three times the amount of damages which the state sustains because of the act of that person:

- (i) Knowingly presents, causes to be presented, a false or fraudulent claim for payment or approval.
 - (ii) Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.
 - (iii) Conspires to commit a violation of any of these listed sections.
 - (iv) Has possession, custody, or control of property or money used, or to be used, by the state and knowingly delivers, or causes to be delivered, less than all of that money or property.
 - (v) Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, intending to defraud the state, makes or delivers the receipt without completely knowing that the information on the receipt is true.
 - (vi) Knowingly buys, or receives a pledge of an obligation or debt, public property from an officer or employee of the state, or a member of the Iowa National Guard, who lawfully may not sell or pledge property.
 - (vii) Knowingly makes, uses, or causes to be made or used, a false record or statement materials to an obligation to pay or transmit money or property to the state, or knowingly and improperly avoids or decrease an obligation to pay or transmit money or property to the state.
- (b) Additionally, the court may assess not less than two times the amount of damages which the state sustains because of the act of the person described in the previous section, if the court finds all of the following:
- (i) The person committing the violation furnished officials of the state responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the person first obtained the information.
 - (ii) The person fully cooperated with the state investigation of such violation.
 - (iii) At the time the person furnished the state with the information about the violation, a criminal prosecution, civil action, or administrative action had not commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

SECTION 4. REPORTING REQUIREMENTS

4.1. Report Improper Conduct: If you see something that is not right or you believe something looks like one of the examples listed above, you should report either directly to the Corporate Compliance Officer at 402-829-2968 or by calling the Compliance Reporting Hotline at 855-857-6164 or going online to www.immanuel.ethicspoint.com. Questions regarding the appropriateness of any particular situation should be directed to your Supervisor or the Corporate Compliance Officer.

4.2. You are not required to report a possible false claims act violation to Immanuel first. You may report directly to the federal Department of Justice or to state Attorney General's office.

SECTION 5. PROTECTION FROM RETALIATION

5.1. Federal law prohibits retaliation, and Immanuel will not retaliate, against any employee who lawfully reports or assists in the investigation of a possible false claims violation.

SECTION 6. TRAINING

6.1. Employees and members of the workforce will be trained on the federal and state false claims acts and also provided with periodic updates. All contractors are required to accept educational information offered by Immanuel or to participate in scheduled training.

SECTION 7. ANNUAL NOTICE

7.1. Immanuel will provide on an annual basis information to employees, management, and contractors regarding the Federal False Claims Act, State false claims laws, and any related whistleblower protections.