

## **SECTION 409: FALSE CLAIMS ACT COMPLIANCE & REPORTING POLICY**

**409.1 Purpose:** To identify facility practices for detection and prevention of fraud, waste, abuse in billing, and receipt of Medicare/Medicaid funds. To identify a process for reporting concerns with facility Medicare/Medicaid billing, including protections for persons who file reports.

**409.2 Policy:** Black Hawk County, as a provider of Medicare/Medicaid services and, in accordance with the Federal False Claim Act, prohibits employees and others acting on behalf of the facility, either through contract or association, from making any false statements in connection with claims submitted to the federal or state government or any other third party for payment on behalf of Black Hawk County and facility residents. It is the responsibility of all employees to comply with this act and report any violations or suspected violations in accordance with federal and state regulations and this policy.

**409.3 Process:**

1. Prohibited conduct under this policy includes the following:
  - Billing for items or services not actually rendered
  - Providing unnecessary services
  - Using a billing code that provides a higher payment rate than the billing code which actually reflects the services provided
  - Submitting more than one claim for the same service
2. Penalties for false claims:
  - Persons *knowingly* making or causing the submission of false billing claims will be subject to disciplinary action up to and including termination of employment. Violations may also result in criminal and civil money penalties up to and including a felony punishable by a fine of up to \$25,000 and/or up to five years in prison. *Knowingly* is defined as the person having in respect to the false claim: (a) actual knowledge of the information; (b) acts in deliberate ignorance of the truth or falsity of the information; or (c) acts in a reckless disregard of the truth or falsity of the information.
3. Methods for prevention and detection of fraud will include the following:
  - Facility shall maintain fiscal records in support of services for which charges are made. Fiscal records will be available for review and audit by regulatory agencies.
  - Facility shall maintain complete and legible clinical records for which a charge is made. Clinical records will include documentation that services are medically necessary, consistent with residents' diagnosis and condition, and consistent with professionally recognized standards of care. Clinical records will be available for review and audit by regulatory agencies.
4. Reporting fraudulent practices:
  - Persons with knowledge or evidence of violations or suspected violations by Black Hawk County employees, contracted agents, or vendors, shall report

concerns to the facility administrator. Concerns may be reported on a confidential basis by the employee or may be submitted anonymously. Reports will be kept confidential to the extent possible, consistent with the need to conduct an investigation.

5. Handling of reported concerns:

- The administrator will document receipt of the reported violation and notify the person filing the report within five working days. All reports will be promptly investigated and appropriate action taken based on the results of the investigation.
- Concerns involving the facility administrator will be reported to directly to the County Board of Supervisors. Reports may also be made directly to the Department of Inspection & Appeals or the State Auditor's office.

6. Protection for employees reporting concerns:

- Employees who report fraudulent or potentially fraudulent practices by the facility to the proper authorities shall be protected from retaliation under the Federal Whistle Blower's Protection Act. Under this act, employees cannot be discharged, demoted, suspended, or harassed by the employer for reporting concerns. An employee who believes he has been discriminated against in violation of this act may file a grievance in accordance with the county grievance policy.

7. False reporting:

- Anyone reporting a concern must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of this policy. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

8. Responsibilities of contractors, vendors, and other associates:

- Independent contractors and vendors doing business with Black Hawk County will be required to be compliant with all provisions of the False Claim Act. Violation of this act will result in termination of contract or association with the facility. Contractors will be held responsible for facility liability that may occur as a result of said violations.

9. Employee education and awareness:

- Employees will be educated on the Federal False Claim Act, whistle blower protections, and facility policy as part of new employee orientation. A copy of the policy will be distributed to all employees with implementation. Procedures for reporting suspected concerns will be posted in all departments. Contracts and vendor agreements will be updated to include language pertaining to this policy.

10. References:

- Additional information regarding the Federal False Claims Act and Whistle Blower Protections may be found in the following: The Federal False Claims Act: Title 31 of the United States Code, sections 3729 through 3733; Administrative Remedies for False Claims and Statements: Title 31 of the United States Code, Chapter 38; Civil and Criminal Penalties for False Claims and Statements: Iowa Code 249A.51 and 714.8(10) – 714.14.