

Addendum to Employee Standards and Code of Ethical Conduct Kentucky State False Claims Act

This is a supplement to Trilogy's Employee Standards and Code of Ethical Conduct Handbook (Code) for employees. As stated in our Code, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases, and/or contracts. These laws are very important laws that govern our business.

Similar to the federal False Claims Act, the Kentucky Control of Fraud and Abuse laws, impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Kentucky laws apply to Medicaid reimbursement and prohibit, among other things:

- Making Medicaid claims for items or services not rendered or not provided as claimed (such as billing for three hours of therapy when only a few minutes were provided);
- Submitting claims to any payor, including Medicaid, for services or supplies that are not medically necessary or that were not ordered by the resident's physician or other authorized caregiver;
- Submitting claims for items or services that are not provided as claimed, such as billing Medicaid for expensive prosthetic devices when only non-covered adult diapers were provided;
- Submitting claims to any payor, including Medicaid, for individual items or services when such items or services either are included in the health facility's per diem rate for a resident or are of the type that may be billed only as a unit and not unbundled;
- Double billings (billing for the same item or service more than once);
- Paying or receiving anything of financial benefit in exchange for Medicaid referrals (such as receiving non-covered medical products at no charge in exchange for ordering Medicaid-reimbursed products); or
- Participating in kickbacks
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of these Kentucky laws may result in civil monetary penalties of \$500 for each false claim, plus three times the amount unlawfully received plus interest, payment of the government's expenses to pursue reimbursement, and exclusion from the Medicaid program and/or loss of an individual's professional license for up to five years.

In addition, a corporation who violates these laws commits a crime punishable by a fine not to exceed \$20,000 or double the amount of the corporation's gain from the offense, whichever is greater. An individual who violates these laws commits a crime punishable by imprisonment for up to ten years and a fine not to exceed \$10,000 or double the amount of the individual's gain from the offense, whichever is greater.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Kentucky law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Like federal law and Trilogy policy, Kentucky's Control of Fraud and Abuse law, specifically Section 205.8465, prohibits employers from retaliating, discriminating or harassing any person because of their good faith participation in a false claims disclosure. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position. Kentucky's Control of Fraud and Abuse law also requires any person who knows or has reasonable cause to believe that a violation of these laws has been or is being committed by any person, corporation or entity, to report such information to the Kentucky Medicaid Fraud Control Unit ("MFCU"), or to the Medicaid Fraud and Abuse hotline, 1-800-3722970.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of Trilogy's Code of Conduct or regulatory violation, or (2) refused to violate Trilogy's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See Trilogy's Open Door Policy and the procedure outlined in the Employee Handbook for information on reporting concerns.

Copies of Kentucky Laws

The Kentucky laws summarized above include: (1) Control of Fraud and Abuse laws, Ky. Rev. Stat. §§ 205.8451 to 205.8483; and (2) Public Sector Whistleblower Act, Ky. Rev. Stat. §§ 61.101 to 61.103.

If you have questions about any of these requirements, you may contact Trilogy's Compliance Hotline at 1-800-908-8618 (extension 2800). This summary and others are also posted on Trilogy's external web site at www.trilogyhs.com and Trilogy's intranet site under the Compliance home page.