

Addendum to Employee Standards and Code of Ethical Conduct Massachusetts 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.

Like the federal False Claims Act, the Massachusetts False Claims Act ("MFCA") and other Massachusetts 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.

The Massachusetts Medicaid False Claims law and associated regulations, impose liability on any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for any payment, regardless of amount, from the Medicaid Agency, knowing the same to be false. These Massachusetts laws 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

Civil and Criminal Penalties for False Claims or Statements

A violation of these Massachusetts laws may result in civil penalties of \$10,000 per claim, plus three times the amount of damages sustained by the state government. In addition, a person who violates the law prohibiting the presentation of false claims to the Massachusetts Division of Medical Assistance commits a crime punishable by imprisonment for up to five years and a fine of not more than \$10,000.

Civil Lawsuits

Currently, Massachusetts law allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if a *qui tam* plaintiff brings a lawsuit and the court finds in favor of the defendant, then the court may award the defendant its reasonable attorney fees and costs against the *qui tam* plaintiff.

No Retaliation

Massachusetts laws prohibit state employers from retaliating, discriminating, or harassing state employees who report a violation of state law in sworn testimony or in an affidavit. Although Massachusetts law does not contain similar protections for non-governmental employees, Trilogy expects employees to adhere to Trilogy's policy prohibiting retaliation. 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.

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, www.trilogyhs.com and Trilogy's intranet site under the Compliance home page.

References:

(1) The Massachusetts False Claims Act, Mass. Gen. Laws Ann. Ch. 12 § 5; and (2) Mass.

Gen Laws Ann. Ch. 118E § 35.