

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

This is a supplement to Trilogy's Employee Standards and Code of Ethical Conduct for employees who work in Michigan. As stated in our Employee Standards and Code of Ethical Conduct, 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 some of the most important laws that govern our business.

Like the federal False Claims Act, the Michigan Medicaid False Claims Act (MMFCA), and other Michigan 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 Michigan 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 Michigan laws may result in civil penalties equal to the full amount of the benefit received as a result of the fraud, plus three times the amount of damages sustained by the state government. In addition, a person who violates these laws commits a crime punishable by imprisonment for up to four years and a fine of not more than \$50,000.

Civil Lawsuits

Like the federal False Claims Act, Michigan law also 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 that the claim was frivolous, then the court must award the defendant its reasonable attorney fees and costs and impose a civil fine of not more than \$10,000 against the *qui tam* plaintiff.

No Retaliation

Like federal law and Trilogy policy, various Michigan laws, including the MFCA, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the MFCA. 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.

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 Michigan Laws

The Michigan laws summarized above include: (1) The Michigan Medicaid False Claims Act, Mich. Comp. Laws Ann. §§ 400.601-400.613; and (2) Mich. Comp. Laws Ann. §§15.361-15.369.

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.