

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

This is a supplement to Trilogy's Employee Standards and Code of Ethical Conduct for employees who work in Tennessee. 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.

The Tennessee Medicaid False Claims Act ("TMFCA"), the Tennessee False Claims Act ("TFCA") and other Tennessee 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 Tennessee 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 Penalties for False Claims or Statements

A violation of these Tennessee laws may result in penalties of \$2,500 to \$25,000 per claim, plus three times the amount of damages sustained by the state.

Civil Lawsuits

Similar to the federal False Claims Act, Tennessee 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 the *qui tam* plaintiff is convicted of a crime related to the legal violation that is the subject of the civil suit, the *qui tam* plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Additionally, if the defendant prevails in the civil suit and the court finds that the claim was clearly frivolous, or brought primarily for purposes of harassment the court shall award the defendant its reasonable attorneys' fees and expenses against the *qui tam* plaintiff.

No Retaliation

Like federal law and Trilog policy, various Tennessee laws, including the TMFCA, TFCA, and Tennessee's Whistleblowers' Statute ("TWS"), 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 the law. 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. The TFCA requires a state employee to exhaust any existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels before taking formal action under the TFCA unless the state failed to act on the information within a reasonable time.

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 Trilog's Code of Conduct or regulatory violation, or (2) refused to violate Trilog's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See Trilog's Open Door Policy and the procedure outlined in the Employee Handbook for information on reporting concerns.

Copies of Tennessee Laws

The Tennessee laws summarized above include: (1) The Tennessee Medicaid False Claims Act, Tenn. Code Ann. §§ 71-5-182 – 71-5-185; (2) The Tennessee False Claims Act, Tenn. Code Ann. §§ 4-18-101 – 4-18-105; and (2) The Tennessee Whistleblowers' Statute, Tenn. Code. Ann. § 50-1-304.

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