

AM-18 DETECTION AND PREVENTION OF FRAUD AND ABUSE

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POLICY:

Kettering Health Network (KHN) is committed to complying with all applicable laws and regulations. KHN has implemented policies and procedures that are intended to detect and prevent fraud, waste, and abuse. It is KHN's policy to provide information to all employees, contractors, and agents about federal and state False Claims Acts, remedies available under these acts and how employees and others can use them, and about whistleblower protections available to anyone who reports a violation of the federal or state False Claims Acts.

DEPARTMENTS AFFECTED:

All Network Departments

Sponsoring Department: Corporate Integrity

GUIDELINES:

Medicare and Medicaid payment to KHN is based in part on each patient's principal and secondary diagnosis and the major procedures performed on the patient, which is attested in the medical record. Anyone who misrepresents, falsifies, or conceals essential information required for payment of federal funds may be subject to fine, imprisonment or civil penalty under applicable laws.

All employees are required to immediately report to their supervisor or Corporate Integrity any misconduct involving fraud and abuse in any form including the submission of false claims to any payors in violation of state law and the federal Civil False Claims Act.

Federal and State False Claims Laws

The Centers for Medicare and Medicaid Services (CMS) defines fraud as the intentional deception or misrepresentation that an individual knows or should have known to be false and makes the claim with the knowledge that the deception could result in an unauthorized benefit to him/her or another.

CMS defines abuse as incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment for services that either fail to meet professionally recognized standards of care or medically unnecessary.

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The federal and state governments have enacted criminal and civil laws pertaining to the submission of false or fraudulent claims for payment or approval to the federal and state governments and to private payors.

Civil False Claims Act

The Civil False Claims Act (31USC §3729 *et seq.*) is a statute that imposes civil liability on any person who:

- Knowingly presents, or causes to be presented a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid; or
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid. (31USC sec. 3729(a)).

Examples of a false claim:

- Billing for procedures not performed
- Falsifying information in the medical record
- Submitting inaccurate or misleading claims about the type of services provided

Remedies:

- A federal false claims action may be brought by the U.S. Department of Justice
- A claim can be brought by an individual
- Violation of the Act is punishable by a civil penalty of between \$5,000 and \$11,000 per false claim, plus three times the amount of damaged incurred by the government.

Ohio False Claims Acts

In addition to the federal False Claims Act, Ohio law requires that employees be informed about the Ohio false statement laws and whistleblower protections. Ohio Revised Code § 5111.03 imposes civil liability on providers who obtain or attempt to obtain unauthorized payments, whether intentionally or unintentionally. Ohio Revised Code § 2913.40 imposes criminal liability for Medicaid fraud on any person providing false information.

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Whistleblowers Protection under the False Claims Act

Civil False Claims Act

The Civil False Claims Act protects employees from retaliation if they, in good faith, bring an action under the Act. Employees who are fired, demoted, threatened or harassed for bringing an action are entitled to all relief necessary to make them whole. An employee who suffers retaliation may receive up to twice their back pay, plus interest, reinstatement at the seniority level they would have had is not for the retaliation, and compensation for their costs or damages.

Ohio Whistleblower Protection

Ohio Revised Code § 4113.52 protects employees from retaliation for reporting certain violations of the law. No employer shall take any disciplinary or retaliatory action against an employee for reporting any violation of a state or federal statute that an employer had authority to correct and violation of any criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public health or safety.

Kettering Health Network Protection

Kettering Health Network policies AM-19 Grandview Medical Center and AM-10 Kettering Medical Center protect employees from retaliation for reporting Corporate Integrity Concerns.

SPONSORING DEPT:	Corporate Integrity Office
DATE OF ORIGIN:	04/13/07
LAST REVIEWED:	06/11/07
DATE APPROVED:	06/11/07
APPROVED BY:	Administrative Finance Council
DATE APPROVED:	06/14/07
APPROVED BY:	KMC Executive Council
DATE EFFECTIVE:	06/14/07

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