

# **Fraud and Abuse Information**

**Provided by the United States Department of Justice**

## **What is Fraud?**

Kowingly submitting or causing to be submitted false claims or making misrepresentations of fact to obtain federal health care payment for which no entitlement would otherwise exist.

Knowingly soliciting, receiving, offering and or paying renumeration to induce or reward referrals for items or services reimbursed by federal health care programs.

## **Examples of Fraud:**

1. Billing for appointments the patient failed to keep.
2. Knowingly billing for services at a higher level than actually provided.
3. Knowingly billing for services or supplies not provided including falsifying records to show delivery of such items.
4. Paying for referrals.

## **What is abuse?:**

1. Billing for unnecessary services.
2. Charging excessively for services or supplies.
3. Misusing codes on a claim, upcoding or unbundling

Fraud and Abuse can expose providers to criminal and civil penalties.

## **Anti Fraud Legislation:**

1. False Claims Act
2. Anti Kickback Statute
3. Physician self referral (Stark Law)

Violating these laws may result in non-payment of claims, civil penalties, exclusion from all federal health care programs, criminal and civil liabilities.

### **1. False Claims Act:**

Protects the govt from being overcharged or sold substandard goods or services and imposes civil liabilities on any provider who knowingly submits or causes to the submission of a false or fraudulent claim to the govt.

Knowingly means the person had actual knowledge of the information or acts in deliberate ignorance or reckless disregard of the truth. No specific intent to defraud is necessary.

## **Penalties include:**

1. Treble damages
2. Plus penalties up to \$21, 916 per false claim
3. The Criminal False Claims Act has fines, imprisonment or both
2. Anti Kick back Statute  
It's a crime to knowingly and willfully offer, pay, solicit or receive any renumeration directly or indirectly to induce or reward referrals of items or services reimbursable by a federal health care

program. When a provider offers, pays, solicits or receives unlawful renumeration he/she violates the Anti- Kickback Statute.

- a. Penalties include:
- b. Up to three times the amount of the kickback
- c. Up to \$74,792 per kickback
- d. Criminal penalties may include fines, imprisonment or both

#### Physician Self -Referral (Stark Law)

Prohibits a physician from referring certain health care services to an entity in which the physician (or immediate family member) has an ownership investment interest or with which he/she has a compensation agreement.

Penalties include fines, repayment of claims and potential exclusion from federal health care programs.

To defraud any health care benefit program to obtain by false or fraudulent pretenses any of the money or property owned by or under control of, any health care benefit program is a crime.

Example:

Several doctors and medical clinics conspire in a coordinated scheme to defraud Medicare by submitting unnecessary claims for power wheel chairs

Penalties include fines, imprisonment or both.

The Medicare Program has additional administrative remedies applicable for certain fraud and abuse violations.

Exclusion Statute:

Office of Inspector General (OIG) must exclude providers convicted of:

1. Medicare Fraud
2. Patient neglect or abuse
3. Felony convictions for other health care related fraud, theft or financial misconduct.
4. Felony convictions for unlawful manufacture, distribution, or prescription in dispensing of controlled substances.

OIG may exclude a provider for:

1. Misdemeanor convictions
2. Suspension or surrender of a license to provide health care services for reasons bearing on professional competence, professional performance or financial integrity.
3. Providing unnecessary or substandard services.
4. Engaging in unlawful kickback arrangements
5. Defaulting on health education loan or scholarship obligations

Excluded providers may not participate in federal health care programs for a designated period. A provider may not bill Medicare, Medicaid or the State Children's Health Insurance Program. A group practice may not bill for an excluded provider. At the end of exclusion, a provider must seek reinstatement.

Medicare offers a tip hotline: 1-800-633-4227

OIG offers a tip hotline: 1-800-447-8477