

Federal Deficit Reduction Act Compliance Policy

Policy:

It is the policy of Polk County to be in compliance with the Federal Deficit Reduction Act of 2005 to correctly claim Federal funds for which Polk County is eligible; to prevent and detect errors and potentially fraudulent claims, and to protect whistleblowers from retaliation.

Purpose:

To provide guidance and training to all staff about the False Claims Act including whistleblower provisions in the law; detecting and preventing waste, fraud, and abuse; protecting the rights of employees as whistleblowers; policies concerning false claims laws; and ensuring that all employees comply with all applicable sections of the False Claims Act.

Scope:

This procedure applies to all Polk County employees, contractors and agents, volunteers, interns and Board members working in programs claiming federal funds.

Definitions:

Fraud – The intentional deception perpetrated by an individual or individuals, or an organization or organizations, either internal or external to Polk County, which could result in a tangible or intangible benefit to themselves, others, or could cause detriment to others or the Agency. Fraud includes a false representation of a matter of fact, whether by words or by conduct, by false or misleading statements, or by concealment or that which should have been disclosed, which deceives and is intended to deceive.

Whistleblower – An informant, most often an employee, who reports wrongdoing within an organization.

Retaliation – When an individual is discriminated against or penalized for reporting fraud or for cooperating, giving testimony, or participating in any matter in an audit/investigation, proceeding, or hearing.

Background:

Section 6032 of the Federal Deficit Reduction Act of 2005 and Section 1902 (a) (68) of the Social Security Act requires entities that make or receive annual Medicaid payments of \$5 million or more to provide in written policies (on paper or in electronic form) applicable to employees, contractors and agents, detailed information about the False Claims Act, any state laws that pertain to civil or criminal penalties for making false claims and statements, and whistleblower protection. As a requirement for Medicaid payment, those entities must establish written policies that:

1. Provide detailed information about the federal False Claims Act and comparable state anti-fraud statutes, including whistleblower provisions in those laws.
2. Detailed descriptions regarding the company's policies and procedures for detecting and preventing waste, fraud and abuse.
3. Include in any employee policy books a specific discussion of the laws described in the written policies, the rights of employees to be protected as whistleblowers.

The Deficit Reduction Act of 2005 establishes compliance with Section 6032 as a condition of receiving Medicaid payment, failure to meet the requirements could result in the forfeiture of all Medicaid payments during the period of noncompliance.

Summary of Federal and State False Claims Laws:

Federal Law:

Purpose: The False Claims Act exists to fight fraud, or false claims, against the federal government.

What is a —false claim?: A false claim may take many forms, including, for example, overcharging for a product or service, failing to perform a service, delivering less than the promised amount or type of goods or services, underpaying money owed to the government, and charging for one thing while providing another.

Applicability: The Federal Claims Act covers fraud involving any federally funded contract or program, with the

exception of tax fraud. For Polk County, the law covers Medicaid, foster care, SSI, law enforcement claims and other Federally funded programs.

Damages or Penalties: Under the Federal Claims Act, anyone (an individual, business or government entity) who knowingly submits or causes the submission of false claims to the government is liable for damages of up to three times the erroneous payment, plus civil penalties of \$5,000 to \$10,000 per false claim.

Mechanism: A private individual, called the whistleblower, who possesses and comes forward with information regarding false claims is authorized to file a case in federal court and sue, on behalf of the government, those entities that engaged in the fraud. The Department of Justice then decides on behalf of the government whether to join the whistleblower in prosecuting these cases.

The Department of Justice may also prosecute claims based on other investigations.

Whistleblower's Share: If the case is successful, the whistleblower may share in the recovery. The amount of the whistleblower's share depends on multiple factors, including whether the whistleblower planned and initiated the false claim (in which the whistleblower's share can be reduced to any amount the court deems appropriate) and whether statutory bars preclude the whistleblower from sharing in the recovery because of a criminal conviction or jurisdictional disqualification.

Whistleblower rights and protections: The Federal Claims Act provides a remedy for whistleblowers who are discharged, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by his or her employer in retaliation for filing a case. To receive the benefits of the employment protections of the False Claims Act, courts generally require that an employee demonstrate that: 1) he or she was engaged in an activity protected by the statute in furtherance of a qui tam suit; 2) the employer knew of the employee's qui tam actions, and 3) the employer retaliated against the employee because of those actions. If the court finds a whistleblower was terminated or otherwise mistreated for filing a qui tam lawsuit, the employee is entitled to reinstatement at the same level, two times the back pay owed plus interest, and compensation for any special damages sustained as a result of the discrimination, such as attorney's fees.

Procedures:

Reporting: In accordance with the County Fraud Prevention and Detection policy, any employee who has knowledge of an occurrence of fraud, or has reason to suspect that a fraud has occurred, shall immediately notify his/her supervisor or Chief of Central Accounting in the Auditor's Office. If the employee has reason to believe that the employee's supervisor may be involved, the employee shall immediately notify the Department Head or Chief of Central Accounting in the Auditor's Office. Every employee shall cooperate with administrative investigations pursuant to the County Personnel Policies and Procedures. The employee shall not discuss the matter with anyone other than his/her supervisor, the Department Head, Chief of Central Accounting in the Auditor's Office and law enforcement.

Investigations: Upon notification or discovery of a suspected fraud, the Chief of Central Accounting in the Auditor's Office will promptly investigate the fraud and will promptly notify the Des Moines Police Department if criminal conduct is suspected.

Retaliation: It is a violation of policy for any individual to be discriminated against for reporting fraud or for cooperating, giving testimony, or participating in an audit investigation, proceeding, or hearing.

Disciplinary Action:

Employees found to be in violation of the False Claims Act provisions will be disciplined in accordance with County Personnel policies leading up to and including termination of employment. Failure to report a breach of which one has knowledge, or reporting of a breach in bad faith or for malicious reasons will result in appropriate disciplinary action.

Employee Training:

All employees will receive training on policies, procedures and laws about the False Claims Act as mandated by the Deficit Reduction Act of 2005. Each employee including contract employees, volunteer, intern and Board Member is required to sign an attestation form to verify the receipt of this training.

Executive Director's Signature: _____

Date: _____

Polk County

**False Claims Act
Employee Acknowledgement**

This is to acknowledge that as of the date listed below, I have received a copy of the Polk County False Claims Act Policy, and that my Operational Leader and/or supervisor has reviewed this with me. I understand that it is my responsibility to comply with the policy as summarized, and to report violations or suspected violations as outlined.

Employee Name: _____

Program: _____

Operational Leader or Supervisor: _____

Employee Signature: _____

Date: _____

**Polk County
False Claims Act
Board Member Acknowledgement**

This is to acknowledge that as of the date listed below, I have received a copy of the Polk County False Claims Act Policy. I understand that it is my responsibility to comply with the policy as summarized, and to report violations or suspected violations as outlined.

Board Member Name: _____

Date: _____

Contact: Lynn Ferrell
Polk County Health Services
515-243-6339
Adopted: 3/27/07

