



MARCH[®] Vision Care Provider Compliance Deficit Reduction Act



MARCH[®] Vision Care

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An electronic version of these documents is available on the “Online Training” page of the “Doctors & Office Staff” – “Training & Education” section of the MARCH® Vision Care website at www.marchvisioncare.com.

Compliance Reminder Checklist

Program Integrity, Fraud & Abuse

Healthcare fraud and abuse is a serious offense. The Department of Health & Human Services, Office of Inspector General website offers a wealth of information regarding fraud and abuse prevention, detection and reporting. As an MARCH® Vision Care provider, you are required to report all suspected fraud and abuse activities.

- The Office of Inspector General website is at: www.oig.hhs.gov.
- Report SNP fraud & abuse to: 1-800-HHS-TIPS (800) 447-8477 or HHSTips@oig.hhs.gov.
- Report TennCare member and provider fraud & abuse to the Office of Inspector General at: <http://www.tn.gov/tenncare/fraud.shtml> or (800) 433-3982.
- Report fraud and abuse to UHCCP (800) 690-1606.

Disclosure Form

In accordance with 42 CFR, Part 455, Subpart B and as required by CMS, individual physicians and other healthcare professionals must disclose criminal convictions, while facilities and businesses must additionally disclose ownership and control interest, prior to payment for any services rendered to Medicare or Medicaid enrollees. It is your responsibility as a contracted provider to ensure your form is updated to reflect any changes to the information previously provided. In addition, TennCare requires an updated Disclosure form every three years. Please report any changes in Disclosure Information via fax to (888) 627-2488.

- TennCare Disclosure Forms: <http://www.tn.gov/tenncare/disclosure.shtml>

State Medicaid Letter – Medicaid Providers to Screen for Exclusions

In the January 16, 2009, State Medicaid Directors letter, states are to advise providers of their obligation to screen all of their employees and contractors to determine whether any employee or contractor has been excluded from participation in the Medicaid program. Providers are required to search the HHS-OIG website monthly to capture exclusions and reinstatements that have occurred since the last search. Providers are to immediately notify their Provider Relationship Manager regarding any exclusion information that is discovered.

- The State Medicaid Directors letter is available at: <http://www.cms.hhs.gov/SMDL/downloads/SMD011609.pdf>.
- The HHS-OIG Exclusions Database is available at: <http://exclusions.oig.hhs.gov>.

Deficit Reduction Act of 2005 (DRA) & Federal and State False Claims Acts

The Deficit Reduction Act of 2005 contains many provisions reforming Medicare and Medicaid which are aimed at reducing Medicaid fraud. Under Section 6032 of the DRA, every entity that receives at least five million dollars in Medicaid payments annually must establish written policies for all employees of the entity, and for all employees of any contractor or agent of the entity, providing detailed information about false claims, false statements and whistleblower protections under applicable federal and state fraud and abuse laws. As a contracted provider with MARCH® Vision Care (UnitedHealthcare Community Plan (UHCCP)), you and your staff are subject to these provisions. The UnitedHealth Group/UHCCP policy, titled "Integrity of Claims, Reports and Representations to Government Entities" can be found on the provider website. This policy details the company's commitment to compliance with federal and state false claims acts, provides a detailed description of these acts and of the mechanisms in place within our organization to detect and prevent fraud, waste and abuse, as well as the rights of employees under the Federal False Claims Act to be protected as whistleblowers.

- The policy is available at: <http://www.tn.gov/tenncare/forms/pi08001.pdf>

☐ Limited English Proficiency (LEP) and Interpretation Services

As a contracted provider, you are responsible for offering interpretation services, without charge, to members. This is a requirement under Title VI and applies to any provider that accepts Federal funds. Tennessee relay offers interpretation services statewide by linking conversations between people who use text telephones (TTY's) or telebraille (TB) devices and people who use standard telephones. A person using a TTY or TB device (TTY or TB machines are optional for deaf-blind persons) types his or her conversation. The typed message is relayed by a Relay Center specialist, called a Communications Assistant (CA), who reads the message to the person using a standard telephone. The CA communicates the hearing person's spoken words by typing them back to the TTY user. For additional information:

- Tennessee Relay <http://www.tn.gov/tra/consumerfiles/relaycenter.shtml> or 711
- Language Line www.language.com or (800) 752-6096 ext. 4.

☐ Non-discrimination

All providers that participate in Federal and State programs must obey Federal laws against discrimination, including Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990, and all other laws that apply to organizations that receive Federal funding. You and your staff must treat members fairly. This means members have the right to equal access to appointment times, are not subjected to extended wait times, are given assistance with interpretation or translation services as necessary, and are provided proper accommodations for any disabilities. If a member feels they have been discriminated against, they have the right to file a complaint by calling the customer service phone number on the back of their ID card. TennCare members may also complete the Unfair Treatment Complaint Form.

- Unfair Treatment Complaint Form: <http://www.tn.gov/tenncare/forms/complaintform.pdf>

☐ Grier Posters

All providers who see TennCare members are required to have *Grier* posters in their office - visible to members - in English and Spanish. If you need additional posters, please contact Customer Service at 1-800-690-1606 or e-mail provider relations at UHC_TN_Outreach@uhc.com.

☐ Advance Directives

There are many types of Advance Directives such as a Durable Power of Attorney for Health Care, an Appointment of Health Care Agent, a Living Will, an Advance Care Plan or a Declaration for Mental Health Treatment. The Patient Self-Determination Act (PSDA) requires Medicare and Medicaid providers to give adult individuals information about their rights under state laws governing advance directives, including: (1) the right to participate in and direct their own health care decisions; (2) the right to accept or refuse medical or surgical treatment; (3) the right to prepare an advance directive; and (4) information on the provider's policies that govern the utilization of these rights. If the patient has made an advance directive, a copy of the form should be filed in the patient's chart.

- Additional information on advance directives is available at: <http://health.state.tn.us/AdvanceDirectives/index.htm>.
- A provider guide on Declarations of Mental Health Treatment is available at: <http://tn.gov/mental/t33/MHTDecProviderGuide.pdf>

☐ Cultural Competency

In order to assist you and your staff in promoting high quality healthcare to increasingly diverse patients, the U.S. Department of Health & Human Services, Office of Minority Health, offers free online accredited courses for continuing education credit.

- Office of Minority Health is available at: <http://minorityhealth.hhs.gov>
- Additional course information is available at: <https://www.thinkculturalhealth.hhs.gov/>.

UnitedHealth Group's Integrity of Claims, Reports and Representations to Government Entities Policy

UnitedHealth Group requires compliance with the requirements of the federal and state laws that prohibit the submission of false claims in conjunction with federal health care programs, including Medicare and Medicaid. Every UnitedHealth Group employee, and in particular, every employee of each UnitedHealth Group business organization that receives or makes payments of \$5 million or more under a state Medicaid contract, as well as employees of UnitedHealth Group's contractors and agents, must receive the information set forth in this policy.

Guidelines

Federal and state governments have adopted a number of statutes to deter and punish misrepresentations with regard to health care programs. Failure to comply with these laws could result in civil and criminal sanctions imposed on individuals and UnitedHealth Group's subsidiaries by government entities. In addition to sanctions imposed by the government, employees' noncompliance with this policy (and any state or federal law designated to detect and prevent fraud, waste, and abuse) may result in discipline up to and including termination of employment.

- **Federal False Claims Act:** The federal False Claims Act prohibits knowingly submitting (or causing to be submitted) to the federal government, as false or fraudulent claim for payment or approval. It also prohibits knowingly making or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved by a state Medicaid program, the federal government or its agents, such as a carrier or other claims processor.

Civil penalties can be imposed on any person or entity that violates the federal False Claims Act, including monetary penalties of \$5,500 to \$11,000 as well as damages of up to three times the federal government's damages for each false claim.

- **Federal Fraud Civil Remedies:** The Program Fraud Civil Remedies Act of 1986 also allows the government to impose civil penalties against any person who make, submits or presents false, fictitious or fraudulent claims or written statements to designated federal agencies, including the U.S. Department of Health and Human Services, which is the federal agency that oversees the Medicare and Medicaid Programs.
- **State False Claims Acts:** Several states also have enacted broad false claims laws modeled after the federal False Claim Act or have legislation pending that is similar to the federal False Claims Act. Other states have enacted false claims laws that have provisions limited to health care fraud.
- **Whistleblower and Whistleblower Protections:** The federal False Claims Act and some state false claims acts permit private citizens with knowledge of fraud against the U.S. Government or state government to file suit on behalf of the government against the person or business that committed the fraud.

Individuals who file such suits are known as a "qui tam" plaintiff or "whistleblower." the federal False Claims Act and some state false claims acts also prohibit retaliation against an employee for investigating, filing or participating in a whistleblower action.

Managers Responsibilities: Managers must inform their employees that the UnitedHealth Group does not tolerate or condone activities that result in or contribute to the submissions of false claims to any federal health care programs, including the Medicare and Medicaid programs, and a manager must take appropriate action if he or she learns about possible fraudulent or abusive activities.

Business Organization Responsibilities: UnitedHealth Group's policy on Detecting Fraud and Abuse requires each Business Organization to establish procedures to detect, investigate, eliminate and report fraud and abuse.

UnitedHealth Group's Responsibilities: UnitedHealth Group's Ethics and Integrity policy on Detecting Fraud and Abuse Business Organizations' policies on Detecting Fraud and Abuse provide details regarding internal policies, procedures and individuals' responsibilities to prevent and detect fraud waste and abuse. Additionally, UnitedHealth Group's Ethics and Integrity Program provides for rigorous internal investigations and prompt resolution of alleged violations. Depending on the nature of the violation, investigations of integrity or compliance issues may be performed by the Compliance Officer, Legal Services, Corporate Security, Human Capital and/or other appropriate staff of consultants.

Contractor and Agent Responsibilities: UnitedHealth Group requires that its contractors and agents, and their employees, who perform services for UnitedHealth Group's government program health plans (i.e., Medicaid and Medicare) comply with all federal and state laws that prohibit the submission of false claims in connection with federal healthcare programs. UnitedHealth Group also requires that its contractors and agents, and their employees, comply with all UnitedHealth Group policies and procedures relating to detection and prevention of fraud and abuse in government health care programs. Lastly, UnitedHealth Group requires that its contractors and agents distribute this information to their employees to educate them on the federal and state statutes, as well as, UnitedHealth Group and its subsidiary's policies and procedures relating to fraud detection and prevention in connection with federal healthcare programs.

The Tennessee Medicaid False Claims Act

False Claims (§ 71-5-182)

The following actions constitute violations under the Tennessee Medicaid False Claims Act (“TMFCA”):

- Presenting (or causing to be presented) to the Medicaid program a claim for payment or approval, knowing such a claim is false;
- Makes or uses (or causes to be made or used) a record or statement to get a false claim paid by the Medicaid program, knowing such record or statement is false;
- Knowing a claim is false, conspiring to defraud the state by getting the claim paid by the Medicaid program; or
- Making or using (or causing to be made or used) a record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the State in relation to the Medicaid program, knowing such record or statement is false.

Under the TMFCA, a person may be liable for:

- A civil penalty of \$2,500 to \$10,000 for each false claim;
- Three times the amount of damages that the State sustains because of the violation; and
- The costs of a civil action brought to recover such penalty or damages.

A court may reduce the damages to two times the amount of damages that the State sustained if:

- The person committing the violation voluntarily disclosed all information known to him or her to the state officer responsible for investigating the violation within 30 days after the date on which the person first obtained the information;
- The person fully cooperated with the investigation of the violation; and
- No criminal prosecution, or civil or administrative action had been commenced at the time of the person’s disclosure, and the person had no actual knowledge of an investigation into such violation.

Key Definitions (§ 75-5-182)

“Knowing” and “Knowingly” mean a person:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information.
- No proof of specific intent to defraud is required.

“Claim” includes any request or demand for money or property made to the State (including those made under contract) or to a contractor, grantee, or other person, whether under contract or not, if any portion of the requested money or property is funded by or will be reimbursed by the state or any political subdivision.

Civil Actions for False Claims (§ 71-5-183)

The TMFCA authorizes the attorney general to bring a civil action against a person violating the TMFCA.

Actions by Private Persons

An individual also may file a civil suit on behalf of himself or herself. The suit must be filed in the name of the State, and a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses must be served on the State. The claim must be filed and remain under seal for 60 days so the State may decide whether to intervene. Once filed, no other person, other than the State, may intervene or bring a related action based on the facts underlying the claim, and the action may only be dismissed if the court and attorney general give written consent to the dismissal.

Rights of the Parties to *Qui Tam* Actions

If the State decides to intervene, it shall have primary responsibility for prosecuting the action and is not bound by the acts of the *qui tam* plaintiff. The *qui tam* plaintiff may continue as a party to the action, subject to certain limitations.

If the state or political subdivision decides not to file a civil suit, the *qui tam* plaintiff may proceed with the action, although the State may intervene later upon a showing of good cause. The State is not liable for expenses that a person incurs in bringing the civil suit.

Certain Actions Barred

Under the TMFCA, a *qui tam* plaintiff cannot file a suit based on allegations in a civil suit or an administrative proceeding in which the state or any political subdivision is already a party.

A *qui tam* plaintiff cannot bring an action based on the public disclosure of allegations unless he or she is the original source, meaning the person has direct and independent knowledge of the information on which the allegations are based, voluntarily provided the information to the state or political subdivision before filing a civil action, and the information served as the catalyst for the investigation that led to the public disclosure. Public disclosure includes disclosure in an investigation, report, hearing, or audit conducted by or at the request of the general assembly, comptroller or the treasury, or governing body of a political subdivision, or by the news media.

Potential Award to *Qui Tam* Plaintiffs (§ 71-5-183)

If the State prosecutes a case initiated by a *qui tam* plaintiff and obtains an award or settlement, the *qui tam* plaintiff may receive between 15 and 25 percent of the recovery, although if the court determines that the case is based primarily on information other than the disclosures of the *qui tam* plaintiff, the courts may not award him or her more than 10 percent of the recovery.

If the State decides not to intervene and the *qui tam* plaintiff successfully litigates the action, he or she may receive between 25 and 30 percent of the recovery. Whether or not the State intervenes, the court may award the *qui tam* plaintiff reasonable expenses and attorney's fees and costs incurred during a successful civil action.

If the court finds that the *qui tam* plaintiff actively participated in the fraudulent activity upon which the civil suit was based, the court may reduce the *qui tam* plaintiff's share of the recovery to any amount the court considers appropriate. If the person is convicted of criminal conduct arising from the fraudulent activity, the court shall dismiss the person from the civil action and no share of the proceeds will be awarded.

If the State elects not to intervene and the defendant prevails in the suit, the court may, upon finding that the action brought by the *qui tam* plaintiff was frivolous, award the defendant reasonable attorney fees and expenses.

Whistleblower Protection (§ 71-5-183)

The TMFCA prohibits an employer from retaliating against an employee for his or her involvement in furtherance of action under the statute. Protected actions include initiating or participating in an investigation or civil suit under the law. An employee subject to discrimination in violation of the act may recover:

- Two times the amount of back pay plus interest;
- Reinstatement with the same seniority status that the employee would have had except for the discrimination; and
- Compensation for any special damage sustained as a result of the discrimination.

False Claims Procedures (§ 75-5-184)

Statute of Limitations

A civil suit must be brought by the latter of:

- (1) Six years after the date on which the violation was committed; or
- (2) Three years after the date when material facts were known or reasonably should have been known by the official responsible, but in no case more than 10 years after the violation was committed.

Burden of Proof

A party bringing a civil action under the TMFCA must prove all elements of the cause of action, including damages, by a preponderance of the evidence.

The Tennessee False Claims Act

False Claims (§ 4-18-103)

The following actions constitute violations under the Tennessee False Claims Act ("TFCA"):

- Knowingly presenting (or causing to be presented) a false claim for payment or approval;
- Knowingly making or using (or causing to be made or used) a false record or statement to get a false claim paid or approved;
- Conspiring to defraud the State by getting a false claim allowed or paid; and
- Knowingly delivering (or causing to be delivered) to the State less property than the amount for which receipt is received, when the person has possession, custody or control of public property or money;
- Knowingly making or delivery a receipt that falsely represents the property used (or to be used) when having the authorization to make or deliver a document certifying receipt of property use or to be used by the State;
- Knowingly buying or receiving as a pledge of an obligation or debt public property from any person who has no legal right to sell or pledge the property.
- Knowingly making or using (or causing to be made or used) a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the State;
- Benefiting from the inadvertent submission of a false claim having discovered the falsity of the claim and failing to disclose the false claim to the State within a reasonable time; or
- Knowingly making or using (or causing to be made or used) any false or fraudulent conduct, representation or practice to procure anything of value from the State.

Under the TFCA, a person may be liable for:

- A civil penalty \$2,500 to \$10,000 for each false claim;
- Three times the amount of damages that the State sustains as a result of the violation; and
- The costs of a civil suit for recovery of damages

The court may reduce the damages to two times the amount of damages sustained by the State and not impose a civil penalty if:

- The person committing the violation provided to the State all information known to the person within 30 days after the date of first obtaining the information;
- The person fully cooperated with the investigation of the violation; and
- No criminal prosecution, or civil or administrative action had been commenced at the time of the person's disclosure, and the person had no actual knowledge of an investigation into such violation.

The TFCA does not apply to controversies of less than \$500, workers' compensation claims, tax claims, or claims covered by the Medicaid False Claims Act.

Key Definitions (§ 4-18-102)

“Knowing” and “Knowingly” mean a person:

- Has actual knowledge of the information;
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information.
- No proof of specific intent to defraud is required.

“Claim” includes any request or demand for money or property made to the State (including those made under contract) or to a contractor, grantee, or other person, whether under contract or not, if any portion of the requested money or property is funded by or will be reimbursed by the State.

Civil Actions for False Claims (§ 4-18-104)

The Attorney General investigates and may bring a civil action for violations false claim violations of the TFCA.

Actions by Private Persons or *Qui Tam* Plaintiffs

An individual also may file a civil suit on behalf of the State and himself or herself. Actions must be brought in the name of the State, and a copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be sent to the State. The action must be filed under seal for 60 days while the State decides whether to intervene in the action. Once filed, no one other than the State may intervene or file a lawsuit based on the same facts, and the action only may be dismissed with the written consent of the court.

Rights of the Parties to *Qui Tam* Actions

If the State intervenes in a civil suit, it assumes responsibility for prosecuting the action and is not bound by the acts of the *qui tam* plaintiff. The *qui tam* plaintiff may continue as a party to the action, subject to certain limitations.

If the State does not intervene in the civil suit, the *qui tam* plaintiff still may proceed with the lawsuit, although the state or political subdivision may intervene later upon a showing of good cause. The State will not be liable for a *qui tam* plaintiff's costs incurred during the civil action.

Certain Actions Barred

Under the TFCA, a *qui tam* plaintiff cannot bring an action against a member of the general assembly, the state judiciary, an elected official in the state executive branch, or a member of the governing body or any political subdivision, if the action is based on evidence or information known to the state or political subdivision when the action is brought.

A *qui tam* plaintiff cannot file a suit based on allegations in a civil suit or an administrative proceeding in which the State already is a party.

A *qui tam* plaintiff cannot bring an action based on the public disclosure of allegations unless he or she is the “original source,” meaning the person has direct and independent knowledge of the information on which the allegations are based, has voluntarily provided the information to the state or political subdivision before filing a civil action, and the information served as the catalyst for the investigation that led to the public disclosure). Public disclosure includes disclosure in an investigation, report, hearing, or audit conducted by or at the request of the general assembly, comptroller or the treasury, or governing body of a political subdivision, or by the news media.

Potential Award for *Qui Tam* Plaintiffs

If the State intervenes in a civil action initiated by a *qui tam* plaintiff and obtains an award or settlement, the *qui tam* plaintiff may receive between 25 and 33 percent of the recovery. If the State does not intervene and the *qui tam* plaintiff successfully litigates the action, he or she may receive between 35 and 50 percent of the award or settlement. If the court finds that the *qui tam* plaintiff actively participated in the fraudulent activity upon which the civil suit was based, it may reduce his or her share of the recovery to an amount it considers appropriate. The court may award an amount to the *qui tam* plaintiff for reasonable expenses incurred in the litigation, including attorneys fees, if the action is successful.

If the defendant successfully defends a civil action brought by the State or a *qui tam* plaintiff and the court determines that the suit was frivolous, the court may award the defendant reasonable attorney fees and expenses.

Whistleblower Protection (§ 4-18-105)

The TFCA prohibits an employer from making, adopting or enforcing any rule or policy that prevent an employee from disclosing information in connection with or otherwise participating in a false claims action, including investigating, initiating, testifying or assisting in an action filed (or to be filed) under the TFCA. Employers also are prohibited from retaliating against an employee who discloses information or otherwise participates in a false claims action, including discharging, demoting, suspending, threatening, harassing or denying promotion to an employee.

An employee who suffers retaliation by an employer in violation of the TFCA may recover:

- Reinstatement with the same seniority status that the employee would have had except for the discrimination;
- Two times the amount of back pay plus interest;
- Compensation for any special damage sustained as a result of the discrimination;
- Punitive damages, where appropriate; and
- Litigation costs and attorney fees.

However, if an employee is subject to retaliation because of conduct that directly or indirectly resulted in the submission of a false claim, the employee may only receive such remedies if the employee (1) voluntarily disclosed information to a government or law enforcement agency or otherwise assisted in a false claims action; and (2) the employee was harassed, threatened with termination or demotion or otherwise coerced by the employer to engage in the fraudulent activity to begin with.

False Claims Procedures

Statute of Limitations

Under the TFCA, a civil suit must be brought within three years after the violation was discovered or should have been discovered, but no more than ten years after the violation was committed.

Fraud Detection and Prevention Policy & Procedure

Education concerning the Detection of Fraud, Waste and Abuse and False Claims Liability

PROVIDER / ORGANIZATION NAME	Page: 1 of 4	Date:	Revised/Reviewed Date:
Subject: Fraud Detection and Prevention	Approval:		
References: Deficit Reduction Act			

Purpose:

To provide guidelines for (Provider /Organization name) _____ to comply with state laws and regulations related to the avoidance, prevention, detection and response to healthcare fraud, waste and abuse.

Policy:

It is the policy of (Provider/Organization name) _____ to comply with federal and state laws and regulations related to the Deficit Reduction Act, False Claims Act, and Criminal Penalties for Acts Involving Federal Health Care Programs Act, and support Government initiatives to reduce healthcare fraud, waste and abuse.

Procedure:

(Name of office/organization) _____ cooperates with all state and federal agencies in the investigation of fraud, waste and abuse. Reportable fraud, waste and abuse include suspected fraud, waste and abuse in the administration of the TennCare program. Any suspected fraud and abuse will be reported to the Tennessee Bureau of Investigation Medicaid Fraud Control Unit and the Office of Inspector General. Any suspected fraudulent activity will be reported to any of the following:

- The Office of Inspector General website at: **www.oig.hhs.gov**.
- Report Special Needs Plan (SNP) fraud, waste and abuse to: 1-800-HHS-TIPS or (1-800-447-8477) or **HHSTips@oig.hhs.gov**.
- TennCare member and provider fraud, waste and abuse to the Office of Inspector General at: **<http://www.tn.gov/tenncare/fraud.shtml>** or 1-800-433-3982.
- Report fraud, waste and abuse to UHCCP at 1-800-690-1606.

Information about Fraud, Waste and Abuse and False Claims Laws

In 2005 Congress passed The Deficit Reduction Act (DRA), a piece of legislation that impacted many areas of American Government and commerce. The DRA included provisions that have an impact on Federal Health Care Programs. Federal Health Care Programs include: (1) Any plan, program or provider that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government; or (2) Any state health care program, as defined in section 1320a-7 (h) of this title. This office/organization falls under that definition.

The DRA changes that impacted Federal Health Care Programs became effective on January 1, 2007.

Because this office/organization is a provider for a Federal Health Care Program, (Name of office/organization) _____ is required to be compliant with several new requirements published by the legislation including whistleblower protections. Specifically, this office/organization will train all staff on the provisions of the False Claims Act.

Fraud, Waste and Abuse:

Definition:

- A. Claim: means any request or demand for money or property that
 - 1. Is presented to the federal Government or a contractor performing services for the federal Government.
 - 2. The federal Government will (or has) provided any portion of the money or property requested or demanded.
- B. Obligation: means an established duty arising from an express or implied contractual or licensure relationship, a statute or regulation, or from the retention of any overpayment.
- C. Material: means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.
- D. For purposes of the Deficit Reduction Act, a contractor or agent includes any contractor, subcontractor, or agent, or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the entity.

False Claims Act:

False Claims Act (Title 31, Section 3729)

- A. Liability for Certain Acts: Any person who—
 - Knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;

- Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
- Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government makes or delivers the receipt without completely knowing that the information on the receipt is true;
- Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or
- Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government;

Is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000 plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds that—

- The person committing the violation of this subsection furnished an official of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;
- Such person fully cooperated with any Government investigation of such violation; and at the time such person furnished the official of the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation;

The court may assess not more than 2 times the amount of damages that the Government sustains because of the act of the person. A person violating this section shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

Whistleblower Employee Protection Act

Whistleblower Employee Protection Act (31 U.S.C. Sec 3730(h)) prohibits a company from discharging, demoting, suspending, threatening, harassing, or discriminating against any employee because of lawful acts done by the employee on behalf of the employer or because the employee testifies or assists in an investigation of the employer.

Reporting and Investigation of potential fraud, waste or abuse:

- Employees are required to promptly report fraud, waste or abuse to the Ethics and Privacy Hotline at 1-888-293-3027.
- Ethics Hotline reports may be made anonymously and no adverse action or retribution of any kind will be taken against an employee because he or she reports a suspected violation. Employees self-reporting their own violations may still be subject to disciplinary proceedings to the extent of their personal involvement in the reported activity.
- Employees not in compliance with the Deficit Reduction Act and the False Claims Act and the company's related policies, may receive disciplinary action up to and including termination.

Investigating and Responding to Reported Concerns:

The Provider/ Organization _____ investigates suspected non-compliance and determines if there has been a violation. When misconduct is found, appropriate measures are taken which can include disciplinary action and or disclosing the violation to appropriate Government authorities, and/or legal action.

Training and Education

Associates receive an orientation in compliance upon hire. This training includes a compliance overview, a description of the Deficit Reduction Act, Fraud, Waste and Abuse and False Claims Laws, and Whistleblower protection. Each associate will attest to receiving training & education, and a copy of their signed attestation will be placed in the associate's file.

SAMPLE

Deficit Reduction Act – Training Attestation

As an employee of _____ I hereby attest that I have received training & guidelines to comply with federal and state laws and regulations related to the Deficit Reduction Act, False Claims Act, and Criminal Penalties for Acts Involving Federal Health Care Programs Act, and support government initiatives to reduce healthcare fraud, waste, and abuse.

Name _____ Date _____

Title _____

SAMPLE



Attestation of Compliance with Section 6032 of the Federal Deficit Reduction Act

Provider/Subcontractor: _____

Address: _____

FEIN: _____

I hereby attest that, as a condition for the above-identified Provider/Subcontractor to receive payments under the Tennessee Medicaid Program, I have read Section 6032 of the Deficit Reduction Act of 2005 (the Act) and confirm that:

- The Provider/Subcontractor’s written policies and procedures contain detailed information about the Federal laws identified in Section 6032(A) and about Tennessee laws imposing civil or criminal penalties for false claims and statements, and about whistleblower protections under such laws, including the Tennessee Medicaid False Claims Act and Tennessee Whistleblower Protection (§§71-5-181 through -183); and
- The Provider/Subcontractor’s written policies and procedures also contain detailed information regarding its own policies and procedures to detect and prevent fraud, waste and abuse in Federal health care programs; and
- The Provider/Subcontractor’s written policies and procedures are included in any employee handbook maintained by the Provider/Subcontractor; and
- The Provider/Subcontractor provides copies of these written policies to its employees (including management); or
- In the alternative, Provider/Subcontractor may distribute to its employees and abide by the UnitedHealth Group’s Integrity of Claims, Reports and Representations to Government Entities in lieu of its own policies and procedures.

The Provider/Subcontractor confirms that the Provider/Subcontractor includes those identified in Attachment A (if attached).

I possess all necessary powers and authority to execute and make the representations contained in the Attestation of Compliance on behalf of the Organization and any Entity/provider identified on Attachment A. By affixing my signature hereto, I am confirming that the statements made in this attestation are true and accurate to the best of my knowledge and belief.

Signature: _____

Print or Type Name: _____ Date: _____



Date: _____

Dear _____ :

On _____, a Compliance Checklist containing information regarding certain laws and regulations, including the Federal Deficit Reduction Act was reviewed with the above-identified Provider. At that time, MARCH® Vision Care identified opportunities for improvement in which the Provider could further demonstrate compliance with the Federal Deficit Reduction Act.

The selected items below should be addressed and documentation of such shall be available upon request.

- Provider has a policy on Federal False Claims Act including whistleblower protections
- If the Provider has an Employee Handbook; Provider included information in that Employee Handbook regarding the Federal False Claims Act, including whistleblower protections.
- Provider has educated its employees and has maintained proof of education regarding the Federal False Claims Act, including whistleblower protections.
- Other _____

The Provider is required to cure the above deficiencies and attest to such completion within 60 calendar days. The Provider shall give written certification of completion by executing and returning this document no later than _____.

Written Confirmation of Completion by Provider/Owner

I hereby attest that the identified issues have been resolved and necessary documentation is available for review. By affixing my signature hereto, I am confirming that the statements made in this attestation are true and accurate to the best of my knowledge and belief.

Signature: _____

Print or Type Name: _____ Date: _____

MARCH[®] Vision Care

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