

## CHAPTER 21 - FALSE CLAIMS ACT

REVISION DATE: 5/26/2017, 4/16/2014

EFFECTIVE DATE: March 29, 2013

REFERENCES: Public Law 101-12 (Whistleblower Protection Act), Public Law 109-171 (Deficit Reduction Act of 2005); 31 U.S.C. 3729-3733 (False Claims Act)

The Deficit Reduction Act of 2005 imposes the following requirements on any entity that receives or makes at least \$5,000,000 annually:

- A. Establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act (FCA) as established under Title 31 of United States Code, to include administrative remedies for false claims and statements, and any state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in federal health care programs.
- B. Provide detailed written policies and procedures for detecting and preventing fraud, waste and abuse.
- C. Include in any employee handbook for the entity, a specific discussion of the FCA and Whistleblower Protection Act, to include, the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste and abuse.

The FCA covers fraud involving any federally funded contract or program, with the exception of tax fraud. Liability for violating the FCA is equal to three times the dollar amount that the government is defrauded and civil penalties of \$5,500 to \$11,000 for each false claim.

An individual can receive an award for "blowing the whistle" under the FCA. In order to receive an award the person must file a "qui tam" lawsuit. An award is only issued if, and after, the government recovers money from the defendant as a result of the lawsuit.

The amount of the award is generally between 15 and 30 percent of the total amount recovered from the defendant, whether through a favorable judgment or settlement. The amount of the award depends, in part, upon the government's participation in the suit and the extent to which the person substantially contributed to the prosecution of the action.

The "whistle blower" is protected under the FCA. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the Act is entitled to any relief necessary to make the employee whole.

Any provider receiving at least \$5,000,000 in annual payments through the Division of Developmental Disabilities must establish written policies for all employees regarding fraud and the FCA requirements.