

## **CHAPTER 20 FRAUD, WASTE, AND ABUSE**

REVISION DATE: 7/31/2024, 3/9/2022, 10/1/2019, 4/8/2019, 5/26/2017,  
6/17/2016, 4/16/2014

REVIEW DATE: 10/18/2023

EFFECTIVE DATE: May 19, 2013

REFERENCES: 42 CFR 455.2; 42 CFR 455.101; A.R.S. § 35-214; A.R.S. § 36-551; Deficit Reduction Act (DRA) Public Law (PL) 109-171 Section 6032 [Section 1902(a)(68) of the Social Security Act, 42 CFR 457.1285, and 42 CFR 438.608(a)(6)]; Section 3730(h) of the False Claims Act; Whistleblower Protection Act (WPA) (5 U.S.C. § 2302(b)(8)); A.R.S. § 36-2918; A.R.S. § 36-2957

### **PURPOSE**

The purpose of this policy is to outline requirements for Qualified Vendors regarding prevention, detection, and reporting requirements for any and all suspected incidents of Fraud, Waste, and Abuse.

### **DEFINITIONS**

1. "Abuse" means Provider practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Medicaid program, or in reimbursement

for services that are not medically necessary or that fail to meet professionally recognized standards for health care including beneficiary practices that result in unnecessary cost to the Medicaid program as outlined in 42 CFR 455.2.

2. "Agent" means any person who has been delegated the authority to obligate or act on behalf of a Provider as specified in 42 CFR 455.101.
3. "Anonymous" means no identifying information about the reporter is known.
4. "Claim" means, under the False Claims Act (FCA), any request or demand, whether under contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States government provides any portion of the money or property which is requested or demanded, or if the government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

5. “Code of Federal Regulations (CFR)” means the general and permanent rules established in the Federal Register by the departments and agencies of the Federal Government.
6. “Detection” means the action or process of identifying the presence of something concealed.
7. “Fraud” means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in an unauthorized benefit to himself or another person including any act that constitutes Fraud under applicable Federal or state law, as defined in 42 CFR 455.2.
8. “Internal Audit Administration (IAA)” means a functional administration within the Department of Economic Security (DES), Office of Inspector General (OIG); Internal Audit Administration (IAA) conducts performance audits of agency systems and programs, and compliance audits of contractors to identify risk, recommend corrective actions to prevent or mitigate issues, recoup improper payments, and assess compliance with laws, regulations, and standards. The authority

to conduct audits of its contracts and subcontracts is derived directly from the Arizona Revised Statute A.R.S. § 35-214.

9. "Member" means the same as "Client" as defined in A.R.S. § 36-551.
10. "Prevention" means the action of stopping something from happening or arising.
11. "Provider" means an agency or individual operating under a contract or service agreement with the Department to provide services to Division Members.
12. "Waste" means overutilization or inappropriate utilization of services, misuse of resources, or practices that result in unnecessary costs to the Medicaid program.

## **POLICY**

### **A. PROVIDER REQUIREMENTS**

The Provider shall:

- a. Comply with the requirements of Section 6032 of the Deficit Reduction Act of 2005 (DRA) [Section 1902(a)(68) of the Social Security Act, 42 CFR 457.1285, and 42 CFR 438.608(a)(6)].

- b. Establish written policies and ensure adequate training and ongoing education for all of its employees (including management), Members, and any subcontractors and/or Agents of the Provider regarding the following:
  - i. Detailed information about the Federal False Claims Act,
  - ii. The administrative remedies for false claims and statements,
  - iii. Any State laws relating to civil or criminal liability or penalties for false claims and statements, and
  - iv. The whistleblower protections under such laws.
- c. Participate and comply with directives provided during Post-Payment Reviews and Program Integrity Audits conducted by DES - Internal Audit Administration (IAA).
- d. Report all suspected incidents of Fraud, Waste, and Abuse to the Division's Corporate Compliance Unit (CCU) within one business day of discovery.
- e. Report matters that involve potential violations of this policy.

**B. MECHANISMS FOR REPORTING FRAUD, WASTE, AND ABUSE**

The Provider shall:

- a. Report any and all suspected Fraud, Waste, and Abuse using following mechanisms:
  - i. DDD's Corporate Compliance Unit
    - a) FWA Hotline Phone: 1-877-822-5799.
    - b) Online:  
<https://des.az.gov/how-do-i/report-suspectedfraud/developmental-disabilities-fraud>
    - c) Email: [DDDFWA@azdes.gov](mailto:DDDFWA@azdes.gov), or
    - d) Write to:  
DES/DDD  
Attn: Corporate Compliance Unit  
1789 W. Jefferson St.  
Mail Drop 2HA1  
Phoenix, AZ 85007
  - ii. AHCCCS-OIG Fraud Prevention Unit
    - a) Phone: 602-417-4193
    - b) Online:  
<https://azahcccs.gov/Fraud/ReportFraud/onlineform.aspx>

- c) Provider Fraud:
  - In Arizona: 602-417-4045
  - Outside Arizona: 1-888-487-6686
- d) Member Fraud:
  - In Arizona: 602-417-4193
  - Outside Arizona: 1-888-487-6686
- e) General Questions:
  - Email: [AHCCCSFraud@azahcccs.gov](mailto:AHCCCSFraud@azahcccs.gov)
- b. Be aware that:
  - i. Reporting is Confidential and reporting individuals may remain Anonymous.
  - ii. To report anonymously, individuals may submit reports using the FWA Hotline and/or the online reporting form that does not require the reporter to leave identifying information.

## **SUPPLEMENTAL INFORMATION**

- A.** False Claims Act (FCA)" [also called "Lincoln Law"] is an American Federal law that imposes liability on persons and companies who defraud governmental programs. It is the Federal Government's

primary litigation tool in combating Fraud against the Government. It allows whistleblowers to sue persons or entities that are defrauding the Government to recover damages and penalties on the Government's behalf and receive a percentage of any recovery.

1. To receive awards for Whistleblowers, one must file a Qui Tam Lawsuit
2. The Whistleblower that files a False Claims Act suit may receive an award only if, and after, the Government recovers money from the defendant as a result of the lawsuit
3. Protection for Whistleblowers
  - a. Under Section 3730(h) of the False Claims Act, 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.
  - b. An employer cannot retaliate against you for exercising your rights under the Department of Labor's whistleblower protection laws. The Whistleblower Protection Act (WPA) (5



U.S.C. § 2302(b)(8)) protects Federal employees or applicants for Federal employment from retaliation for making protected disclosures.

**B.** Deficit Reduction Act (DRA) of 2005 is a United States Act of Congress concerning the budget that works to eliminate Fraud, Waste, and Abuse in Medicaid.

1. According to the Deficit Reduction Act (DRA) Public Law (PL) 109-171 Section 6032, any entity that receives or makes payments under a state plan totaling at least \$5 million annually is required to establish and distribute written policies and train all employees (including management, contractors, students, and agents) regarding the False Claims Act (FCA).