

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

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6 REFERENCES: 42 CFR 455.2; A.R.S. §§ ~~46-451~~ and ~~13-3623~~ 42 CFR  
7 455.101; A.R.S. § 35-214; A.R.S. § 36-551; Deficit Reduction Act (DRA)  
8 Public Law (PL) 109-171 Section 6032 [Section 1902(a)(68) of the Social  
9 Security Act, 42 CFR 457.1285, and 42 CFR 438.608(a)(6)]; Section  
10 3730(h) of the False Claims Act; Whistleblower Protection Act (WPA) (5  
11 U.S.C. § 2302(b)(8)); A.R.S. § 36-2918; A.R.S. § 36-2957

12 **PURPOSE**

13 ~~The Division of Developmental Disabilities (Division) is committed to the~~  
14 ~~prevention and detection of fraud, waste, and abuse. Providers are~~  
15 ~~responsible to administer internal controls to guard against fraud, waste,~~  
16 ~~and abuse (FWA). This policy defines FWA and describes procedures for the~~  
17 ~~prevention and detection of FWA, delineates reporting requirements for FWA,~~  
18 ~~describes provider training requirements for FWA, and specifies FWA policy~~  
19 ~~requirements for providers.~~

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

### 23 **DEFINITIONS**

24 1. "Abuse" means the ~~provider~~ Provider practices that are  
25 inconsistent with sound fiscal, business, or medical practices and  
26 result in an unnecessary cost to the Medicaid program, or in  
27 reimbursement for services ~~which~~ that are not medically  
28 necessary or that fail to meet professionally recognized  
29 standards for health care. ~~It also includes~~ including beneficiary  
30 practices that result in unnecessary cost to the Medicaid program  
31 as specified outlined in 42 CFR 455.2.

32 2. "Agent" means any person who has been delegated the authority  
33 to obligate or act on behalf of a Provider as specified in 42 CFR  
34 455.101.

35 3. "Anonymous" means no identifying information about the  
36 reporter is known.

37 ~~3- 4.~~ "Claim" means, Under under the False Claims Act (FCA), the  
38 definition of "claim" includes any request or demand, whether

39 under contract or otherwise, for money or property which is  
40 made to a contractor, grantee, or other recipient if the United  
41 States government provides any portion of the money or  
42 property which is requested or demanded, or if the government  
43 will reimburse such contractor, grantee, or other recipient for  
44 any portion of the money or property which is requested or  
45 demanded.

46 ~~2.~~ 5. "Code of Federal Regulations (CFR)" means the codification of  
47 the general and permanent rules ~~published~~ established in the  
48 Federal Register by the departments and agencies of the Federal  
49 Government.

50 ~~4.~~ "Deficit Reduction Act (DRA)" means the DRA of 2005 is a United  
51 States Act of Congress concerning the budget. It addresses  
52 deficit reductions ranging from education to housing and  
53 Medicare to Medicaid. In addition, any entity that receives or  
54 makes annual Medicaid payments, under the State plan, of at  
55 least \$5 million shall implement written policies for its  
56 employees, management, contractors, and agents regarding the  
57 FCA.

58        6. "Detection" means the action or process of identifying the  
59        presence of something concealed.

60        ~~5. "False Claims Act (FCA)" means the FCA, also called the "Lincoln~~  
61        ~~Law" is an American federal law that imposes liability on persons~~  
62        ~~and companies (typically federal contractors) who defraud~~  
63        ~~governmental programs. It is the Federal Government's primary~~  
64        ~~litigation tool in combating fraud against the Government. The~~  
65        ~~law includes a qui tam provision that allows people who are not~~  
66        ~~affiliated with the government, called "relators" under the law, to~~  
67        ~~file actions on behalf of the government (informally called~~  
68        ~~"whistleblowing" especially when the relator is employed by the~~  
69        ~~organization accused in the suit).~~

70        ~~6.~~ 7. "Fraud" means an intentional deception or misrepresentation  
71        made by a person with the knowledge that the deception could  
72        result in an unauthorized benefit to himself or another person. It  
73        includes including any act that constitutes fraud Fraud under  
74        applicable Federal or state law, as defined in (42 CFR 455.2).

75        ~~a. An act of fraud has been committed when a member or~~  
76        ~~provider:~~

- 77            ~~b. — Knowingly presents (or causes to be presented) to the~~  
78            ~~Federal Government a false or fraudulent claim for~~  
79            ~~payment.~~
- 80            ~~c. — Knowingly uses (or causes to be used) a false record or~~  
81            ~~statement to get a claim paid by the Federal Government.~~
- 82            ~~d. — Conspires with others to get a false or fraudulent claim~~  
83            ~~paid by the Federal Government.~~
- 84            ~~e. — Knowingly uses (or causes to be used) a false record or~~  
85            ~~statement to conceal, avoid, or decrease an obligation to~~  
86            ~~pay money to transmit property to the Federal~~  
87            ~~Government.~~
- 88            ~~7. 8.~~ “Internal Audit Administration (IAA)” means a functional  
89            administration within the Department of Economic Security  
90            (DES), Office of Inspector General (OIG); Internal Audit  
91            Administration (IAA) conducts performance audits of agency  
92            systems and programs, and compliance audits of contractors to  
93            identify risk, recommend corrective actions to prevent or  
94            mitigate issues, recoup improper payments, and assess  
95            compliance with laws, regulations, and standards. ~~In addition to~~

96 identifying factors inhibiting performance, IAA audits assist in  
97 evaluating the effectiveness of programs, activities, and  
98 functions; determining whether measures of program  
99 effectiveness are valid and reliable; and assessing whether  
100 management has considered alternatives that might increase the  
101 likelihood of achieving desired results or improve the efficiency  
102 or effectiveness of strategies and solutions. The authority to  
103 conduct audits of its contracts and subcontracts is derived  
104 directly from the Arizona Revised Statute A.R.S. § 35-214.

105 9. "Member" means the same as "Client" as defined in A.R.S. § 36-  
106 551.

107 10. "Prevention" means to keep something from happening. the  
108 action of stopping something from happening or arising.

109 9. 11. "Provider" means a person, entity or employee of an entity that  
110 subcontracts with the Division for the delivery of services to  
111 members. All providers shall meet the specific qualifications  
112 outlined in the Division's Policy Manuals. All providers of Arizona  
113 Long Term Care System (ALTCS) services shall be registered  
114 with the Arizona Health Care Cost System (AHCCCS). Health

115 ~~Plans under contract with the Division are responsible for~~  
116 ~~credentialing acute care providers. an agency or individual~~  
117 ~~operating under a contract or service agreement with the~~  
118 ~~Department to provide services to Division Members.~~

119 ~~10. 12. "Waste" means as defined by AHCCCS, the overutilization~~  
120 ~~of services, or other practices that, directly or indirectly, result in~~  
121 ~~unnecessary costs to the Medicaid program. Waste is generally~~  
122 ~~not considered to be caused by criminally negligent actions but~~  
123 ~~rather the misuses of resources. overutilization or inappropriate~~  
124 ~~utilization of services, misuse of resources, or practices that~~  
125 ~~result in unnecessary costs to the Medicaid program.~~

## 126 **POLICY**

### 127 **~~A. PREVENTION AND DETECTION~~**

128 ~~The Division is committed to fostering a culture of compliance which is~~  
129 ~~conducive to preventing and detecting fraud, waste, and abuse by~~  
130 ~~requiring its providers, agents, and subcontractors to~~  
131 ~~provide ongoing training to their employees, and to become~~  
132 ~~knowledgeable about their role in reporting concerns and problems in~~  
133 ~~relation to fraud, waste, and abuse.~~

134 ~~All providers, agents, and subcontractors are required to report any~~  
135 ~~concerns relating to potential fraud, waste, and abuse, including false~~  
136 ~~claims. This responsibility is intended to allow the Division to monitor~~  
137 ~~and do improvement planning pertaining to false claims processing or~~  
138 ~~other aspects of Corporate Compliance. Any provider, agent, or~~  
139 ~~subcontractor who fails to report properly either through their internal~~  
140 ~~lines of communication, the Division, or to AHCCCS-OIG, when that~~  
141 ~~person knows of conduct constituting a violation of the FCA or any~~  
142 ~~other related legal provision in the Division's Corporate Compliance~~  
143 ~~program, they will be subject to contract action.~~

144 ~~As part of the Division's Compliance Program objectives to detect,~~  
145 ~~prevent and remedy potential, incidents of fraud, waste, and abuse, it~~  
146 ~~is the policy of the Division that all providers, agents, and~~  
147 ~~subcontractors, in particular those involved in the provision of services~~  
148 ~~or arranging for the provision of services under government programs~~  
149 ~~including members and providers, to report matters which involve~~  
150 ~~potential violations of this policy. Reports may be made anonymously;~~  
151 ~~the person doing the reporting may request confidentiality and will be~~  
152 ~~protected from any retaliatory action.~~



153 **G. A. PROVIDER REQUIREMENTS**

154 The Provider shall:

155 a. Comply with the requirements of Section 6032 of the Deficit

156 Reduction Act of 2005 (DRA) [Section 1902(a)(68) of the Social

157 Security Act, 42 CFR 457.1285, and 42 CFR 438.608(a)(6)].

158 b. Establish written policies and ensure adequate training and

159 ongoing education for all of its employees (including

160 management), Members, and any subcontractors and/or Agents

161 of the Provider regarding the following:

162 ~~1. Training and Education~~

163 ~~As a condition for receiving payments, providers shall establish~~

164 ~~written policies, and ensure adequate training and ongoing~~

165 ~~education for all of its employees (including management),~~

166 ~~members, and any subcontractors and/or agents of the Provider~~

167 ~~regarding the following:~~

168 ~~a. i. Detailed information about the Federal False Claims Act,~~

169 ~~b. ii. The administrative remedies for false claims and~~

170 ~~statements,~~



189 a. ~~To report suspected fraud, waste, or abuse of the program, the~~  
190 ~~provider shall make contact with one of the following: Report~~  
191 ~~any and all suspected Fraud, Waste, and Abuse using following~~  
192 ~~mechanisms:~~

193 ~~1. i.~~ ~~DDD~~ DDD's Corporate Compliance Unit

194 ~~a.~~ a) FWA Hotline Phone: 1-877-822-5799.

195 ~~b.~~ b) Online:

196 <https://des.az.gov/how-do-i/report->

197 [suspectedfraud/developmental-disabilities-fraud](https://des.az.gov/how-do-i/report-suspectedfraud/developmental-disabilities-fraud)

198 ~~c.~~ c) Email: [DDDFWA@azdes.gov](mailto:DDDFWA@azdes.gov), or

199 ~~d.~~ d) ~~Or~~ Write to:

200 ~~e.~~ DES/DDD

201 Attn: Corporate Compliance Unit

202 1789 W. Jefferson ~~Street~~ St.

203 Mail Drop 2HA1

204 Phoenix, AZ 85007

205 ~~2. ii.~~ ~~AHCCCS-OIG~~ AHCCCS-OIG Fraud Prevention Unit

206 ~~a.~~ a) Phone: 602-417-4193

207 ~~b.~~ b) Online:

208 [https://azahcccs.gov/Fraud/ReportFraud/onlineform.](https://azahcccs.gov/Fraud/ReportFraud/onlineform.aspx)  
209 [aspx](https://azahcccs.gov/Fraud/ReportFraud/onlineform.aspx)

210 ~~3. c) Provider Fraud:~~

211 ~~a. Maricopa County In Arizona: 602-417-4045~~

212 ~~b. Outside Maricopa County Arizona: 1-888-487-~~  
213 ~~6686~~

214 ~~4. d) Member Fraud:~~

215 ~~a. Maricopa County In Arizona: 602-417-4193~~

216 ~~b. Outside Maricopa County Arizona: 1-888-487-~~  
217 ~~6686~~

218 ~~5. e) General Questions:~~

219 ~~a. Email: AHCCCSFraud@azahcccs.gov~~

220 b. Be aware that:

221 i. Reporting is Confidential and reporting individuals may  
222 remain Anonymous.

223 ii. To report anonymously, individuals may submit reports  
224 using the FWA Hotline and/or the online reporting form  
225 that does not require the reporter to leave identifying  
226 information.

227 **SUPPLEMENTAL INFORMATION**

228 **A.** False Claims Act (FCA) [also called "Lincoln Law"] is an American  
229 Federal law that imposes liability on persons and companies who  
230 defraud governmental programs. It is the Federal Government's  
231 primary litigation tool in combating Fraud against the Government. It  
232 allows whistleblowers to sue persons or entities that are defrauding  
233 the Government to recover damages and penalties on the  
234 Government's behalf and receive a percentage of any recovery.

235 1. To receive awards for Whistleblowers, one must file a Qui Tam  
236 Lawsuit

237 2. The Whistleblower that files a False Claims Act suit may receive  
238 an award only if, and after, the Government recovers money  
239 from the defendant as a result of the lawsuit

240 3. Protection for Whistleblowers

241 a. Under Section 3730(h) of the False Claims Act, any  
242 employee who is discharged, demoted, harassed, or  
243 otherwise discriminated against because of lawful acts by  
244 the employee in furtherance of an action under the Act is

245 entitled to any relief necessary to make the employee  
246 whole.

247 b. An employer cannot retaliate against you for exercising  
248 your rights under the Department of Labor's whistleblower  
249 protection laws. The Whistleblower Protection Act (WPA) (5  
250 U.S.C. § 2302(b)(8)) protects Federal employees or  
251 applicants for Federal employment from retaliation for  
252 making protected disclosures.

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

256 1. According to the Deficit Reduction Act (DRA) Public Law (PL)  
257 109-171 Section 6032, any entity that receives or makes  
258 payments under a state plan totaling at least \$5 million annually  
259 is required to establish and distribute written policies and train  
260 all employees (including management, contractors, students,  
261 and agents) regarding the False Claims Act (FCA).

262