

# **SOUTHERN HIGHLANDS COMMUNITY MENTAL HEALTH CENTER**

## **POLICY AND PROCEDURE MANUAL**

**Date of Issue: 10/2/07**

**Section Number 222**

**Date Revised: 11/15/11; 1/1/15; 8/12/16; 6/24/20**

### **Policy 222 – False Claims Act**

#### **I. POLICY**

It is the policy of Southern Highlands to provide its employees, agents, and contractors with information regarding the federal False Claims Act and the role of the law in preventing and detecting fraud, waste and abuse in federal health care programs.

#### **II. PURPOSE**

The purpose of this policy is to provide information to employees, contractors, and agents regarding the federal False Claims Act and similar laws in compliance with the Deficit Reduction Act of 2005, Section 6032, and confirm Southern Highlands' commitment to detect and prevent fraud, waste and abuse.

The primary purpose of the Federal False Claims Act is to combat fraud and abuse with regard to federal health care programs. The False Claims Act does this by making it possible for the federal government to bring legal action against health care providers who submit "false claims." The False Claims Act also permits lawsuits brought by individuals, typically employees or former employees, who have knowledge of fraudulent activities. These individuals are called "qui tam relators" or "whistleblowers."

#### **Knowledge Requirement**

Under the False Claims Act, "knowing," "knowingly," or "knowledge" means that the person or organization:

1. Has actual knowledge; or
2. Acts in deliberate ignorance of the truth or falsity of the information; or
3. Acts in reckless disregard of the truth or falsity of the information.

As it applies to Southern Highlands, an organization can be held liable under the False Claims Act if it knew, should have known, or disregarded information that indicated that a claim for payment of health care services to the federal government was false. Examples include, but are not limited to:

1. Submitting a claim for services that were not provided;

2. Submitting a claim for services that were not “medically necessary” under federal billing rules; and
3. Coding a service or a patient’s diagnosis as “more complex” than documentation supports in order to receive higher reimbursement.

Mistakes, which all individuals and organizations make, generally do not rise to a False Claims Act violation.

### **Potential Liability**

There are significant criminal and civil penalties for violating the False Claims Act. Under the statute, the federal government can assess a fine of penalties of between \$10,781.40 and \$21,562.80 per claim plus up to 3 times the total amount of damage sustained by the government depending on the circumstances. West Virginia has adopted a generally applicable Medicaid Fraud Control Act that makes it unlawful for a person or entity to submit false and fraudulent claims to the West Virginia Medicaid program. Violations of the Act are both civil and criminal offenses and are punishable by imprisonment and significant monetary penalties.

### **“Qui Tam” or “Whistleblower” Provisions**

“Whistleblowers” are generally employees or other persons who observe activities or behavior that may violate the law in some manner. These individuals report their observations either to management or to governmental agencies. To encourage these individuals to come forward and report possible misconduct involving false claims, the FCA includes a qui tam or whistleblower provision which essentially allows a person with actual first-hand knowledge of false claims activity to bring an action in federal court and have it referred to the government for handling. If the government is successful in recovering overpayments and/or penalties as a result of a whistleblower suit, the whistleblower is entitled to a percentage of the monies recovered by the government.

The FCA also protects employees from retaliation if they, in good faith, report fraud or abuse. It is the policy of Southern Highlands to not discharge, demote, suspend, threaten, harass, retaliate against, or discriminate against any employee as a result of the employee’s lawful acts in furtherance of a false claims action.

Fraud and abuse pertaining to the Deficit Reduction Act of 2005, may be reported to the West Virginia Department of Health and Human Resources general telephone number 1-304-558-1700, calling the Office of the Inspector General at 1-888-372-8398, or by visiting the WV Department of Health and Human Resources website: [https://www.wvdhhr.org/oig/mfcu/secure\\_report](https://www.wvdhhr.org/oig/mfcu/secure_report).

### **Procedure for Reporting Concerns Regarding Fraud, Abuse and False Claims**

Southern Highlands CMHC takes issues regarding false claims, fraud and abuse seriously. It is the fundamental policy of Southern Highlands to conduct business in compliance with all applicable laws and regulations of the United States and the State of West Virginia.

Southern Highlands is committed to ensuring that its billing and reimbursement procedures comply with all federal and state laws, regulations and guidelines. Accordingly, Southern Highlands' policy prohibits billing or submitting a claim for services that were not provided as stated, not medically necessary, known to be false, misleading or inaccurate. If these types of inaccuracies are discovered in bills or claims already submitted to the payor, the employee who discovered the inaccuracies must immediately report the issue to his/her supervisor, the Chief Compliance Officer, or Chief Executive Officer so that corrective action can be taken.

Employees must report known compliance issues or they will be subject to disciplinary action. Employees who report compliance issues in good faith will not be punished in any way for reporting the issue. An employee who attempts to retaliate against another employee for reporting a compliance issue in good faith will be subject to disciplinary action, including termination if appropriate. If an employee makes a false or misleading report related to a compliance issue, the employee will be subject to disciplinary action.

Southern Highlands encourages its employees, managers and contractors to report concerns to their immediate supervisor when appropriate. If the supervisor is not deemed to be the appropriate contact or if the supervisor fails to respond quickly and appropriately to the concern, then the individual with the concern is encouraged to discuss the situation with the SHCMHC Chief Compliance Officer or Human Resource Director.

Southern Highlands will train and review this policy annually with all staff.