



**2021**

# **False Claims Act Policies**

## **Absolute HCBS**

COMPANY WIDE

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2021 False Claims Act Policies



## False Claims Act

Absolute HCBS is required by law to establish certain policies and provide team members, agents, and contractors, with information regarding the following:

- the federal False Claims Act and similar state laws
- a team member's right to be protected as a whistleblower
- Absolute HCBS policies and procedures for detecting and preventing fraud, waste and abuse. This policy document supplements the Employee Handbook and all company policies, which contains information required by law under Section 6032 of the Deficit Reduction Act of 2005.

**What is the False Claims Act?** The federal False Claims Act (31 USC § 3729-33) helps the federal government combat fraud and recover losses resulting from fraud in Federal programs, such as Medicare and Medicaid. Violations of the False Claims Act can include "knowingly":

- submitting a false claim for payment
  - making or using a false record or statement to obtain payment for a false claim
  - conspiring to make a false claim or get one paid
  - making or using a false record to avoid payments owed to the U.S. Government.
- "Knowingly" means that a person: (1) has actual knowledge that the information is false; (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.
- Knowingly presenting (or causing to be presented) to the Federal Government a false or fraudulent claim for payment can constitute a violation of the False Claims Act ("FCA").
  - Knowingly using (or causing to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Federal Government can constitute a violation of the False Claims Act ("FCA").
  - Conspiring with others to get a false or fraudulent claim paid by the Federal Government can constitute a violation of the False Claims Act ("FCA").
  - The False Claims Act covers fraud involving any federally funded contract or program, with the exception of tax fraud.
  - The civil penalty for violating the FCA is three times the dollar amount that the Government is defrauded (i.e., treble damages) and civil penalties of \$5,500 to \$11,000 for each offense.
  - An individual can share in a percentage of a government recovery in an FCA action or settlement if they bring an action on behalf of the United States as a "qui tam relator."
  - The FCA protects these qui tam relators (sometimes called "whistleblowers") against discharge, demotion, harassment, or other discrimination by their employers as a result of the claims they make under the FCA.
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**Absolute HCBS Corporate Compliance Program**

- In order to show and deliver on our commitment to ethical behavior. Our Corporate Compliance Program includes the Absolute HCBS policies and procedures. The Corporate Policies and Procedures of Absolute HCBS are not limited to those that are described in this document, any training, education, auditing and monitoring, and opportunities for individuals to raise issues and concerns without fear of retaliation.
  - To exercise good faith and honesty in all dealings and transactions, as well as observe all laws and regulations that govern what we do, including requirements of Medicare, Medicaid and other federal health care programs.
  - Maintain complete and accurate medical records and submitting only complete and accurate claims for services provided.
  - Provide accurate and truthful information in all transactions.

**Resources.** Contact one of the following resources available within Absolute HCBS if you have any knowledge or concern regarding a potential false claim:

- Speak with your supervisor or another manager.
- If the manager is not available, or you are not comfortable speaking with him/her, or you believe the matter has not been adequately resolved, contact the Corporate Compliance Officer.
- If you want to report a concern anonymously, call the Absolute HCBS Corporate Compliance Hotline. The hotline is a confidential service available 24 hours a day, seven days a week. The hotline number is 480-650-2022

Absolute HCBS policy strictly prohibits retaliation, in any form, against any individual making a report, complaint, or inquiry in good faith. Retaliation is subject to discipline, up to and including dismissal from employment or termination of the business relationship with Absolute HCBS.

**Examples of potential false claims include:**

- Billing for services that were not provided.
- Billing for services that were provided, but were not medically necessary.
- Submitting inaccurate or misleading claims about the type of services provided.
- Making false statements to obtain payment for products or services.

The False Claims Act contains provisions that allow individuals with original information concerning fraud involving government programs to file a lawsuit on behalf of the government. If the lawsuit is successful, the individual may be eligible to receive a portion of the recoveries received by the government.

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**Penalties.** Penalties for violating the federal False Claims Act are significant. Financial penalties for submitting a false claim can total as much as three times the amount of the claim, plus fines of \$5,500 to \$11,000 per claim.

**State of Arizona Anti-Fraud Statutes:**

**Ariz. Rev. Stat. § 36-2918(B):** Prohibited acts; penalties; subpoena power.

- A claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed. A claim for a medical or other item or service that the person knows or has reason to know is false or fraudulent.

**Ariz. Rev. Stat. § 36-2918.01:** All contractors, subcontracted providers of care and non-contracting providers shall notify the director or the director's designee immediately in a written report of any cases of suspected fraud or abuse. The director shall review the report and conduct a preliminary investigation to determine if there is sufficient basis to warrant a full investigation. If the findings of a preliminary investigation give the director reason to believe that an incident of fraud or abuse has occurred, the matter shall be referred to the attorney general.

Any person making a complaint or furnishing a report, information or records in good faith pursuant to this section is immune from any civil liability by reason of that action unless that person has been charged with or is suspected of the fraud or abuse reported.

Any contractor, subcontracted provider of care or noncontracting provider who fails to report pursuant to this section commits an act of unprofessional conduct and is subject to disciplinary action by the appropriate professional regulatory board or department.

**Rights of Team Members.** Team members are to be Protected as Whistleblowers Under the False Claims Act. The federal False Claims Act protects team members from retaliation if they, in good faith, report fraud. Team members are protected against retaliation such as being fired, demoted, threatened or harassed as a result of filing a False Claims Act lawsuit. A team member who suffers retaliation can sue, and may receive up to twice their back pay, plus interest, reinstatement at the seniority level they would have had if not for the retaliation, and compensation for their costs or damages.

Please contact the Corporate Compliance Officer (Kim Aguirre) if you have any questions regarding the False Claims Act or the Corporate Compliance Program. Thank you for your ongoing commitment to ethical behavior.

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### **Ethical Principles**

- All team members are encouraged often and reminded to uphold integrity & ethical behavior irregardless of "status", "position", and or "title", to include providers, vendors, community partners, and or business partners with Absolute HCBS. This includes further ethical policies as follow:
  - To exercise good faith and honesty in all dealings and transactions, as well as observe all laws and regulations that govern what we do, including requirements of Medicare, Medicaid and other federal health care programs.
  - Maintain complete and accurate medical records and submitting only complete and accurate claims for services provided.
  - Provide accurate and truthful information in all transactions.

### **Policies and Procedures for Detecting and Preventing Fraud, Waste and Abuse.**

Absolute HCBS is committed to fully comply with all laws and regulations. As a company, Absolute HCBS encourages all team members to uphold ethical behavior and integrity in all that they do and undertake. Here are steps of policies and procedures that outline Absolute HCBS full transparency and disclosure, for detecting and preventing fraud, waste and abuse:

#### **Internal Controls**

- Absolute HCBS is committed to complying with all laws and regulations. As such, modeling and living out ethical behavior is a key value of our company. Absolute HCBS policies and procedures for detecting and preventing fraud, waste and abuse include internal controls which include, but not limited to cash management, segregation of duties, stewardship, and controls designed to detect and hold accountable all team members within our company to high ethical, legal, and standards thereof. Our internal controls focus on the collection, accountability, and dissemination of information which includes, yet not limited to the following information:
  - Cash Receipts
  - Cash Disbursements
  - Petty Cash
  - Payroll
  - Fixed Assets
  - Financial Statements
  - Approval Methodologies
  - Segregation of Duties
  - State and Federal Regulations

The information included in the Internal Controls Checklist is collected and submitted monthly to the office of the Chief Financial Officer. This allows for a gauge of the compliance and check and balances of policies and procedures for detecting and preventing fraud, waste and abuse.

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