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 Chief Compliance Officer
 Document Area Administrative
 Applicability Blessing Health System
 Categories RepTrax

False Claims - Deficit Reduction Act of 2005

Policy Statement:

Employees, contractors and agents will be educated about false claims, false statements and whistleblower protections under applicable Federal and State fraud laws and procedures for detecting and preventing fraud, waste and abuse of government healthcare programs. Each year, training will be provided to employees. Training is made available for contractors and agents on the organization's website.

Scope:

X	Blessing Corporate Services ("BCS")		Current Health Solutions ("CHS")
	Blessing Foundation	X	Denman Services ("Denman")
X	Blessing Hospital ("BH")	X	Hannibal Clinic ("HC")
X	Blessing Physician Services ("BPS")	X	Illini Community Hospital ("Illini")
	Crossriver Quality Health Partners ("CQHP")	X	Rivercross Diagnostics

Definitions:

Abuse: Incidents or practices of providers that are inconsistent with accepted sound medical, business or fiscal practices. Abuse may, directly or indirectly, result in unnecessary costs to the Medicare program. Abuse involves payment for items or services when there is no legal entitlement to that payment, and the provider has not knowingly and intentionally misrepresented the facts to obtain payment. Examples of abuse are:

- Excessive charges for services or supplies
- Claims for services that are not medically necessary
- Breach of the Medicare participation or assignment agreements
- Improper billing practices:
 - Exceeding the limiting charge
 - Billing Medicare at a higher rate than non-Medicare patients
 - Submitting claims to Medicare when Medicare is not the primary insurer

Claim: Any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property that is (1) presented directly to the United State or (2) to a contractor, grantee or other recipient if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and the Government provides or reimburses any portion of the requested funds.

Fraud: The intentional deception or misrepresentation that an individual makes knowing it to be false, resulting in unauthorized benefits to oneself or some other person. Examples of fraud are:

- Billing for services not rendered
- Altering claims to obtain a higher reimbursement, i.e. up-coding
- Reporting fraudulent diagnoses or dates of service
- Soliciting, offering or receiving a kickback, bribe or rebate
- Waiving coinsurance and/or deductible requirements
- Unbundling services, i.e. laboratory services
- Using another person's Medicare card to obtain medical care
- Attempting to obtain reimbursement for non-covered services
- Anti-kickback liability
- Retention of overpayments

Knowing and Knowingly: Means that a person with respect to information has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information or acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

Procedure:

1. Detecting and preventing fraud and abuse at BCS entities.

All BCS entities seek to ensure full compliance with all federal and state statutes and regulations.

 - a. Entity Responsibilities:

Maintain a comprehensive compliance program to detect, prevent and control fraud and abuse inclusive of the following elements:

 - i. Written policies and procedures in place that articulate a commitment to comply with all applicable Federal and State standards.

- ii. Code of Conduct/ethics that clearly states the expectation of employees and the consequences for not complying.
 - iii. Develop policies that address the organization's response to day-to-day risks to help reduce the risk of fraud and abuse.
 - iv. Appoint a Compliance Officer and Committee to provide oversight to the Compliance program.
 - v. Provide training and education related to fraud and abuse risk areas.
 - vi. Develop effective lines of communication between the Compliance Officer and the organization's employees, contractors, agents, directors, and members of the Compliance Committee.
 - vii. Create and implement a plan for effective internal monitoring and auditing.
 - viii. Maintain and follow a policy for responding to detected offenses and corrective action plans.
 - ix. BCS absolutely prohibits any retaliation against an employee who makes a good faith report of a compliance issue.
 - x. To investigate all complaints in a prompt and thorough manner.
- b. Employee Responsibilities:
- i. Employees are expected to follow all regulatory requirements and entity policies inclusive of the corporate Code of Conduct.
 - ii. Each employee must report all actual or suspected compliance issues.
 - iii. Employees who observe situations of actual or suspected non-compliance must submit verbal or written compliance issues in the following manner:
 - 1. to an employee's Department Director or Manager; or
 - 2. directly to the Corporate Compliance Officer; or
 - 3. through an Occurrence Report; or
 - 4. through the Employee "Questions and Answer" box.
 - iv. If the Department Director or Manager receives a compliance issue, they should immediately report the issue to the Compliance Officer for follow-up.
- c. Management Responsibilities:
- i. All Managers must communicate the importance of compliance to every employee and actively promote adherence to the Compliance Program.
 - ii. Managers must foster open communication concerning compliance issues and must answer all staff questions or obtain an answer for concerns raised by employees. Employees should feel free to voice their concerns and or raise potential compliance issues without fear of retaliation.
 - iii. All Managers are responsible to follow the mandates of the Compliance Program.

- iv. Managers have an affirmative duty to fully understand the Compliance Program and to ask any and all questions necessary to clarify their obligations and the obligations of their employees. No Manager will be excused based on a claim of ignorance or good intentions.
- v. Managers are equally accountable for their own actions as well as the actions of their employees. Each Manager must ensure that his or her staff receives adequate compliance education, that an atmosphere encouraging compliance and fostering the reporting of non-compliance exists.
- vi. The assistance of the Corporate Compliance Officer is sought whenever necessary.

2. The Federal False Claims Act

The False Claims Act is a federal statute that covers fraud involving federally funded programs inclusive of Medicare and Medicaid.

Section 3729 - False Claims

The False Claims Act states any person who:

- a. Knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the U.S, a false or fraudulent claim for payment or approval.
- b. Knowingly makes, uses or causes to be made or used, a false or fraudulent claim paid or approved by the Government.
- c. Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid.
- d. Has possession, custody, or control of property or money used, or to be used, by the Government and intending to defraud the Government or willfully conceals the property, delivery or causes to be delivered, less property than the amount for which the person receives a certificate or receipt.
- e. Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true.
- f. Knowingly buys or receives as a pledge of an obligation or debt, public property from an officer or employee of the government, or a member of the Armed Forces, who lawfully may not sell or pledge the property.
- g. Knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim or an obligation to pay money to the Government.
- h. Engaging in a conspiracy to defraud by the improper submission of a false claim.
- i. Concealing, improperly avoiding or decreasing an obligation to pay money to the government has submitted a false claim.

The liability for such an act to the U.S. Government is a civil penalty of not less than \$5000 and not more than \$10,000 per claim, plus 3 times the amount of damages which the Government sustains because of the act of that person, except that if the court finds:

- a. That the person committing the violation furnished officials of the U.S. Government responsible for investigating false claims violations with all the information known to such person about the violation within 30 days after the date on which the defendant first obtained the information
- b. Such person fully cooperated with any Government investigation of such violation; or
- c. At the time such person furnished the U.S. Government with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation; the court may assess not less than 2 times the amount of damages which the Government sustains. A person violating this act shall also be liable for the losses of a civil action brought to recover any such penalty or damages.

Section 3730 – Civil Actions for False Claims

Actions by private persons. A person may bring civil action for a violation for the person and for the U.S. Government. This action is brought in the name of the Federal Government and may be dismissed only if the court and the Attorney General give written consent to the dismissal and the reasons for consulting.

A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be provided to the Government. The Government may elect to intervene and proceed with the action within 60 days after it receives the complaint and evidence. The defendant is not required to respond to the complaint until 20 days after the complaint is unsealed and served to the defendant.

Before the expiration of the 60-day period or any extension received, the Government shall:

1. proceed with the action; or
2. notify the court that it declines to take over the action, in which case the person bringing the actions shall have the right to conduct the action; or
3. when a person brings an action, no other person other than the Government, may intervene or bring a related action based on the facts underlying one pending action.

Section 3730 – Rights of the parties to *qui tam* actions

1. If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action subject to the limitations set forth in paragraph (2).
2. The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.
3. The Government may settle the action with the defendant notwithstanding the objections of

the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all circumstances. Upon a showing of good cause, such hearing may be held in camera.

4. Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:
 - a. limiting the number of witnesses the person may call;
 - b. limiting the length of the testimony of such witnesses;
 - c. limiting the person's cross-examination of witnesses; or
 - d. otherwise limiting the participation by the person in the litigation.
5. Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.
6. If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.
7. Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted on camera. The court may extend the 60-day period upon a further showing on camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.
8. Notwithstanding subsection (b), the Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the preceding sentence, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

Section 3730 – Rights of the parties to *qui tam* actions (continued)

Award to *qui tam* plaintiff:

1. If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorney's fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.
2. If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out for such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.
3. Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of Section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.
4. If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, vexatious or brought primarily for purposes of harassment.

Certain actions barred-Whistleblower Protections

Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any

special damages sustained as a result of discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

Section 3731 – False Claims Procedure

1. A subpoena requiring the attendance of a witness at a trial or hearing under Section 3731 may be served at any place in the U.S.
2. A civil action **may not** be brought:
 - a. More than 6 years after the date on which the violation was committed on; or
 - b. More than 3 years after the date when facts material to the right of actions are known or should have been known by the U.S. with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation occurred whichever occurs last.
3. The U.S. shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

Section 3732 – False Claims Jurisdiction

1. Actions may be brought in any judicial district in which the defendant, or in one case of multiple defendants, any one defendant can be found, resides, transacts business, or by where the act occurred.
2. The district courts have jurisdiction over any actions brought under the laws of any state.

Section 3733 – Civil Investigative Demands

1. Whenever the Attorney General has reason to believe that any person may be in possession, custody or control of any documentary material or information relevant to a false claims law investigation, the Attorney General may issue in writing and cause to be served upon such person, a civil investigative demand requiring such person to:
 - a. produce such documentary material for inspection and copying; or
 - b. to answer in writing, written interrogation with respect to such documentary material or information; or
 - c. to give oral testimony concerning such documentary material or testimony; or
 - d. to furnish any combination of such materials, answers or testimony.

The laws address protected material or information thru the State of Illinois False Claims Act -"Illinois Whistleblower Reward and Protection Act".

The State law pertaining to civil or criminal penalties for false claims and statements and whistleblower protection mirror the Federal law, and addresses the interests of the State of Illinois.

Reference(s):

Section 1902 (a) Social Security Act (42 USC. 1396(a)) False Claims Act
Section 3729-3733 of title 31, Chapter 27, Chapter 38 of Title 31; Illinois

Whistleblower Reward & Protection Act.
 Fraud Enforcement and Recovery Act of 2009
 Patient Protection and Affordable Care Act

All Revision Dates

03/2023, 03/2019, 01/2007

Approval Signatures

Step Description	Approver	Date
	Megan Parks: DOCUMENT CONTROL COORDINATOR	03/2023
BCS Corporate Leadership Council	Holly Jones: VP/ ADMINISTRATOR-ILLINI COMMUNITY HOSPITAL	03/2023
BCS Corporate Leadership Council	Susan Long: CHIEF OPERATING OFFICER-DSI	03/2023
BCS Corporate Leadership Council	Pamela Stuart: CHIEF COMPLIANCE OFFICER	03/2023
BCS Corporate Leadership Council	Brian Canfield: PRESIDENT BH/ COO	03/2023
BCS Corporate Leadership Council	Maureen Kahn: BCS PRES-CEO	03/2023
BCS Corporate Leadership Council	Lea Ann Eickelschulte: CHIEF TECHNOLOGY OFFICER	03/2023
BCS Corporate Leadership Council	Pat Gerveler: EVP/CHIEF FINANCIAL OFFICER	03/2023
	Megan Parks: DOCUMENT CONTROL COORDINATOR	03/2023
	Pamela Stuart: CHIEF COMPLIANCE OFFICER	02/2023