

SECTION XII: Fraud, Waste and Abuse

FRAUD AND ABUSE

Arizona Revised Statute ARS 36-2918.01 requires providers to immediately report suspected fraud and abuse. Members or providers who intentionally deceive or misrepresent in order to obtain a financial gain or benefit they are not entitled to must be reported to the health plan's corporate compliance officer.

It is imperative that our providers continue to partner with us to ensure that the reported millions of dollars lost to Medicaid fraud and abuse does not originate with Arizona providers. Members and providers who act fraudulently hurt honest providers and exhaust limited resources available to serve those in need.

Examples of member fraud might include use of someone else's member ID card or failure to report other insurance. An example of provider fraud might include billing for services not provided, billing for a level of service not provided, or miscoding a claim to obtain reimbursement exceeding what a provider is entitled to.

To report fraud and abuse you may complete the fraud and abuse referral form available on the Care1st web site (www.care1st.com/az) or the form available on the AHCCCS website (www.azahcccs.gov). You may report any incidents involving non-Care1st members to AHCCCS at 602.417.4045 or by fax 602.417.4102. or visit <http://www.azahcccs.gov/DRA/Default.aspx>.

You may contact Care1st via the following:

Care1st Health Plan Arizona
Attention: Compliance Department
2355 E. Camelback, Ste. 300
Phoenix, AZ 85016
Phone: 602.778.1800 x 8318 or
1.877. 837.6057

Please remember to have as much information about the matter being reported as possible. You may remain anonymous if you choose to.

DEFICIT REDUCTION ACT

Care1st providers are required to train their staff on the following aspects of the Federal False Claims Act provisions:

- The False Claims Act, Including Examples of False Claims and Remedies
- Federal Whistleblower Protections

SECTION XII: Fraud, Waste and Abuse

- AHCCCS - Prohibited Acts and Remedies

FEDERAL FALSE CLAIMS ACT

Allows a civil action to be brought against any person or entity who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid;
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid;
- 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 to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
- Authorizes 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;
- Knowingly buys, or receives as a pledge of an obligation or debt, public property from a federal employee, who lawfully may not sell or pledge the property; or
- Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government (31 USC sec. 3729).

EXAMPLES OF A FALSE CLAIM

- Billing for procedures not performed
- Violation of another law, for example a claim was submitted appropriately but the service was the result of an illegal relationship between a physician and the hospital (physician received kick-backs for referrals)
- Falsifying information in the medical record or in a claim

SECTION XII: Fraud, Waste and Abuse

- Improper bundling or coding of charges, and
- Misrepresentation by a member or provider to seek benefits provided by Care1st or other Medicaid or Medicare contractor/health plan.

REMEDIES

- Violation of the False Claims Act is punishable by a civil penalty of not less than \$5,500 and not more than \$11,000, plus 3 times the amount of damages that the Government sustains because of the violation
- A federal false claims action may be brought by the U.S Attorney General
- An individual also may bring what is called a qui tam action for violation of the False Claims Act. This means the individual files a civil action on behalf of the government
- An individual who files a qui tam action receives an award only if, and after, the Government recovers money from the defendant as a result of the lawsuit. Generally, the court may award the individual between 15 and 30 percent of the total recovery from the defendant, whether through a favorable judgment or settlement. The amount of the award depends, in part, upon the Government's participation in the suit and the extent to which the individual substantially contributed to the prosecution of the action
- A statute of limitations provides the amount of time that may pass before an action may no longer be brought for violation of the law. Under the False Claims Act, the statute of limitations is six years after the date of violation or three years after the date when material facts are known or should have been known by the government, but no later than ten years after the date on which the violation was committed

FEDERAL 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 the False Claims Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under the False Claims Act, 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, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the

SECTION XII: Fraud, Waste and Abuse

discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for such relief. (31 USC 3730(h))

AHCCCS- PROHIBITED ACTS

Prohibits the presentation to AHCCCS or a Program Contractor, such as Care1st, the following:

- 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;
- A claim for payment that the person knows or has reason to know may not be made by the system because:
 - a. The person was terminated or suspended from participation in the program on the date for which the claim is being made.
 - b. The item or service claimed is substantially in excess of the needs of the individual or of a quality that fails to meet professionally recognized standards of health care.
 - c. The patient was not a member on the date for which the claim is being made.
- A claim for a physician's service or an item or service incidental to a physician's service, by a person who knows or has reason to know that the individual who furnished or supervised the furnishing of the service:
 - a. Was not licensed as a physician.
 - b. Obtained the license through a misrepresentation of material fact.
 - c. Represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board if the individual was not certified.
- A request for payment that the person knows or has reason to know is in violation of an agreement between the person and the State of Arizona or AHCCCS.

SECTION XII: Fraud, Waste and Abuse

REMEDIES

A person who violates one of the provisions above is subject, in addition to any other penalties that may be prescribed by federal or state law, to a civil penalty not to exceed two thousand dollars for each item or service claimed and is subject to an assessment of not to exceed twice the amount claimed for each item or service.