

ALTERNATIVE HOME CARE SPECIALISTS, INC.

Policy & Procedure Preventing, Detecting and Reporting Fraud & Abuse Federal & State False Claims Acts

Policy Statement: The following policy enacted by Alternative Home Care Specialists, Inc. (AHCS) is intended to educate all employees and managers on preventing, detecting and reporting fraud and abuse, as is required by federal and state laws and regulations. All employees and managers are required to adhere to this policy and conduct themselves in an ethical manner while conducting all business activity.

Medicaid Fraud & Abuse – Federal & State False Claims Acts

Definitions:

- **Fraud** is defined as an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law.
- **Abuse** is defined as provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program.

Source: 42 CFR 455.2 - Definitions

Federal & State False Claims Acts prohibit fraud and abuse involving any federally funded contract or program, with the exception of tax fraud.

Federal and State False Claims Acts Prohibit:

- Knowingly presenting a false or fraudulent claim for payment or approval.
- Knowingly engaging in misrepresentation to obtain, or attempt to obtain, payment from medical assistance programs.
- Knowingly making, using, or causing a false record to conceal, avoid, or decrease an obligation to pay or transmit money or property to a medical assistance program.
- Conspiring with others to defraud the medical assistance programs through misrepresentation or by obtaining payment for a false or fraudulent claim.
- Knowingly submitting a claim for services or supplies which were medically unnecessary or which were of substandard quality.

Practical Examples of Fraud & Abuse:

- Documenting hours worked other than actual hours and/or billing for services not rendered.
- Employees and/or consumers signing timesheets with the knowledge that the hours worked are not correct.
- Writing a note placing a consumer at a location other than the location where the service was rendered.
- Completing time sheets and service logs in advance or after providing the service. All service logs must be completed in real time. Late entries must be indicated as such.
- Knowingly working more hours than allowed in the CPOC.

- Participating in kickbacks.
- Billing for unnecessary services.
- Knowingly providing inaccurate data on a cost report.

Responsibility to Report:

- All employees and contractors are required to report suspected or confirmed fraud immediately to a manager. AHCS management will investigate and take the proper actions per this policy to investigate and report to the proper authorities all fraud and abuse.

Whistleblower Protections:

- All employees that report suspected or confirmed fraud will be kept anonymous and are protected as **whistleblowers**.
 - Whistleblowers cannot be discharged, demoted, suspended, threatened, harassed or discriminated against in any manner.
 - Whistleblowers may bring civil suit on behalf of the government for violations of Federal and State False Claims Acts. The government will choose whether or not to intervene in the case. If successful, the private citizen may be eligible to receive a portion of the funds recovered. If the civil suit is determined to be frivolous or brought primarily for harassment, the whistleblower may be forced to pay all court fees.

Education of Employees:

The following procedures are in place to educate employees and management about fraud:

- Initial Training: All employees are trained on policy & procedure (which includes fraud & abuse) during initial orientation, which occurs prior to placement with a consumer.
- Annual Training: All employees are trained on policy & procedure (which includes fraud & abuse) as a condition of continued employment.
- Website: AHCS policy and procedure for fraud & abuse can be viewed by all employees 24/7 at www.althomecare.com.

Procedures to Detect and Prevent Fraud and Abuse:

- All time sheets are verified by both the employee & the consumer (or consumer's representative).
- All service logs (notes) are matched to the corresponding timesheet. Discrepancies are investigated prior to the employee being paid for the time worked and before the service is billed to Medicaid.
- Payroll Department checks for overlapping shifts. Furthermore, our billing software will not allow an internal overlap in billing.
- When Case Managers make regular home visits (weekly, monthly or quarterly), they ensure that timesheets and service logs are not completed in advance.
- If at any time fraud is suspected, an unannounced drop-in visit is made to the consumer's home.
- Management investigates all reports of fraud & abuse immediately and the appropriate actions are taken in accordance with this policy.

Consequences for Committing Fraud:

- Immediate termination of employment.
- Arrest & prosecution by authorities.
- Penalties & Fines.
 - Federal – Three times the defrauded amount AND civil penalties not less than \$5,500 and not more than \$11,000 for each offense.
 - State – The amount defrauded AND civil penalties not to exceed \$10,000 or three times the defrauded amount, whichever is greater.
- Employee is reported to professional boards.
- Loss of certification or license (DSW, CNA, LPN, RN)
- Fraud is reported to Medicaid.
- Exclusion from any Medicaid business for a minimum of 5 (five) years.
- Each violation may be treated as a separate violation or may be combined into one violation.
- The court will seek recovery costs from persons convicted of violating Federal and State False Claims Acts.

Administrative Remedies:

The False Claims Act establishes administrative remedies to be taken against any person who knows or has reason to know that a **claim**:

- Is false, fictitious or fraudulent.
- Includes supporting documentation that is false, fictitious or fraudulent.
- Omits a material fact and is therefore fraudulent as a result of omission.
- Is for payment of property or services which has not been provided as claimed.

A civil penalty of not more than \$5,000 is allowed for each claim found to be false, fictitious or fraudulent, and in lieu of damages, may be subject to an assessment of not more than twice the amount of the false, fictitious or fraudulent claim. This penalty is in addition to other remedies that may be prescribed by law.

The False Claims Act establishes administrative remedies to be taken against any person who knows or has reason to know that a **written statement**:

- Asserts a material fact that is false, fictitious or fraudulent.
- Omits a material fact and is therefore fraudulent as a result of omission.

In the event that the statement is made by a person with a duty to include such information and contains an express certification of the truthfulness and accuracy of the statement, the person shall be subject to a civil penalty of \$5,000 for each statement, in addition to any other remedies prescribed by law.

In the event that there is adequate evidence to believe a person is in violation of the False Claims Act or a determination is made that a person is liable for being in violation, this may provide grounds for commencing of administrative remedies (as mentioned above) and contractual action against any such person.

AHCS Action Taken Once Fraud is Confirmed:

- Employee is terminated and reported to Medicaid.
- If Medicaid has been billed for the fraudulent act, AHCS immediately notifies Medicaid and completes the proper paperwork for the funds to be recouped.

Sources: Federal False Claims Act – False Claims Act Resource Center <https://www.falseclaimsact.com>
Louisiana False Claims Act – False Claims Act Recourse Center <https://www.falseclaimsact.com>
Common Types of Fraud – False Claims Act Resource Center <https://www.falseclaimsact.com>
31 U.S. Code § 3802 - False claims and statements; liability <http://www.law.cornell.edu/uscode/text/31/3802>