

# Compliance

## **Honesty & Confidentiality: Beyond Compliance to Better Results**

### ***Overview***

“Doing the right thing” has always been important to Washington Medical Equipment. For our clients, of course, the “right thing” means providing the highest quality of care we can give. Carefully complying with the laws and regulations that govern our work is part of that care. This is a legal commitment, yes, but more importantly, an ethical one.

Our many policies and procedures are designed to help us do the right thing and stay true to our mission. We have also created a Compliance Program to help employees in their personal responsibility to uphold the company’s commitments to its clients, its employees, its payors, and all who govern our work.

### ***Clients Rights***

Washington Medical Equipment respects our clients’ rights to the confidentiality of their personal health information. Our *Privacy Notice* describes these rights and provides information about reporting concerns and issues regarding our services.

### ***Employee Responsibilities***

All employees are expected to:

- Act in accordance with the laws, regulations, and standards that govern our work
- Promptly report any situation or activity that may violate the law to an immediate supervisor, the Compliance Officer, Vice President, or President
- Help detect and deter any compliance violations by Washington Medical Equipment employees or subcontractors that could potentially expose the company to civil or criminal liability and damage its financial status, business relationships, or reputation
- Attend annual Corporate Compliance Training and Review

Employees who fail to comply with the law or who fail to report suspected violations may be disciplined.

### ***The Federal Deficit Reduction Act, 2005, Section 6033:***

Provides that any entity that receives or makes annual payments under the State plan of at least \$5,000,000, as a condition of receiving such payments shall:

- a) Establish written policies for all employees of the entity, and or any contractor or agent of the entity that provide detailed information about the False Claims Act

- b) Include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and
- c) Include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph A, the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse

### ***The Federal False Claims Act***

In an effort to eliminate fraud with respect to government funds, the government has an arsenal of laws at its disposal. One such law is the False Claims Act. This act makes it illegal for any person to knowingly present or cause to be presented to an officer or employee of the government a false or fraudulent claims for payment or approval or make, use, or cause to make or use, a false record or statement to get a false or fraudulent claim paid or approved by the government. The Act defines knowingly to mean:

- a) That a person has actual knowledge of the information
- b) Acts in deliberate ignorance of the truth or falsity of the information
- c) Recklessly disregards the truth or falsity of the information

The act applies to false or fraudulent claims submitted to the Medicare program and, because it is partially federally funded, the Medicaid Program. This would include, for example, false statements or Regional Center's cost reports, MDSs, and billing statements. It would also apply to false or fraudulent documentation in connection with requests for payment under a waiver program, and it would apply to falsification of the chart of a Medicare or Medicaid beneficiary in order to obtain or justify payment from a government program.

An action for violation of the act may be brought by the government or a private citizen on behalf of the government. Penalties for violations of the act include damage of up to three times the amount of the false claim submitted, plus a civil penalty of between \$5,500 and \$11,000 for each false claim. Criminal penalties may also be imposed upon individuals who submit false claims.

The act contains a provision that protects employees who lawfully report false claims from retaliation.

### ***The Federal Program Fraud Civil Remedies Act***

In addition to the False Claims Act, the government may utilize the Program Fraud Civil Remedies Act, a law that allows the Department of Health and Human Services and other Federal agencies to impose an administrative penalty upon individuals and entities who submit such a claim or series of claims with a value of less than \$150,000. That law makes it unlawful for a person to submit such claims that the person knows or has reason to know:

- a) Are false, fictitious, or fraudulent
- b) Include or are supported by any written statement that is materially false, fictitious, or fraudulent

- c) Include or are supported by any written statement that omits a material fact, is false, fictitious, or fraudulent as a result of such omission, and is a statement that the person submitted the statement has duty to include
- d) Is payment for the provision of property or services that the person has not provided as claimed

Similarly, the submission of false, fictitious, or fraudulent statements to a government agency will violate the act if the statement is accompanied by an express certification of its truthfulness. Penalties for violation of the act are up to \$5,500 per false claim or statement.

### ***Pennsylvania Fraud and Abuse Act***

Pennsylvania law also prohibits the submission of false claims and statements, but it is limited to claims for Medical Assistance. In accordance with this act, no employee may:

- a) Knowingly or intentionally present for allowance or payment any false or fraudulent claim or cost report for furnishing services or merchandise under Medical Assistance, or knowingly submit false information, for the purpose of obtaining greater compensation than that to which the Regional Center is legally entitled for furnishing services or merchandise under the medical Assistance, or knowingly submit false information for the purpose of obtaining authorization for furnishing services or merchandise under Medical Assistance
- b) Submit a duplicate claim for services, supplies, or equipment for which the provider has already received or claimed reimbursement from any source
- c) Submit a claim for services, supplies, or equipment which was not rendered to a recipient
- d) Submit a claim for services, supplies, or equipment which includes costs or charges not related to such services, supplies, or equipment rendered to the recipient
- e) Submit a claim or refer a recipient to another provider by referral, order or prescriptions, for services, supplies, or equipment which are not documented in the records in the prescribed manner and are of little or no benefit to the recipient, are below the accepted medical treatment standards, or are unneeded by the recipient
- f) Submit a claim which misrepresents the description of services, supplies, or equipment dispensed or provided; the dates of services; the identity of the recipient; the identity of the attending, prescribing, or referring practitioner; or the identity of the actual provider
- g) Submit a claim for reimbursement for a service, charge, or item at a fee or charge which is higher than the provider's usual and customary charge to the general public for the same service or item
- h) Submit a claim for a service which was not rendered by the provider

Unlike the federal laws described above, the Pennsylvania law has both criminal and civil penalties. If convicted, there are criminal penalties for each violation of up to seven (7) years in prison and a fine of up to \$15,000. However, if the violator has previously been convicted of violation of any state or federal law based upon conduct that would have violated any of Pennsylvania's provisions as described above, each subsequent violation of Pennsylvania's law will carry a penalty of up to 10 years in prison and a fine of up to \$25,000. In addition, if convicted, a provider must repay any amounts received on account of false claims plus interest at

the legal maximum rate and pay an additional amount equal to three times the amount received on account of false claims.

A conviction will also result in exclusion from the Medical Assistance Program for five (5) years. Notice of such a conviction will be forwarded to the Medicaid Fraud Control Unit of the Department of Justice.

In addition to the criminal penalties described above, Pennsylvania allows the Department of Public Welfare to immediately terminate a provider's agreement with the DPW and institute a civil action claiming two (2) times the amount received in account of false claims if it determines that a provider had violated any of the provision described above.

If a provider's medical assistance participation is terminated as described above, whether through a criminal proceeding or action of DPW, that provider is prohibited from owning, arranging for, rendering, or ordering any services or Medical Assistance recipients. Moreover, the provider may not receive any medical assistance funds, whether directly or in the form of salary, shared fees, contracts, or otherwise from or through a participating provider.

### ***Pennsylvania Insurance Fraud***

The Pennsylvania Insurance Fraud law makes it a criminal offense to knowingly submit any false, incomplete or misleading information concerning any material fact to an insurer or self-insured. If a claim is made by computer billing or other electronic means, there is a presumption that the "knowingly" requirement as been proven. Additionally, the law provides that a provider's knowledge of a potential violation without further action may trigger another provision of the law that makes it an offense to be an owner, administrator, or employee of a health care facility and knowingly allow the use of the facility by a person who is engaged in violating the law.

### ***Pennsylvania Whistleblower Protections***

The Pennsylvania Whistleblower Law (4d P.S. §§ 1421-1428) provides protection from discrimination and retaliation to any person who witnesses or has evidence of wrongdoing or waste while employed by a public body (e.g., state, county or city agency, department, division or council, etc.) and who makes a good faith report of the wrongdoing or waste, verbally or in writing, to one of the person's superiors, to an agent of the employer or to an appropriate authority. No employer may discharge, threaten, or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee, or a person acting on behalf of the employee, makes a good faith report or is about to report, verbally or in writing, to the employer or appropriate authority an instance of wrongdoing or waste.

### ***The Compliance Program Team***

Although all employees participate in our Compliance Program, there is also a specially appointed Corporate Compliance Officer. This person works with many staff members and a Compliance Committee to help identify and resolve compliance questions. The current members of this committee are:

Corporate Compliance Officer: Brandon J. Rae  
Director of Operations  
Compliance Committee: Ross Bevevino – President  
Gerard O’Hare – Vice President

In the event a member of board needs to be recused from Compliance Investigation, an outside consultant will be retained.

## ***General Questions About Our Compliance Program***

The Compliance Officer and Compliance Team are available for general questions about our Compliance Program or compliance issues. We will respond promptly to your inquiries. You may send them by email to [compliance@washingtonmedical.net](mailto:compliance@washingtonmedical.net)

## ***Making Reports and Inquiries – Clients***

For compliance questions on a particular policy, practice or procedure, we encourage our clients to contact the Director of the office providing service for clarification. If you are not satisfied with the results, you can:

- Contact the Compliance Officer directly by calling 1-877-464-6635
- You may access the Compliance Officer anonymously

After receiving a report, the Compliance Officer will take reasonable steps to respond appropriately.

## ***Making Reports and Inquiries – Employees***

For compliance questions on a particular policy, practice, or procedure, we encourage employees to go to their supervisors for clarification. If you have concerns about the appropriateness of your own actions or the actions of another employee, you can:

- Contact the Compliance Officer directly by calling 1-877-464-6635
- Access the Compliance email anonymously

After receiving a report, the Compliance Officer will take reasonable steps to respond appropriately.

If the employee or client believes the Compliance Officer is at fault, report should be directed to a member of the Compliance Committee.

## ***Compliance Reports***

Phone 1-877-464-6635

Email Address: [compliance@washingtonmedical.net](mailto:compliance@washingtonmedical.net)

Web Site Address (General information):washingtonmedical.net.

Mailing Address: Washington Medical Equipment  
1100 West Chestnut Street  
Washington, PA 15301  
Attention: Compliance Officer

For concerns related to client safety or quality of care, you may use the above reporting mechanisms or contact A.C.H.C. at 919-785-1214.

### ***Washington Medical Equipment Commitment***

Washington Medical Equipment will continue to provide clients and employees with information about our Compliance Program. We share the responsibility to further our compliance objectives, monitor compliance, and report suspected violations.