



# The Deficit Reduction Act (DRA), 2005

Public Law 109-171:

Works to eliminate fraud, waste and abuse in Medicaid.

# Written Policies

Section 6032 requires any entity that receives or makes payments to the State Medicaid Program of at least \$5,000,000 annually, to provide Federal False Claims Act education to their employees.



# False Claims Act (FCA)

- The False Claims Act, also known as the “Lincoln Law,” dates back to the Civil War.
- The False Claims Act is an American federal law that imposes liability on persons and companies who defraud governmental programs.
- It is the federal Government's primary litigation tool in combating fraud against the Government.
- It allows whistleblowers to sue persons or entities that are defrauding the government to recover damages and penalties on the government's behalf and receive a percentage of any recovery.

# Activities Covered by the FCA

In general, the False Claims Act covers fraud involving any federally funded contract or program, with the exception of tax fraud.

Some examples of fraud include:

- Kickbacks
- Billing for services not provided
- Illegal or inaccurate pricing
- Billing for unnecessary drugs, procedures, devices, or medical equipment
- Upcoding
- Unbundling

# Liability of Violating the FCA



The FCA provided that any person who knowingly submitted false claims to the government was liable for three times the dollar amount that the Government is defrauded (i.e., treble damages) and civil penalties of \$11,803 to \$23,607 for each false claim.

# Awards for Whistleblowers

- You must file a qui tam lawsuit. Merely informing the government about the False Claims Act violation is not enough.
- The whistleblower that files a False Claims Act suit may receive an award only if, and after, the Government recovers money from the defendant as a result of the lawsuit.



# Blowing the Whistle

## Percentage of Awards in Qui Tam Suits

Rewards for Medicare and Medicaid fall under the False Claims Act. Those who report False Claims violations may be eligible for a reward of between 15 and 30 percent of what the government obtains.

The amount of the reward depends, in part, upon:

- If the government participates in the suit and the extent to which the person substantially contributed to the prosecution of the action



# Protection for Whistleblowers



- Under Section 3730(h) of the False Claims Act, any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the Act is entitled to any relief necessary to make the employee whole.
- An employer cannot retaliate against you for exercising your rights under the Department of Labor's whistleblower protection laws. The Whistleblower Protection Act (WPA) (5 U.S.C. § 2302(b)(8)) protects Federal employees or applicants for Federal employment from retaliation for making protected disclosures.



# Arizona Revised Statutes (ARS)

- ARS 13-1802: Theft
- ARS 13-2002: Forgery
- ARS 13-2310: Fraudulent schemes and artifices
- ARS 13-2311: Fraudulent schemes and practices; willful concealment
- ARS 36-2918: Prohibited Acts



# Each Organization Should Be Able To

Provide detailed written information and training to all employees, management, contractors, agents, and students regarding:

- FCA and FWA
- Qui Tam provisions and protections
- Civil and criminal penalties
- False claims, records, and statements
- Conspiring to commit fraud
- FWA prevention
- Anonymous hotline/reporting system

# Notification of DRA Audit Selection

According to the Deficit Reduction Act (DRA) Public Law (PL) 109-171 Section 6032, any entity that receives or makes payments under a state plan totaling at least \$5 million annually is required to establish and distribute written policies and train all employees (including management, contractors, students, and agents) regarding the False Claims Act (FCA).

In order to ensure compliance, entities meeting the above criteria are randomly selected for a compliance audit. These audits are conducted by AHCCCS, Office of Inspector General (OIG).

For Further Information Please Contact:

## **General Questions**

Contact: OIG Administrative Assistant (602) 417-4193

## **Fraud Reporting**

Contact: (602) 417-4193

## **General AHCCCS Information**

Contact: (602) 417-4000