



Compliance Program: Code of Conduct

This is a supplement to The Opportunity Alliance's (TOA) Employee Handbook for employees who work in Maine. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Maine false claims laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Maine laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Maine's Medicaid program for services or goods not provided;
- Billing Maine's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Maine's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Maine's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks or rebates;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

Civil and Criminal Penalties for False Claims or Statements

A violation of these laws may result in restitution of improper payments plus interest and a civil penalty of up to \$2,000 for each false claim or \$2,000 per each false document submitted to support a false claim, whichever is greatest, and three times the amount of the wrongful payment, plus attorney fees and expenses to pursue reimbursement, as well as suspension or termination from the Medicaid program. In addition, any person who violates these laws may be guilty of crimes punishable by imprisonment for up to six months and a fine of up to \$10,000 for corporations or \$1,000 for individuals.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Maine law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.



No Retaliation

Similar to Federal law and TOA policy, the Maine Whistleblowers Protection Act prohibits public and private employers from retaliating against any employee who discloses, in good faith, a violation of any federal, state, or local law, rule, regulation or ordinance, any deviation in the standard of care, or suspected patient abuse or neglect. Maine's laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

This whistleblower protection, unlike the other laws, requires an employee to notify his/her employer of the suspected violation, condition or practice before disclosing it to a government agency or to law enforcement. The purpose of this particular requirement is to give the employer a reasonable opportunity to address the violation.

This notice requirement under the Maine whistleblower law does not apply to reports of suspected patient or resident abuse, neglect or exploitation that employees are required to report under other applicable laws.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of TOA's Code of Conduct or regulatory violation, or (2) refused to violate TOA's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See TOA's Dispute Resolution Process in the Employee Handbook for information on reporting concerns.

Copies of Maine Laws

The Maine laws summarized above include: (1) False claims laws, Me. Rev. Stat. Ann. Tit. 22, §§ 13 & 15; and (3) Whistleblowers' Protection Act (private and public employees), Me. Rev. Stat. Ann. Tit. 26, §§ 831-840.

This summary and others are also posted on TOA's external web site, www.opportunityalliance.org, and on the intranet under the Continuous Quality Improvement page.