



DeKalb Medical

Vendor Information
On
Our Compliance Program



DeKalb Medical

Compliance Program Information for Vendors

Table of Contents

	<u>Page</u>
I. PURPOSE AND INTRODUCCION	1
II. CODE OF CONDUCT: ETHICAL BEHAVIOR	3
III. KEY ELEMENTS OF THE COMPLIANCE PROGRAM	
a. Structure and People	5
b. Conflict of Interest: Employee/Vendor	5
c. Contracting with Sanctioned Individuals	6
d. False Claims Prevention	7
e. Referrals and Kickbacks	7
f. Monitoring and Auditing	8
g. HIPAA Compliance	8
h. Reporting	9
IV. CONCLUSION	10

I. PURPOSE AND INTRODUCTION

DeKalb Regional Health System, Inc. and its subsidiaries (“DeKalb Medical”) are committed to serving as the leader in the delivery of health care services to residents of DeKalb County, Georgia and its surrounding areas. To achieve this goal, the organization and its staff are committed to conducting its business and patient care practices in an honest, proper and legal manner in all areas. This includes, but is not limited to its activities in marketing, admission, transfer, discharge, billing practices, and in relationships with vendors, other providers, educational institutions, and payors. With this commitment to conducting its activities in an ethical manner, DeKalb Medical is committed to selecting contractors, vendors and suppliers that embody the same commitment to ethical behavior.

In line with this commitment, DeKalb Medical has developed and implemented a Corporate Compliance Program consisting of a number of related policies and procedures, including a Code of Conduct for Ethical Behavior. The Corporate Compliance Program includes the following key elements:

1. Established compliance standards and procedures, which reflect a culture of integrity and are reasonably capable of preventing and detecting violations of law or standards of conduct;
2. DeKalb Medical leadership, including its governing body, will be knowledgeable about the content and exercise reasonable oversight over the operation of the Corporate Compliance Program and will assign specific individual(s) the overall responsibility, authority and resources to implement the Corporate Compliance Program, including regular reporting to the governing body, or its delegate, on the implementation and effectiveness of the Program;
3. DeKalb Medical will use due care not to delegate substantial authority to or do business with individuals whom DeKalb Medical knew or should have known had a likelihood to engage in illegal activities;
4. DeKalb Medical will take reasonable steps to communicate its standards and procedures to all employees, contractors and agents and will establish needed training programs;
5. DeKalb Medical will take reasonable steps to achieve compliance with its standards by: (i) periodically evaluating the effectiveness of the Program; (ii) utilizing monitoring and auditing systems; and (iii) implementing a reporting system to allow employees, contractors and agents to confidentially report and, as appropriate, anonymously report, without fear of retaliation, matters not in compliance with the Corporate Compliance Program;
6. DeKalb Medical will consistently promote and enforce its standards through the use of both appropriate incentives to perform in accordance with the Program requirements and appropriate disciplinary guidelines and procedures in response to instances of non-compliance;

7. DeKalb Medical will take reasonable steps to respond appropriately to any reports of non-compliance and to prevent further similar incidents from occurring in the future.

DeKalb Medical expects and requires that all of its administration, managers, employees, agents and contractors to understand the Corporate Compliance Program. These individuals are expected to help DeKalb Medical develop and foster a culture of compliance within the organization. DeKalb Medical considers its suppliers and vendors to be a key component to implementing the Program. Accordingly, DeKalb Medical expects its suppliers and vendors to reflect the same commitment to honest, ethical behavior. DeKalb Medical's contractors, vendors and suppliers must become familiar with the following information about, agree to cooperate with DeKalb Medical in its compliance efforts, and abide by the elements of the Corporate Compliance Program.

II. CODE OF CONDUCT

The DeKalb Medical Code of Conduct embodies the standards and behaviors that DeKalb Medical expects all of its employees to demonstrate while carrying out their responsibilities. The Code of Conduct is intended to establish those standards and behaviors that DeKalb Medical expects all of its employees to demonstrate.

Accordingly:

To meet the needs of patients and their families, all DeKalb Medical staff will commit to:

1. Engage in interactions which reflect a spirit of trust, respect, integrity compassion and a genuine commitment to listen and respond to their needs.
2. Provide value to the purchasers of health care services through prudent management of resources and documentation of quality care.
3. Respect and honor the inherent dignity of each individual we serve.
4. Remain sensitive to and appreciative of the ethnic, cultural and lifestyle diversity of patients and their families.
5. Ascertain and honor the wishes, concerns, priorities and values of patients and their families.
6. Support, affirm, and empower legally authorized individuals as caregivers when it is in the best interest of the patient.
7. Provide an environment of healing by acknowledging and responding with sensitivity to the interruption of privacy that is necessitated by care.
8. Respect and protect the confidentiality of patients and families.
9. Provide quality services in a timely manner to all who qualify, regardless of third part coverage or ability to pay.

DeKalb Medical will act honestly, truthfully, and fairly to all concerned by:

1. Fully disclosing to patient and families information regarding rights and responsibilities, cost, services, admission, discharge, transfer, and complaint/grievance processes.
2. Informing patients and families of the availability of the ethics committee as a resource for resolution of conflicts.
3. Being truthful and accurate in public advertising and information dissemination
4. Making and accepting referrals in the best interest of the patients
5. Refraining from any activities giving rise to a conflict of interest including receiving inappropriate gifts of value or monetary compensation.
6. Making every effort to honor the intent of benefactors or donors
7. Assuring that services are not compromised to an unacceptable quality for financial reasons.

DeKalb Medical will maintain the most appropriate level of skill and expertise of the staff and volunteers required to deliver quality care through:

1. Recruiting, selecting, orienting, educating, and evaluating each staff member and volunteer in the delivery of care.
2. Remaining sensitive to and appreciative of the ethnic, cultural, religious, and life-style diversity of staff and volunteers.
3. Supporting, affirming, and empowering the staff and volunteers in the delivery of care
4. Recognizing the stresses inherent in health care service and providing access to ongoing support mechanisms for all staff and volunteers.

Each employee of DeKalb Medical, from the Chief Executive Officer down, has the responsibility of being educated on the Code of Conduct and must guide his or her behaviors in accordance with the Code. Each employee must demonstrate his knowledge of the Code on a yearly basis through education and training. When in doubt if something is in line with the requirements of the Code, an employee should seek advice from his or her manager or supervisor or the DeKalb Medical Corporate Compliance Officer. DeKalb Medical expects its contractors, vendors and suppliers to follow the same standards of behavior in the conduct of their business.

III. KEY ELEMENTS OF THE COMPLIANCE PROGRAM

a. Structure and People

As described above, the DeKalb Medical Corporate Compliance Program is a program consisting of a number of related policies and procedures, including the Code of Conduct for Ethical Behavior. As authorized by the Board of Directors, the Corporate Compliance Program is directed by a Corporate Compliance Officer, who reports directly to the Chairman of the Board of Directors and Chief Executive Officer of DeKalb Medical. The Corporate Compliance Officer is assisted by an appointed Board Audit and Compliance Committee, which consists of a cross-section of DeKalb Medical Board members and senior managers. In addition, DeKalb Medical has established a Compliance Task Force consisting of employee members across the organization and a Coding Advisory Council as a subset of the Compliance Task Force to address billing and coding related issues.

DeKalb Medical's Corporate Compliance Officer is Lynne Anderson, Vice President of Compliance and Support Services. She can be reached at (404) 501-5810.

b. Conflict of Interest: Employee/Vendor

DeKalb Medical believes in buying and selling products and services based on business decisions made on the basis of merit by comparing and evaluating price, quality, performance and suitability. Employees and agents involved in purchasing decisions for DeKalb Medical, or in marketing its services to others have a responsibility to be objective and independent in their decision-making process. Employees in the organization's purchasing or selling functions are encouraged to become acquainted with the conduct standards of those entities with which business is transacted, in order to avoid placing the other party in a compromising or questionable situation.

Personal gifts or favors such as wine, food, and flowers that could influence (or appear to influence) purchasing or selling decisions should not be given to, nor received from, vendors or purchasers. However, the distribution or exchange of gifts, tokens, favors, or entertainment is acceptable if the items exchanged are of nominal value and given or accepted with the understanding that they do not imply the return of a favor or purchase of materials, goods or services. Vendor-sponsored meetings that have a predominant business purpose including travel, accommodations, meals and entertainment are acceptable as long as they are not extravagant and there is a clear business purpose for the trip. Ordinary courtesies associated with business meetings or business discussions including meals, sporting events, and golf outings are also acceptable as long as they are not lavish and extravagant. It is never allowable to accept cash or a cash equivalent from a vendor, supplier, or customer. Cash equivalents include checks, money orders and vouchers. It is a good idea to check with individual supervisor about the expectations of the organization related to gifts or attending an event.

If an employee is unsure about accepting such gifts or attendance at events or travel plans then they definitely should ask their supervisor or the appropriate Vice President, Human Resources or the Chief Compliance Officer. When employees are not sure about accepting gifts and are unable to ask the above persons then they should politely decline the offer. Giving or receiving any payment which qualifies in form as a bribe or kickback is strictly prohibited. Personal or private business relationships may be conducted with a vendor or purchaser only when doing so: (i) does not involve special price offerings that are not normally offered to the general public and (ii) does not impair the objectivity of either party in transacting business for DeKalb Medical.

A financial conflict of interest may arise when an employee, agent, or family member has a significant financial interest in a competitor, supplier, or contractor. Financial interests subject to conflict of interest guidelines also include ownership or purchase of property being purchased or sold, respectively, by DeKalb Medical. Personnel and business decisions must be made objectively and free of personal and family considerations. No employee or agent should be involved in a business decision, which directly involves a member of their immediate family. Employees and agents should reasonably separate close personal relationships from personnel decisions made for DeKalb Medical -- i.e, supervision, job assignment, compensation, and promotion. DeKalb Medical's property, confidential information, or unpaid services should not be offered to the general public or to a competitor without prior approval. Former employees of DeKalb Medical now working with vendors, competitors, or other entities must receive no special or favorable treatment when they are representing the other party. Nor should any information that is not known by the general public be provided to former employees.

c. Contracting with Sanctioned Individuals

DeKalb Medical shall not contract with any individual or group who has been convicted of a criminal offense related to health care. Nor shall DeKalb Medical enter into a contract with an individual or organization who is listed by a federal government agency as being debarred, excluded or otherwise ineligible to participate in federally-funded health care programs, such as Medicare, Medicaid, and Champus. An individual or organization currently contracting with DeKalb Medical and facing pending resolution of a criminal charge or proposed exclusion must be temporarily removed from any direct responsibility or involvement in any federally-funded program in which DeKalb Medical participates. If the pending resolution results in conviction, debarment or exclusion of the individual or association by the government, DeKalb Medical will immediately cease contracting with the convicted individual or organization.

Contracts with contractors, vendors and suppliers must include a clause similar to the following:

[CONTRACTOR] warrants that neither it nor any of its employees have been convicted, or will be convicted during the term of this contract, of a criminal offense related to health care or been listed now or at any point during the term of this contract as debarred, excluded, or otherwise ineligible for participation in a federal health care program. [CONTRACTOR] will notify DeKalb Medical if [CONTRACTOR] becomes aware that

it or any of its employees have been excluded or is otherwise ineligible for participation in a federal health care program. In the event that [CONTRACTOR] is convicted of a criminal offense related to health care, becomes debarred, excluded or otherwise ineligible for participation in a federal health care program, DeKalb Medical shall have the right to immediately terminate this contract. In the event that an employee of [CONTRACTOR] is convicted of a criminal offense related to health care, becomes debarred, excluded or otherwise ineligible for participation in a federal health care program, [CONTRACTOR] shall immediately remove such individual from providing any product or service to DeKalb Medical and if [CONTRACTOR] fails to take such action, DeKalb Medical shall have the right to immediately terminate this contract.

d. False Claims Prevention

DeKalb Medical is committed to complying with the standards of conduct established by the federal False Claims Act, 31 U.S.C. § 3729, et seq.; and (2) state Medicaid plan amendments promulgated to comply with Section 6032 (Employee Education About False Claims Recovery) of the Deficit Reduction Act of 2005 (“DRA”). A summary of relevant federal and state laws is attached as Exhibit A. In line with that commitment, no employee may:

1. Submit a claim for reimbursement to the government which the employee knows to be false through actual knowledge or reckless disregard or deliberate ignorance of the truth.
2. Deliver less property or money to the government than the amount for which the employee is given a receipt.
3. Deliver a certified receipt for property used or to be used by the government without completely knowing that the information on the receipt is true.
4. Buy or receive public property from an officer or employee of the government or a member of the armed forces who is not authorized by law to sell the property.
5. Make a false record or statement that hides, avoids, or decreases the company’s obligation to pay money, convey property, provide services, or account for them to the government.
6. Require the payment of money or other value in addition to or in excess of the rates established by law.
7. Solicit or accept a return in any form from anyone of part of the amount paid or claimed to be payable to the hospital by the government.
8. Solicit or accept a benefit, whether financial or otherwise, in connection with goods or services paid for or claimed to be payable by the government
9. Destroy, or fail to maintain, records required to be maintained after a claim is submitted or payment received.

e. Referrals and Kickbacks

It is the policy of DeKalb Medical to comply with the Federal “Anti-Kickback Statute” (42 U.S.C. §1320a-7b) Accordingly, the organization and its employees will not willfully and knowingly receive, offer or solicit rebates, bribes, or kickbacks: 1) in return for referring an individual to another party furnishing a good or service, 2) in return for

purchasing (or recommending the purchase) of a good or service for which payment is made by a federal health care program, or 3) to or from a medical professional in an agreement for the medical professional to utilize DeKalb Medical's facilities.

Similarly, it is the policy of DeKalb Medical to comply with the Federal Patient Self-Referral or "Stark Law" and its associated regulations (42 U.S.C. §1395nn and 42 C.F.R. §411.350 et. seq.) The Stark Law prohibits a physician with a financial relationship with an entity (i.e., other healthcare service provider) from making a referral to that entity for the furnishing of "designated health services" for which payment may be made under the Medicare or Medicaid programs unless the relationship, or service qualifies as an exception to the Stark Law. The Stark law also prohibits an entity from billing the Medicare or Medicaid programs for items and services ordered by a physician who has a financial relationship with that entity. No physician associated with DeKalb Medical shall make referrals for designated health services to entities with which the physician has a financial interest either through ownership, investment, or a compensation arrangement and such financial relationship does not fit within an exception. DeKalb Medical will not submit to federal healthcare programs claims for patients who were referred to a DeKalb Medical facility pursuant to a contract or financial arrangement designed to induce such referrals in violation of Stark physician self-referral laws or other statutes. No physician shall bill for services rendered as a result of an illegal referral. Every agreement involving physician compensation or cross referrals with a physician or other referral service for DeKalb Medical shall be in writing and shall be reviewed by legal counsel prior to its execution if not documented using a template previously reviewed by legal counsel.

f. Monitoring and Auditing

DeKalb Medical's Corporate Compliance Officer coordinates regular internal audits of selected departments or functions, develops surveys, and conducts interviews with management and/or employees. The purpose of these activities is to verify adherence to, and employee and vendor awareness of, applicable governmental regulations and DeKalb Medical's compliance policies and procedures. Generally, DeKalb Medical will complete a minimum of two audits or reviews of compliance-related issues annually under the direction of the Corporate Compliance Officer. It is expected that DeKalb Medical's vendors will cooperate with any such audits that impact the products and/or services provided to DeKalb Medical by the vendor.

g. HIPAA Compliance

DeKalb Medical takes the privacy and security of its patients and their protected health information ("PHI") very seriously. DeKalb Medical expects its contractors, vendors and suppliers to exhibit the same commitment to maintaining the privacy and security of its patients' PHI. DeKalb Medical has developed a comprehensive set of policies and procedures relating to the use and disclosure of PHI. A full discussion of those policies and procedures is beyond the scope of this document, however, the following is a highlight of those policies.

1. DeKalb Medical defines protected health information to mean “any health information relating to (i) past, present, or future physical or mental health or condition of an individual; (ii) the provision of health care to an individual; (iii) the past, present, or future payment for the provision of health care to an individual; or (iv) information (data elements) which can be used to identify the individual.”
2. DeKalb Medical only uses and discloses PHI in the most appropriate fashion, defined by the limitations of job function and “need to know”. DeKalb Medical limits access to PHI to the “minimum necessary” to achieve the intended purpose regarding the use or disclosure of PHI.
3. DeKalb Medical has implemented measures to secure PHI in all formats (including paper and electronic).
4. DeKalb Medical has identified the specific uses and disclosures of PHI that do not require a patient’s consent/authorization or an opportunity to object to a use or disclosure.
5. DeKalb Medical communicates its privacy policies to its patients and has established processes for gaining patient consent and authorization related to the use and disclosure of PHI, and provides notification of the organization’s planned uses and disclosures.
6. DeKalb Medical will not ask patients to waive their right to complain about privacy violations, nor will they be denied access to care/treatment based on a privacy complaint.
7. DeKalb Medical will mitigate, to the extent practicable, any harmful effect of a use or disclosure of PHI in violation of its privacy and security policies.
8. At a minimum, DeKalb Medical will maintain, in written or electronic form, policies and procedures, written communications, and documentation of any required action, activity or designation that supports compliance to HIPAA regulations, for six (6) years from the date of its creation or the date when it last was in effect, whichever is later.
9. DeKalb Medical does not condone and will not allow any retaliatory acts toward any individual, including but not limited to, patients and the organization staff for reporting any violation of the organization’s privacy policies or a breach of the organization’s security infrastructure

All partners of DeKalb Medical, including its contractors, vendors and suppliers are responsible for (i) complying with these policies and procedures; non-compliance may result in disciplinary action up to and including discharge, or termination of contract (ii) taking an active role in enforcing privacy policies and reporting suspected violations without fear of retaliation, if preferred, the Compliance Hotline may be used for reporting suspected violations and breaches anonymously.

h. Reporting and Retaliation

DeKalb Medical employees, agents, contractors, vendors and suppliers have a responsibility to report suspected wrongdoings, provided that they are reporting in good

faith and have evidence to support their suspicion. Under no circumstances will DeKalb Medical retaliate against an employee, agent, contractor, vendor or supplier who reports a suspected wrongdoing. Any incidents of retaliation or badgering are violations of DeKalb Medical's Compliance Program and should be reported immediately to the Corporate Compliance Officer. However, an employee, agent, contractor or vendor who reports a violation with the knowledge that the violation did not occur or that the report of alleged violation has been intentionally falsified or worsened as revenge against another employee or agent will face severe disciplinary action or termination of contract. The non-retaliation policy applies to those reports of compliance concerns and/or violations made internally through the DeKalb Medical supervisory chain, DeKalb Medical Compliance Officer or DeKalb Medical Compliance Hotline and to those reports made externally directly to a government entity.

DeKalb Medical encourages the development of an open door policy by managers to welcome comments, concerns, and questions from employees, agents, contractors, vendors and suppliers. Employees, agents, contractors, vendors and suppliers are urged to discuss any concerns regarding suspected violations with their supervisor or the manager or other DeKalb Medical employee with whom they have contact. However, suspected violations may also be reported to the Corporate Compliance Officer (by phone, e-mail, or in person) or by contacting the DeKalb Medical Compliance Hotline. If an employee or agent is hesitant about using any of the above reporting mechanisms because of the individuals involved in the incident, he or she may contact DeKalb Medical's President and Chief Executive Officer.

As much as possible, DeKalb Medical will protect the confidentiality of all employees, agents, contractors, vendors and suppliers who report a suspected violation. However, there may be instances (i.e., those involving court cases) in which the employee, agent, contractor, vendor or supplier cannot remain anonymous because they are asked to testify in the case.

Anyone wishing to file a verbal report may do so either by contacting the Corporate Compliance Officer, Lynne Anderson, directly at (404) 501-5810, or by calling the DeKalb Medical Compliance Hotline. The Compliance Hotline is a telephone line which has been established for the express purpose of receiving questions, suggestions or reports of incidents involving the quality of services provided or compliance with laws and policies. The Compliance Hotline may be accessed 9:00 AM - 4:00 PM, Monday through Friday, a week by dialing (678) 842-7890.

IV. CONCLUSION

DeKalb Medical is committed to serving as the leader in the delivery of health care services to residents of DeKalb County, Georgia and its surrounding areas. In an effort to achieve this goal, the organization and its staff are committed to conducting its business and patient care practices in an honest and proper manner in all areas. DeKalb Medical will be unable to achieve this goal without the selection, support and cooperation of suppliers and vendors committed to the same high standards of business ethics. As a

result, DeKalb Medical expects its vendors and suppliers to comply with the requirements of the Code of Conduct and Corporate Compliance Program and to fully cooperate with DeKalb Medical's compliance efforts and to be proactive with their own compliance efforts. If you have any questions about the information contained in this document, please contact Lynne Anderson, Vice President of Compliance and Support Services and DeKalb Medical's Corporate Compliance Officer at (404) 501-5810.

Exhibit A

A. Federal Laws

False Claims Act (31 U.S.C. §§ 3729-3733)

The False Claims Act ("FCA") provides, in pertinent part, that:

(a) Any person (1) who knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government;... or (7) 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,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person...

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

31 U.S.C. § 3729.

While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. 31 U.S.C. § 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he or she knows (or should know) is false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he or she may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called "reverse false claim" may include a hospital who obtains interim payments from Medicare throughout the year, then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. § 3720(b). These private parties, known as "qui tam relators," may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3720(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall not be less than 25 percent and not more than 30 percent.

Individuals or companies found to have violated the FCA are liable for a civil penalty for each claim of not less than \$5,000 and not more than \$10,000, plus up to three times the amount of damages sustained by the federal government.

The FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. § 3730(h). Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

Federal Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812)

In addition to the FCA, 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 false claims. If a person submits a claim that the person knows or has reason to know is

- (1) false, fictitious or fraudulent;
- (2) include or are supported by any written statement that is materially false, fictitious or fraudulent;
- (3) 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 submitting the statement has a duty to include; or
- (4) 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 statement to a government agency will violate the Act if the statement is accompanied by an express certification of its truthfulness. The agency receiving such a claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also, unlike the FCA, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

B. Georgia State Laws

Georgia has enacted the State False Medicaid Claims Act, which is similar to the FCA. The State False Medicaid Claims Act ("MFCA") provides that any person who:

- (1) Knowingly presents or causes to be presented to the Georgia Medicaid program a false or fraudulent claim for payment or approval;
- (2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Georgia Medicaid program;
- (3) Conspires to defraud the Georgia Medicaid program by getting a false or

- fraudulent claim allowed or paid;
- (4) Has possession, custody, or control of property or money used, or to be used by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate of receipt.
 - (5) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the Georgia Medicaid program and, intending to defraud the Georgia Medicaid program, makes or delivers the receipt without completely knowing that the information on the receipt is true;
 - (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Georgia Medicaid program, who lawfully may not sell or pledge the property; or
 - (7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay, repay or transmit money or property to the State of Georgia,

Is liable to the State of Georgia for a civil penalty of not less than \$5,500.00 and not more than \$11,000.00 for each false or fraudulent claim, plus three times the amount of damages which the Georgia Medicaid program sustains because of the act of such person. If the person committing one of the above violations provides the Georgia Medicaid program with all information the person knows about such violation within 30 days of the violation, such person fully cooperates with any government investigation of the program, and at the time the person furnishes the information to the Georgia Medicaid program no criminal, civil or administrative action had commenced with respect to such violation and the person did not have actual knowledge of any investigation, the amount of damages is limited to two times the amount of actual damages.

Private individuals who bring civil actions under the MFCA are entitled to between 15 percent and 30 percent of the proceeds of such civil action or settlement depending upon if the Attorney General intervenes in the civil action. Similar to the FCA, employers are prohibited from discharging, demoting, suspending, threatening, harassing, or in any other way discriminating against in the terms and conditions of employment of an employee relating to lawful acts done by the employee related to the MFCA. In the event of such prohibited discrimination, an employee is entitled to reinstatement with the same seniority status the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay award, and compensation for any special damages sustained as a result of the discrimination.