Caring Partners of Morris/Sussex, Inc.

Federal Deficit Reduction Act Policy

FEDERAL DEFICIT REDUCTION ACT POLICY

A. Introduction.

Caring Partners has instituted this Federal Deficit Reduction Act Policy as part of its Corporate Compliance Plan ("Corporate Compliance Plan").

B. Applicability.

This Policy applies to the Organization's Staff Members, including the Organization's leadership, supervisors, administrators, office personnel and field staff, as well as all contractors and agents of the Organization involved, directly or indirectly, in the provision or monitoring of, or coding or billing for, health care services billed to or payable by any government or private third-party payor. This Policy is part of the Organization's Corporate Compliance Plan and is also hereby incorporated by reference into the Organization's Employee Handbook, as same may exist or be adopted or amended from time to time.

C. Section 6032 of the Deficit Reduction Act of 2005.

Section 6032 of the Deficit Reduction Act of 2005 is a federal law that requires certain health care agencies, including the Organization, to assist in preventing, detecting, and addressing fraud, waste, and abuse in federal health care programs by taking certain actions, including to have in place a policy to describe provisions of certain federal and state anti-fraud and false claim laws. Those laws are summarized below.

D. Federal and State Anti-Fraud and False Claims Laws.

1. Federal Anti-Fraud and False Claims Laws.

a. The Federal False Claims Act ("FCA"), 31 U.S.C. § 3729 et seq.

The FCA is a law that prohibits a person or entity, such as the Organization and its Staff Members, agents, and contractors, from "knowingly" presenting or causing to be presented a false or fraudulent claim for payment or approval to the federal government, and from "knowingly" making, using or causing to be made a false record or statement to get a false or fraudulent claim paid or approved by the federal government. The FCA also prohibits a person or entity from conspiring to defraud the government by getting a false or fraudulent claim allowed or paid and knowingly or improperly retaining an overpayment. These prohibitions extend to claims submitted to federal and federally funded health care programs, such as Medicare and Medicaid.

The FCA broadly defines "knowing" and "knowingly." Knowledge will have been proven under the FCA if the person or entity: (i) has actual knowledge of the information; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information. The law specifically provides that a specific intent to defraud is not required to prove a violation.

A person or entity found guilty of violating this law will be liable for civil monetary penalties as indicated in federal regulation (28 CFR 85.5). The Department of Justice adjusts these penalties to reflect the rate of inflation and as

such, they vary depending on the date the penalty was assessed, or the violation occurred. The person or entity may also be liable for the government cost in recovering the penalties and damages.

Under the Affordable Care Act, the law was amended to, among other things, extend liability for "reverse false claims," or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the federal government. Thus, overpayments from federally funded health care programs not returned within required timeframes may create FCA liability. In addition, violating the FCA can provide the basis to subject a person or entity to exclusion from participation in Medicare, Medicaid, and other federal health care programs.

Private persons are permitted to bring civil actions for violations of the FCA on behalf of the United States (also known as "qui tam" actions) and are entitled to receive a percentage of monies collected. Persons bringing these claims (known as "relators" or "whistleblowers") are granted protection under the law. Any whistleblower who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by his or her employer because of reporting violations of the FCA will be entitled under the law to remedies, including reinstatement with seniority, double pay back, interest, special damages sustained because of discriminatory treatment, and attorney fees and costs.

b. The Federal Program Fraud Civil Remedies Act, 31 U.S.C. § 3801 et seq. ("PFCRA").

The PFCRA makes it illegal for a person or entity to make, present or submit (or cause to be made, presented or submitted) a "claim" (i.e., a request, demand or submission) for property, services, or money to an "authority" (i.e., an executive department of the federal government, such as the U.S. Department of Health and Human Services) when the person or entity "knows or has reason to know" that the claim: (i) is false, fictitious or fraudulent, or (ii) includes or is supported by any written statement which asserts a material fact that is false, fictitious or fraudulent, or (iii) includes or is supported by any written statement that omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement in which the person or entity has a duty to include such material fact, or (iv) is for the provision of items or services which the person or entity has not provided as claimed.

In addition, it is illegal to make, present or submit (or cause to be made, presented or submitted) a written "statement" (i.e., a representation, certification, affirmation, document, record, or accounting or bookkeeping entry made with respect to a claim or to obtain the approval or payment of a claim) if the person or entity "knows or has reason to know" such statement (i) asserts a material fact that is false, fictitious or fraudulent, or (ii) omits a material fact making the statement false, fictitious or fraudulent because of the omission.

Like the FCA, the PFCRA broadly defines the terms "knows or has reason to know" as (i) having actual knowledge that the claim or statement is false, fictitious, or fraudulent, (ii) acting in deliberate ignorance of the truth or falsity of the claim or statement, or (iii) acting in reckless disregard of the truth or falsity of the claim or statement. The law specifically provides that a specific intent to defraud is not required to prove that the law has been violated. The PFCRA provides for civil penalties for each false claim paid by the government, and, in certain circumstances, an assessment of twice the amount of each claim.

In addition, if a written statement omits a material fact and is false, fictitious, or fraudulent because of the omission and is a statement in which the person or entity has a duty to include such material fact and the statement contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, the law provides for a monetary penalty for each such statement.

Violation of the PFCRA may include civil monetary penalties. From time to time, the Department of Justice has adjusted these penalties to reflect the rate of inflation and as such, they vary depending on the date the penalty was assessed, or the violation occurred. For violations that occurred on or before November 2, 2015, and for fines assessed on or before August 1, 2016 whose associated violations occurred on or before November 2, 2015, a civil monetary penalty of $5,500 per claim can be assessed, plus twice the amount of any wrongfully filed claim. For fines assessed after August 1, 2016 whose associated violations occurred after November 2, 2015, a civil monetary penalty of $10,781 per claim can be assessed, plus twice the amount of any wrongfully filed claim. For fines assessed after February 3, 2017 whose associated violations occurred after November 2, 2015, a civil monetary penalty of $10,957 per claim can be assessed, plus twice the amount of any wrongfully filed claim.

2. New Jersey Anti-Fraud and False Claims Laws.

a. *The New Jersey False Claims Act, 2A:32C-1 et seq..*

The NJFCA is a state law that prohibits, among other things, knowingly presenting or causing to be presented to an employee, officer, or agent of the State of New Jersey, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval, or knowingly making, using, or causing to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the State. The NJFCA also prohibits conspiring to defraud the State by getting a false or fraudulent claim approved or paid by the State.

The NJFCA defines "knowingly" as having actual knowledge of the information, acting in deliberate ignorance of the truth or falsity of the information, or acting in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required. Acts occurring by innocent mistake or because of mere negligence will be a defense to an action under the NJFCA.

A person who has violated the NJFCA will be jointly and severely liable to the State of New Jersey for a civil penalty of not less than and not more than the civil penalty allowed under the federal FCA, for each false or fraudulent claim, plus three times the amount of damages which the State sustains (i.e., treble damages). The court may reduce the treble damages to not less than twice the amount of damages the State sustains if the court finds certain factors are met.

Violations of the NJFCA also give rise to liability under the Medical Assistance and Health Services Act (see below), N.J.S.A. 30:4D-17 et seq. Specifically, any person, firm, corporation, partnership, or other legal entity that violates the provisions of the NJFCA will, in addition to other penalties provided by law, be liable for civil penalties of (i) payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was made to the person, firm, corporation, partnership or other legal entity, for the period from the date upon which the payment was made to the date upon which repayment is made to the State of New Jersey; (ii) payment of an amount not to exceed three-fold the amount of such excess benefits or payments; and (iii) payment in the sum of not less than and not more than the civil monetary penalty allowed under the federal FCA for each excessive claim for assistance, benefits or payments.

b. *Whistleblower Provisions and Protections under the NJFCA, N.J.S.A. § 2A:32C-10.*

A person may bring a civil action for a violation of the NJFCA for the person and for the State of New Jersey. The person must also serve the State Attorney General with the action. If the State Attorney General proceeds with and prevails in an action brought by an individual under the NJFCA, the individual is entitled to at least 15% but not more than 25% of the proceeds recovered under any judgment or any proceeds of any settlement, depending on the extent of the individual's involvement. If the State Attorney General does not proceed with an action, the

individual will receive an amount the court decides is reasonable, which will be between 25% and 30% of the proceeds of the action or settlement of a claim.

An employee who is discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under the NJFCA, including preliminary investigation, may be entitled to special protection. The protection afforded may include reinstatement with the same seniority status such employee would have had, but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained because of the discrimination, including litigation costs and reasonable attorney fees.

c. *The New Jersey Insurance Fraud Prevention Act ("NJIFPA"), N.J.S.A. § 17:33A-1 et seq.*

The NJIFPA makes it unlawful to (i) present or cause to be presented (including the assisting, conspiring or urging of another to present) any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy knowing the statement contains false or misleading information concerning any fact or thing material to the claim, or (ii) conceal or knowingly fail to disclose the occurrence of an event which effects any person's initial or continued right or entitlement to any insurance benefit or payment or the amount of any benefit or payment to which the person is entitled. A violation of this law can subject a person or entity to civil damages equal to three times the amount of damages, tiered monetary penalties based upon the number of offenses, and a State surcharge. In addition, the law authorizes the State Attorney General to pursue additional criminal penalties.

d. *The Medical Assistance and Health Services Act ("MAHSA"), N.J.S.A. § 30:4D-1 et seq.*

Provisions in this comprehensive law allow for the imposition of criminal fines and terms of imprisonment for various violations involving the submission of claims for payment under the Medical Assistance Program. For instance, such criminal penalties may be imposed upon a health care provider who willfully receives Medical Assistance payments to which the provider is either not entitled or that are in a greater amount than that to which the provider is entitled. The law also allows penalties to be imposed upon an individual or entity that (i) knowingly and willfully makes or causes to be made any false statement or false representation of a material fact in any claim form to receive payment, (ii) knowingly and willfully makes or causes to be made any written or oral false statement for use in determining such payment, or (iii) conceals or fails to disclose the occurrence of an event which affects the right to receive such a payment. Penalties may also be imposed if false statements or representations of a material fact are made in connection with the conditions or operations of any institution during an initial or recertification process entitling the facility to payments under the Medical Assistance Program. Under the MAHSA, it is also unlawful for an individual or entity to solicit, offer or receive a kickback, rebate, or bribe in connection with the furnishing of items or services for which payment is made or the furnishing of items or services whose cost is or may be reported to obtain benefits or payments under the Medical Assistance Program. In addition to criminal fines and jail sentences, violators of this law are also subject to civil penalties, which can include treble damages, interest on the overpayments, and not less than and not more than the civil penalty allowed under the federal FCA for each false claim submitted.

The director of the program may also take certain actions against individuals and entities found to be in violation of this law. Specifically, the director may suspend, debar, or disqualify, for good cause, any provider presently participating or who has applied for participation in the program, or may suspend, debar or disqualify, for good

cause, any individual or entity who is participating directly or indirectly in the Medicaid program, including their agents, employees or independent contractors.

Additionally, if an individual or entity fails to respond within ten (10) days to any order of the director, or any person designated by the director, requiring payment or re-payment of any amount found to be due under this law, the director may issue a certificate to the clerk of the Superior Court of New Jersey stating that the person or entity is indebted to the state for the payment of the outstanding amount.

e. *Health Care Claims Fraud, N.J.S.A. § 2C:21-4.2, 4.3 and 2C:51-5.*

The crime of Health Care Claims Fraud is committed when a false, fictitious, or fraudulent or misleading statement of material fact is knowingly or recklessly submitted (or is attempted to be submitted) or a material fact is omitted from any record, bill, claim or other document in connection with payment or reimbursement for health care services by either a licensed health care practitioner or an unlicensed person. In addition to other criminal penalties allowed by law, the penalty for each violation of this law is a fine of up to five times the monetary amount obtained or sought.

A health care practitioner may also be subject to additional penalties, including but not limited to, suspension or forfeiture of his/her license.

f. *False Claim for Payment of a Government Contract.*

Another New Jersey law, N.J.S.A. 2C:21-34 et seq., makes it a crime to (i) knowingly submit to the government any claim for payment for performance of a government contract knowing that the claim is false, fictitious, or fraudulent, and (ii) knowingly making a material representation that is false in connection with the negotiation, award or performance of a government contract. The criminal penalties for violations of this law vary from a crime in the fourth degree to a crime in the second degree depending on the amount of the claim.

g. *Whistleblower Protections.*

Under the New Jersey Conscientious Employee Protection Act (CEPA), N.J.S.A. § 34:19-1 et seq., employers are prevented from taking any retaliatory action against an employee who discloses (or threatens to disclose) to a supervisor or to a public body any activity, policy, or practice of the employer that the employee reasonably believes is fraudulent or criminal and that may defraud an individual or governmental entity, among others. In addition, the law protects employees who object or refuse to participate in such activity, policy, or practice. Specific protection is also given to licensed or certified health care professionals who object to or refuse to participate in any activity, policy or practice that the employee reasonably believes constitutes improper quality of care.

E. Other Fraud and Abuse Laws.

Other fraud and abuse topics are discussed in the Organization's Corporate Compliance Plan.

F. Procedures for Detecting Fraud, Waste and Abuse.

All Staff Members must, as a condition of continued employment or engagement by the Organization, strictly adhere to the requirements of all federal and state laws prohibiting fraud, waste, and abuse. Under federal and state laws, all members of the Organization have an affirmative duty to prevent, detect, and report fraudulent behavior. Any Staff Member who knows, has reason to know, or reasonably suspects that wrongdoing, fraud, waste, or abuse regarding a federal or state health care program, including Medicare and Medicaid, has occurred within the

Organization must immediately report such wrongdoing to the Compliance Officer, the Executive Director, or the Safe Hotline number.

Further, it is a condition of continued employment or engagement by the Organization to adhere strictly to the requirements and procedures set forth in the Organization's Corporate Compliance Plan, including the Standards of Practice. Violations of the Corporate Compliance Plan or the Standards of Practice, will subject the violator to sanctions, up to and including termination from employment or engagement.

The Organization, as part of its training about the Organization's Corporate Compliance Plan and Code of Conduct, will educate all employees regarding procedures for detecting fraud, waste, and abuse.

Any questions regarding the Organization's Corporate Compliance Plan, including the Code of Conduct, should be directed to the Compliance Officer or, in the absence of the Compliance Officer, the Executive Director. Actual or suspected violations of the Code of Conduct or Corporate Compliance Plan must be reported to the Compliance Officer in person or by mail, work email or telephone, or by utilizing the Organization's Corporate Compliance SAFE Hotline.

G. Non-Retaliation.

The Organization will not retaliate against any Staff Member who reports compliance issues in good faith. This means the Organization will not take any negative or adverse act against such Staff Member. Reporting "in good faith" means that you are telling the truth about an issue as you know it. If you believe retaliatory action has been taken against you for reporting an issue in good faith, please contact the Compliance Officer or the Executive Director.

H. Distribution and Acknowledgement.

The Organization will make this Policy available to all Staff Members, including the Organization's leadership, supervisors, administrators, office personnel and field staff, as well as all contractors and agents of the Organization involved, directly or indirectly, in the provision or monitoring of, or coding or billing for, health care services billed to or payable by any government or private third-party payor. When required by the Organization, Staff Members, contractors, and agents of the Organization must sign an acknowledgement form acknowledging the receipt of this Policy and the Organization's Corporate Compliance Plan, including the Code of Conduct.

I. Annual Certification.

The Organization must certify to the State of New Jersey annually that, among other things, its Corporate Compliance Plan and Employee Handbook incorporate the requirements of Section 6032 of the federal Deficit Reduction Act, as required by law. In certain circumstances, the Organization may be required to submit documentation to support the answers provided in the certification. The Organization also may be subject to onsite reviews conducted by the state or federal government to verify compliance.

J. Reports of Fraud

Any reports of wrongdoing regarding the above referenced policies can be reported anonymously via the Organization's SAFE Hotline Number (855-665-SAFE) or by going to the website: https://safehotline.com. To make a report you will need the Company ID #: 6137063600. Reports can also be made directly to the NJ Insurance Fraud Prosecutor Hotline (877-55-FRAUD) or https://www.nj.gov/comptroller/divisions/medicaid/complaint.html or the NJ Medicaid Fraud Division Hotline (888-937-2835) or https://njinsurancefraud2.org/#report.