

Summary of Federal and New York State Laws Relating to Filing False Claims

I. Federal Laws – fraud or false claims involving federally funded programs including the Medicare and Medicaid Programs.

A. False Claims Act – A federal statute that imposes liability and penalties on any person or entity that:

- 1) Knowingly* presents or causes to be presented, a false or fraudulent claim for payment or approval;
- 2) Makes or uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim approved or paid;
- 3) Conspires to defraud by getting a false/fraudulent claim paid or approved;
- 4) Knowingly makes, uses or causes to be made or used, false record or statement to conceal, avoid or decrease payment.

(* - Knowing/knowingly – actual knowledge or deliberate ignorance of truth/falsity of the information, **OR**, reckless disregard of the truth or falsity of the information, **OR**, acts in reckless disregard of truth or falsity of information.)

Examples:

- Billing for services not provided.
- Submitting false records indicating compliance with contractual or regulatory requirements.
- Using inaccurate information which results in filing a false cost report.

II. New York State Laws- pertaining to Medicaid recipient and provider false claims.

A. Civil and Administrative Laws

- 1) NY False Claims Act- imposes penalties and fines on individuals and providers that file false claims for payment from any state or local government, including Medicaid.
- 2) Social Services Law – False Statements – imposes fines and penalties on individuals and providers who knowingly obtain or attempt to obtain payment for items or services furnished under any social services/public assistance program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device.
- 3) Social Service Law – Sanctions- imposes sanction on individuals who applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement.

B. Criminal Laws:

- 1) Social Services Law §145 – Penalties
- 2) Social Services Law § 366-b – Penalties for Fraudulent Practices
- 3) Penal Law Article 155, Larceny
- 4) Penal Law Article 175, False Written Statements

- 5) Penal Law Article 176, Insurance Fraud
- 6) Penal Law Article 177, Health Care Fraud

These criminal laws, all of which have been applied to Medicaid Fraud, describe the penalties, fines and sanctions that can be imposed on individuals or providers who submit false claims, false statements, conceal facts, or by other fraudulent means, obtains or attempts to obtain, Medicaid payment.

III. **Whistleblower Protection**

A. Federal False Claims Act/Qui tam Whistleblower Provisions

Allows individuals with alleged, good faith knowledge of false claims made to the Medicare or Medicaid Programs to file a lawsuit on behalf of the U.S. Government. These individuals known as “qui tam relators,” may share in a percentage of the proceeds from a false claims action or settlement.

The statute also provides for protection and remedies to qui tam relators who are in any manner discriminated or retaliated against in the terms and conditions of their employment, as a result of their furtherance of an action.

B. NY False Claim Act (State Finance Law § 191)

Also provides protections and remedies to good faith qui tam relators.

C. NY Labor Laws § 740 and 741

Provides for protections from retaliatory action and remedies, to an employee who in good faith, alleges an employer is in violation of a law with specific public health and safety danger or constituting health care fraud. Protections are only available if employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation.