

## Kentucky

### **Kentucky State False Claims Laws**

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in Kentucky. 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. Similar to the federal False Claims Act, the Kentucky Control of Fraud and Abuse 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 Kentucky laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Kentucky's Medicaid program for services or goods not provided;
- Billing Kentucky'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 Kentucky's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Kentucky'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 and 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 Kentucky laws may result in civil monetary penalties of \$500 for each false claim, plus three times the amount unlawfully received plus interest, payment of the government's expenses to pursue reimbursement, and exclusion from the Medicaid program and/or loss of an individual's professional license for up to five years. In addition, a corporation who violates these laws commits a crime punishable by a fine not to exceed \$20,000 or double the amount of the corporation's gain from the offense, whichever is greater. An individual who violates these laws commits a crime punishable by imprisonment for up to ten years and a fine not to exceed \$10,000 or double the amount of the individual's gain from the offense, whichever is greater.

## **Civil Lawsuits**

Currently, unlike the Federal False Claims Act, Kentucky 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**

Like federal law and Society policy, Kentucky's Control of Fraud and Abuse law, specifically Section 205.8465, prohibits employers from retaliating, discriminating or harassing any person because of their good faith participation in a false claims disclosure. These 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.

Kentucky's Control of Fraud and Abuse law also requires any person who knows or has reasonable cause to believe that a violation of these laws has been or is being committed by any person, corporation or entity, to report such information to the Kentucky Medicaid Fraud Control Unit ("MFCU"), or to the Medicaid Fraud and Abuse hotline, 1-800-372-2970.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of The Society's Code of Ethics or a government law or regulation, or (2) refused to violate The Society's Code of Ethics or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. For additional guidance, please see the "Fair Treatment Policy" section of the Employee Handbook and section IV "Reporting Compliance Concerns" of The Society's Compliance Program Handbook.

## **Copies of Kentucky Laws**

The Kentucky laws summarized above include: (1) Control of Fraud and Abuse laws, Ky. Rev. Stat. §§ 205.8451 to 205.8483; and (2) Public Sector Whistleblower Act, Ky. Rev. Stat. §§ 61.101 to 61.103. If you have questions about any of these requirements, you may contact The Society's Compliance Solutions Hotline at 1-800-631-6142.