

Washington

Washington False Claims Act

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in Washington. 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, Washington's Medicaid fraud 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 Washington laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Washington's Medicaid program for services or goods not provided;
- Billing Washington'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 Washington's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Washington'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;
- Charging in excess of the allowable Medicaid rate, including accepting a gift, money, donation or other compensation as a condition of admission or continued stay in the facility;
- 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 Washington laws may result in restitution for any improper payments plus interest and civil penalties in an amount up to three times the amount of any excess payments, and suspension or termination from the Medicaid program. In addition, any person who violates these laws commits a Class C felony punishable by imprisonment for up to five years and a fine up to \$25,000.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Washington 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, various Washington laws prohibit state employers from retaliating, discriminating or harassing state employees who in good faith report a violation of state or federal law, a gross abuse of funds or resources, or a substantial and specific danger to public health or safety. Washington law also gives its citizens immunity from civil liability for reporting potential violations of law. Washington law does not contain workplace protections for non-governmental employees. Nevertheless, The Society expects employees to adhere to Federal law and to The Society's policy prohibiting retaliation.

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 regulatory violation, 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 Washington Laws

The Washington laws summarized above include: (1) Fraudulent practices laws, Wash. Rev. Code §§ 74.09.210 to 74.09.290; and (2) Whistleblower Protections, §§ 70.124.100 to 70.124.180 (public employees) and §§ 4.24.500 to 4.24.520 (civil liability immunity for citizens). If you have questions about any of these requirements, you may contact The Society's Compliance Solutions Hotline at 1-800-631-6142.