

DMC Policies & Procedures



These fraud related regulations have been summarized for your information. Detailed provisions regarding the following can be found in DMC's Compliance Program Manual available on DMC's Office of Compliance & Audit Services web-site at

www.downstate.edu/compliance:

- Code of Ethics & Business Conduct
- Compliance Program Oversight Responsibilities
- Employee Training
- Monitoring and Auditing
- Reporting System
- Enforcement & Discipline
- Response & Prevention

In addition, further information regarding the Deficit Reduction Act, applicable Federal and State Laws, DMC's Compliance Program and related policies and procedures should be reviewed and are available at the above web address.

Participate in the Compliance Program...

New York Labor Law § 740 states that an employee must bring an alleged violation to the attention of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

ANY EMPLOYEE who reasonably suspects, or is aware of, the preparation or submission of a false claim or report, or any other potential fraud, waste or abuse related to a Federally or State funded health care program is required to report such information to his/her supervisor/ department head. If the employee is dissatisfied with the response or if the employee prefers to report anonymously, the employee is directed to contact the Office of Compliance & Audit Services directly or report the complaint via DMC's Compliance Line. Failure to report and disclose or assist in an investigation of fraud and abuse is a breach of the employee's obligations to DMC and may result in disciplinary action.

When you become aware of an activity that may be in violation of the law – it is up to you to report it!



Your Duty to Report...

Your participation in DMC's Compliance Program is key to our success. Maintaining an ethical and compliant working environment is everyone's responsibility. Report concerns regarding any suspected violations of Federal or State Laws regarding fraud, waste, abuse or other ethical/ legal concerns to:

- 1) Your Supervisor/ Vice President
- 2) DMC's Compliance Line call – 877-349-SUNY web report: Go to www.downstate.edu and click on "Compliance Line" link
- 3) DMC's Office of Compliance & Audit Services: (718) 270-4033

- Reports can be made anonymously.
- All individuals will be protected against retaliation by both internal DMC Compliance policies, as well as under Federal and State law.
- DMC will investigate reports of fraud, waste or abuse swiftly and thoroughly and will implement the appropriate action against any employee who has committed a violation.



Detection & Prevention of Fraud,



Waste & Abuse:

Complying with the Deficit Reduction Act

SUNY Downstate Medical Center (DMC) is committed to preventing and detecting fraud, waste or abuse.

Section 6032 of the Federal Deficit Reduction Act of 2005 (DRA) requires us to provide information to our employees regarding Federal and New York State fraud and abuse laws, whistleblower protections under these laws and our Compliance policies in preventing and detecting fraud, waste and abuse.

Part of DMC's mission in providing excellent care includes the prevention of falsely submitted claims/ reports for payment from a Federally or State funded health care program (such as Medicare or Medicaid). A false claim is a violation of Federal and State law and can have very damaging results – including civil, administrative and criminal penalties.

DMC maintains a dedicated Compliance Program aimed to educate the workforce and provide detailed polices and procedures on fraud and abuse laws, and the importance of submitting accurate claims and reports to the Federal and State governments.

Federal & State Laws



Federal False Claims Act (FCA)- 31 USC §3279- and New York False Claims Act- New York State Finance Law §187-

§194 establishes liability for any person who engages in unlawful acts with respect to the Federal, State or local government including:

- Knowingly presenting or causing a false or fraudulent claim for payment;
- Knowingly making, using, or causing a false statement to get a false or fraudulent claim paid;
- Conspiring to defraud by getting false or fraudulent claim allowed or paid; or
- Knowingly making, using, or causing a false statement to conceal, avoid or decrease an obligation to pay money to the Federal, State or local government.

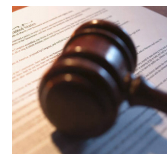
Under the Federal FCA, civil penalties for violations may include between \$5,500- \$11,000 per false claim plus three times Federal damages, as well as exclusion from Federal health care programs. Under NY State's FCA, civil penalties for violations may include between \$6,000- \$12,000 per false claim plus three times State damages and three times local government damages.

In general, under both the Federal and New York State FCA, private persons are eligible to file qui tam/whistleblower lawsuits on behalf of the Federal, State or local government and may share in a percentage of the proceeds from an FCA action or settlement. If the Federal, State or local government intervenes in the lawsuit, the whistleblower shall receive between 15-25%, depending upon the extent to which the individual

contributed to the prosecution. If the Federal, State or local government does not intervene, the whistleblower shall receive between 25-30%.

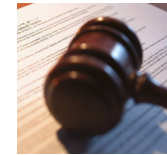
In addition, under both Federal and State law, an employee who is discharged, demoted, suspended, threatened, harassed or otherwise discriminated against because of the qui tam action is entitled to all relief necessary to make the individual whole; including reinstatement with comparable seniority, payment of two times back pay plus interest and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

However, as DMC is a component of the State University of New York, and thus is a State agency, the United States Supreme Court has held that private persons may NOT be eligible to file qui tam/ whistleblower lawsuits against State agencies and may NOT be entitled to a share of the proceeds of any recoveries under the FCA.



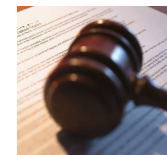
Federal Program Fraud Civil Remedies Act of 1986 (PFCRA)

establishes administrative remedies against any person who presents or causes a claim or written statement that the person knows, or has reason to know, is false, fictitious, or fraudulent to certain Federal agencies. Violations can result in civil monetary penalties of up to \$5,500 per false claim, plus twice the amount of the false claim.

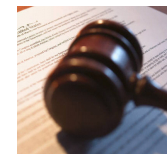


New York Social Services Law (NYSSL) §145, §145-b & §145-c defines the conduct of knowingly making a false statement

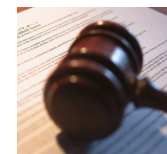
or representation, deliberately concealing material facts, or engaging in other fraudulent schemes to obtain payments under NYS Medicaid program as a misdemeanor. Violations may result in the repayment of three times civil damages as well as monetary penalties of up to \$2,000 for each item/service in question. If a person applies for Medicaid by intentionally making a false statement, his/her needs are not taken into account for a period commensurate with the number of offenses.



NYSSL §366-b(2) states that a person who, intending to defraud, submits a false or fraudulent claim or information for the purpose of obtaining a higher compensation for an item or service is guilty of a Class A misdemeanor.



New York Penal Law (NYPL) §155 states that the crime of larceny applies to a person who obtains, takes or withholds the property by means of trick, embezzlement, false pretense or false promise, including a scheme to defraud.



NYPL §175 contains four crimes related to filing false information or claims, which have been applied in Medicaid fraud

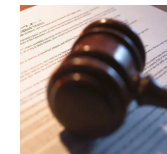
prosecutions.



NYPL §176 contains six crimes regarding health insurance fraud, including Medicaid.



New York Penal Law §177 (NYPL) establishes the crime of Health Care Fraud, committed when a person knowingly & willfully provides false information or omits material information and receives un-entitled payment for an item or service as a result. NYPL is punishable with fines and jail time of up to 25 years.



New York Labor Law (NYLL) §740 & §741 afford protections to employees who may notice and report inappropriate activities. Retaliation - in response to an employees' disclosure of a violation, testimony, or refusal to participate in unlawful activities - is prohibited.

Examples

The Department of Justice provides examples of false claims that include:

- A physician billing Medicare/ Medicaid for medical services not provided;
- A government contractor who submits false records that indicate compliance with contractual or regulatory requirements;
- A hospital that retains interim payments from Medicare/ Medicaid throughout the year and then knowingly files a false cost report at the end of the year in order to avoid making a refund.