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Sponsor:	<i>Brian Kozik: SVP, COMPLIANCE & PRIVACY</i>
Section:	<i>GA-Corporate Compliance</i>
Manuals:	<i>Compliance</i>

GA-004-285 Deficit Reduction Act

I. Purpose

Broward Health is committed to its role in preventing health care fraud and abuse and complying with applicable state and federal law related to health care fraud and abuse. To ensure compliance with such laws, Broward Health has policies and procedures in place to detect and prevent fraud, waste, and abuse, and also supports the efforts of federal and state authorities in identifying incidents of fraud and abuse.

The purpose of this policy is to set forth compliance with all applicable federal and state laws pertaining to fraud, waste, and abuse in federal healthcare programs including Section 6032 of the Deficit Reduction Act of 2005.

II. Key Terms

Centers for Medicare and Medicaid Services (CMS): The Federal agency responsible for administering Medicare, Medicaid, State Children's Health Insurance (SCHIP), Health Insurance Portability and Accountability Act (HIPAA), Clinical Laboratory Improvement Amendments (CLIA), and several other health related programs.

Deficit Reduction Act of 2005 (DRA): A federal statute that requires entities that make or receive annual Medicaid payments of \$5 million dollars or more to provide detailed information in written policies applicable to the entities, employees, agents, and contractors information regarding the False Claims Act and any state law that pertains to criminal penalties for making false claims and statements to the Government or its agent and the protections for whistleblowers who report violations of these provisions.

False Claims Act (FCA): A federal statute that prohibits fraud in any federally funded contract or program, including Medicare and Medicaid.

Fraud: An intentional deception or misrepresentation made by a person with knowledge that the deception could result in some unauthorized benefit to himself/herself or some other person. Additionally, it includes any act that constitutes fraud under applicable state or federal law.

Waste and Abuse: Incidents or practices which are inconsistent with legal, ethical, acceptable and sound business, fiscal or medical practices that result in unnecessary cost to federal health care programs or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized

standards for health care. It includes Medicare and Medicaid practices that result in unnecessary cost to the program.

III. Policy

1. The Deficit Reduction Act of 2005 requires state Medicaid plans to require certain types of health care providers to establish written policies and procedures that address:
 - a. The federal False Claims Act (“FCA”);
 - b. State laws pertaining to civil or criminal penalties for false claims and statements;
 - c. The whistleblower protections provided under both federal and state laws and the role of these laws in preventing and detecting fraud, waste, and abuse;
 - d. The administrative remedies found in the Program Fraud Civil Remedies Act; and
 - e. The provider’s policies and procedures for detecting and preventing fraud, waste, and abuse.
2. It is the responsibility of all Workforce Members to comply fully with applicable federal and state laws related to healthcare fraud, waste, and abuse. This includes the Federal False Claims Act and the Deficit Reduction Act of 2005.

IV. Procedures

1. Broward Health has implemented several prevention, reporting, and detection measures in order to address potential instances of fraud, waste, and abuse. These measures are as follows:

A. **Prevention Measures:**

- i. **Corporate Compliance Program:** Broward Health has established a Corporate Compliance Program which includes a Code of Conduct, policies and procedures, training and education, auditing and monitoring, and investigations.
- ii. **Training and Education:** Annual compliance training is required for all Workforce Members. Additionally, specific training may be developed as a result of an audit or ongoing monitoring activities to address issues of non-compliance. The Corporate Compliance Department will develop specific training sessions to address issues of non-compliance. Broward Health will provide education to Workforce Members regarding:
 - a. The Deficit Reduction Act;
 - b. The Federal False Claims Act;
 - c. Administrative remedies for false claims and statements;
 - d. Applicable state laws pertaining to false claims and statements and related civil or criminal penalties;
 - e. Whistleblower protections under the Federal False Claims Act and applicable state laws;
 - f. The role of laws in preventing and detecting fraud, waste, and abuse in Federal healthcare programs;
 - g. Broward Health’s policies and procedures for preventing, identifying, reporting, and investigating fraud, waste, and abuse within Medicaid programs.

Broward Health will address the following topics in the Code of Conduct and other

employee handbooks if available:

- a. State and federal laws regarding false claims and fraud and abuse;
- b. Rights and protections of whistleblowers;
- c. Policies and procedures for detecting fraud, waste, and abuse.

B. Detection Measures:

- i. **Auditing and Monitoring:** The Corporate Compliance Department will develop an annual work plan based on risk areas identified. The work plan sets forth activities that will be undertaken in the fiscal year. All work plans are approved by the Executive Compliance Group and the Compliance Committee of the Board of Commissioners. Audits may also be scheduled as a result of a complaint made directly to the Corporate Compliance Department.
- ii. **Investigations:** The Chief Compliance Officer (CCO), or his/her designee, performs an investigations based upon possible reports of fraud, waste, or abuse associated with federal and state health care programs. If conduct of wrongdoing is found, Broward Health will report and promptly return any overpayments to the appropriate payor.

C. Reporting Mechanisms:

- i. Broward Health Workforce Members are obligated to report suspected non-compliant activities pursuant to the Code of Conduct via the following reporting mechanisms:
 - a. An immediate supervisor or department director;
 - b. Chief Compliance Officer;
 - c. Any member of the Corporate Compliance Department and Ethics Staff;
 - d. General Counsel;
 - e. Any member of the Office of the General Counsel's office staff;
 - f. Broward Health Hotline;
 - g. Sending an email to compliance@browardhealth.org.

V. Related Policies and Compliance Documents

- Broward Health Code of Conduct
- Open Lines of Communication, Policy No. GA-004-234

VI. References

DHHS. OIG Supplemental Compliance Guidance for Hospitals. 70 Fed. Reg. 4858, 4865 (Jan. 31, 2005). <https://oig.hhs.gov/fraud/docs/complianceguidance/012705HospSupplementalGuidance.pdf>

DHHS OIG. Publication of the OIG Compliance Program Guidance for Hospitals. 63 Fed. Reg. 35, 8987 (Feb. 23, 1998). <https://oig.hhs.gov/authorities/docs/cpghosp.pdf>

US Code of Federal Regulations § 483.85 - Compliance and ethics program. https://www.govregs.com/regulations/title42_chapterIV_part483_subpartB_section483.85

Broward Health Corporate Integrity Agreement with the DHHS Office of Inspector General, dated August 20, 2015.

Section 6032 Deficit Reduction Act of 2005

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
Final Approver	Brian Kozik: SVP, COMPLIANCE & PRIVACY	08/2020
	Jennifer Mosley: EXEC SECRETARY/ANALYST	07/2020