

 <p>UR MEDICINE Home Care</p>	UR Medicine Home Care, Inc.	<ul style="list-style-type: none"> ✓ URMHC Certified Services, Inc. ✓ UR Medicine Hospice ✓ Signature Care ✓ Finger Lakes Home Care ✓ URMHC Community Services, Inc.
	POLICY: Fraud, Waste, & Abuse	SCOPE: All URMHC, Inc. Workforce Members
	SECTION: 100A- Corporate Compliance	Policy #104A
	Created: 9/1/98	Reviewed: 12/2021 Revised: 12/2021

Purpose

The purpose of this policy is to put forth the manner in which all applicable entities under UR Medicine Home Care, Inc. (URMHC) comply with the requirements of the Deficit Reduction Act of 2005 (DRA) and its obligations related to Fraud, Waste and Abuse (FWA). Under the DRA, any entity who receives at least \$5 million per year in Medicaid payments is required to provide information to its employees about the Federal False Claims Act, NYS False Claims Act, the rights of employees to be protected as whistleblowers, and the organization’s policies and procedures for detecting and preventing FWA.

Scope

This policy applies to all applicable workforce.

Definitions

Fraud – An intentional deception or misrepresentation made by an individual, or entity with the knowledge that deception could result in an unauthorized benefit under a state or federally funded program to himself, the entity or some other person.

Waste – An over-utilization of services or other practices that, directly or indirectly, result in unnecessary costs to federal and state funded programs. Waste is generally not considered to be caused by criminally negligent actions but rather misuse of resources.

Abuse - Practices that are inconsistent with accepted sound fiscal, business, or medical practices, and result in an unnecessary cost or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

FDR - First Tier, Downstream or Related Entity.

First Tier Entity - Any party that enters into a written arrangement, acceptable to CMS, with a Medicare Advantage (MA) organization or Part D plan sponsor or applicant.

Downstream Entity - Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between a Managed Care Organization or applicant of a Part D plan sponsor or applicant and a first-tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.

Related Entity - Any entity that is related to a Managed Care Organization or Part D sponsor by common ownership or control and:

- Performs some of the Managed Care Organization or Part D plan sponsor’s management functions
- under contract or delegation;
- Furnishes services to Medicare enrollees under an oral or written agreement; or
- Leases real property or sells materials to the Managed Care Organization or Part D plan sponsor at a cost of more than \$2,500 during a contract period. (See, 42 C.F.R. §423.501).

Workforce - Employees, temporary employees, contracted entities and/or individuals, volunteers, trainees and First Tier, Downstream and Related Entities (FDRs).

URMC Compliance Policies – Policies specific to the URMHC Compliance Program in addition to relevant URMHC Affiliate Compliance Policies.

Policy

In compliance with the Deficit Reduction Act of 2005, this policy provides information to all workforce members involved in providing or furnishing health care items or services, performing billing or coding functions, or monitoring health care regarding the following laws, regulations and policies:

- The Federal False Claims Act
- The New York State False Claims Act
- Federal administrative remedies for false claims
- New York laws pertaining to civil and criminal penalties for false claims
- Whistleblower protections contained in the foregoing law

URMHC requires all workforce to report suspicions of fraud, waste, or abuse. In support of this requirement, URMHC educates all of its associates, medical staff, contractors, agents and volunteers to enable them to detect, prevent and report suspected incidents of fraud, waste, and abuse.

Contractors and vendors involved in providing or furnishing health care items or services including billing or coding functions will be notified upon engagement of their obligation to review available URMHC FWA Training and applicable URMHC compliance policies.

Reporting

Each member of the workforce is obligated to report a violation or suspected violation of FWA to their immediate supervisor, directly to the URMHC Compliance Officer (CO), or through the URMHC Integrity Helpline. Incidents of potential non-compliance may be reported on a strictly anonymous basis by calling the Integrity Helpline Number (585) 756-8888, or via email at integrityhelpline.urmc.edu. The caller will remain anonymous; however, sufficient information must be provided to facilitate an appropriate investigation.

An individual also has the right to report his or her suspicions to the appropriate government agency. There will be no adverse action, intimidation or retribution taken against any workforce member for the good faith reporting of a suspected violation or irregularity. Any substantiated adverse action, intimidation and/or retribution, will result in disciplinary action, up to and including termination of employment. All reports of potential adverse action, retaliation or intimidation will be thoroughly investigated.

Supervisors have a responsibility for activities in their department(s) of which they are aware or should be aware and are responsible for assuring continued objective, non-retaliatory treatment of any employee. A supervisor who observes an employee engaging in retaliatory conduct, is to take immediate action to stop the conduct. The supervisor must notify the VP of Human Resources and/or the CO of the situation so a prompt investigation may be conducted. During the investigation, reasonable efforts will be made to protect the privacy of the individuals involved.

Upon resolution of any compliance incident, a complete report will be provided to the President and CEO along with the Audit Committee of the Board. The CO will oversee any need to make policy and procedure modifications with respect to correcting and preventing further misconduct.

DETECTION AND PREVENTION OF FRAUD, WASTE AND ABUSE AND APPLICABLE STATE AND FEDERAL LAWS

In compliance with the Deficit Reduction Act of 2005 (DRA), UR Medicine Home Care, Inc. (URMHC) provides workforce members with information related to the following:

- Federal and NYS False Claims Acts,
- Federal administrative remedies for false claims,
- New York laws pertaining to civil and criminal penalties for false claims, and
- Whistleblower protections contained in the foregoing laws.

This attachment provides an overview of the False Claims Act, federal administrative remedies for false claims, New York laws pertaining to civil and criminal penalties for false claims, and whistleblower protections contained in such statutes.

The False Claims Act

The False Claims Act (the “Act”) imposes civil liability on any person who commits fraudulent acts including, without limitation, one who: (i) knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval; (ii) conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or (iii) uses a false record or statement to avoid or decrease an obligation to pay the government. The term “knowingly” is broadly defined within the False Claims Act to mean: (a) having actual knowledge that the information on the claim is false; (b) acting in deliberate ignorance of whether the claim is true or false; or (c) acting in reckless disregard of whether the claim is true or false.

Federal Whistleblower Protection

The Act protects from retaliatory actions by RRH a relator bringing a qui tam action and any other whistleblower who questions a perceived violation of the Act. The Act specifically provides that any employee who is discharged, demoted, suspended, threatened, harassed or in any manner discriminated against by his or her employer because of reporting violations of the Act will be entitled to reinstatement with seniority, double back pay, interest, special damages sustained as a result of discriminatory treatment, and attorney’s fees and costs.

Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act (PFCRA) provides for the imposition of administrative remedies on any person who makes, presents or submits (or causes to be made, presented or submitted) to certain federal agencies a claim or statement that the maker knows or has reason to know: (i) is false, fictitious or fraudulent; or (ii) includes or is supported by any written statement which asserts a material fact which is false, fictitious or fraudulent; or (iii) includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement in which the person or entity has a duty to include such material fact; or (iv) is for the provision of items or services which the person or entity has not provided as claimed.

New York False Claims Act- New York State Finance Law §§187-194

Section 189 of the New York State Finance Law makes it unlawful for a person or entity to commit any of the fraudulent acts set forth in the federal False Claims Act. Both the federal and New York False Claims Acts impose civil liability on any person who commits fraudulent acts including, without limitation, one who:

- (i) knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval;*
- (ii) knowingly makes, uses or causes to be made or used a false record or statement material to a false or fraudulent claim; or*
- (iii) conspires to defraud the government by getting a false or fraudulent claim allowed or paid.*

The term “knowingly” is defined in Section 188 of the Act with language identical to that of the federal False Claims Act. Proof of specific intent to defraud is not required, however.

New York Whistleblower Protection Statute (NY Labor Law §740)

On October 28, 2021, new legislation was signed into law expanding protection for whistleblowers in the workplace, as well as imposing additional obligations on employers. The legislation amends New York’s whistleblower protection statute (New York Labor Law §740), to expand the categories of individuals covered by the law, protect disclosures made to additional types of public entities, and protect an employee’s “reasonable belief” that the employer has violated the law. Employers are subject to enhanced penalties for unlawful retaliation and must notify their workforces of these statutory protections. The enhanced law goes into effect January 26, 2022.

New York Social Services §145-b

This statute declares it unlawful to knowingly make a false statement or representation (or by deliberate concealment of any material fact or other fraudulent scheme or device) to attempt to obtain, or to obtain, payment from public funds for services or supplies furnished under the New York State Medical Assistance Program.

New York Public Health §238-a

With certain limited exceptions, this statute prohibits the submission of Medicaid claims which are the result of a referral from a health care provider or a referring practitioner to a health care service provider (clinical laboratory services, pharmacy services, radiation therapy services, physical therapy services or x-ray or imaging services) who has a financial or familial relationship with the health care provider or referring practitioner.

New York Social Services §366-b

This statute identifies which acts constitute fraudulent practices. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly over-bills for services or merchandise, or knowingly submits false information to obtain authorization to furnish services or merchandise shall be guilty of a class A misdemeanor (or a violation if so prescribed by a provision of the New York Penal Code).

New York Penal Code Article 177

This statute makes it a crime to commit "health care fraud," an act which is defined as any time a person who, with the intent to defraud a private or public health plan, knowingly and willfully provides materially false information or omits material information for the purpose of receiving payment for health care items or services that the person or entity is not otherwise entitled to receive. The penalty for the commission of health care fraud ranges from a class A misdemeanor to a class B felony, based upon the amount of payment fraudulently obtained from a single health plan during a one-year period.