

Fraud and Abuse

How the Deficit Reduction Act of 2005 Impacts Volunteer State Health Plan and Its Providers



Background

- The Deficit Reduction Act is a piece of legislation passed by Congress that included provisions impacting Federal Health Care Programs. This includes any plan that provides health benefits which are funded by the U.S. Government, or any state health care program defined under section 1320a-7 (h).
- Volunteer State Health Plan (VSHP) falls under the definition of a state health care program.
- This law was effective on January 1, 2007.
- As a VSHP provider, this information impacts you and your staff.

The False Claims Act covers liability for certain acts. (Title 31, Section 3729)

Any person who-

- Knowingly presents to an officer or employee of the U.S. Government or member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;
- Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government, without completely knowing that the information on the receipt is true;
- Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government;
- Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
- Has possession, custody, or control of property or money used, or to be used, by the Government, and willfully conceals the property, or delivers less property than the amount for which they receive a certificate or receipt;
- Knowingly buys, or receives a pledge of an obligation or debt, public property from an officer or employee of the Government or a member of the Armed Forces who lawfully may not sell or pledge the property;

Penalties for False Claims

- Civil penalty of no less than \$5,000 and not more than \$10,000 PLUS 3 times the amount of damages which the Government sustains because of the act of that person.

Exceptions

If the court finds that---

- The person committing the violation furnished investigating officials all information known about the violation within 30 days after the date the defendant first obtained the information;
- Such person fully cooperated with any Government investigation of such violation; and
- At the time the information was presented, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

The court may then assess not less than 2 times the amount of damages that the Government sustains because of the act of the person. They shall also be liable to the U.S. Government for the costs of a civil action brought to recover any such penalty or damages.

Quick Quiz

Question: The Deficit Reduction Act effective January 1, 2007, affects Volunteer State Health Plan and its providers.

Answer: True
False

Correct Answer: True

Question: Which of the following is NOT considered a violation of the False Claims Act?

- A) Unintentionally presents to an officer or employee of the U.S. Government or a member of the Armed Forces of the U.S. a false or fraudulent claim for payment or approval.
- B) Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid.

Answer: A
B
All of the above

Correct Answer: A, Unintentionally presents to an officer or employee of the U.S. Government or a member of the Armed Forces of the U.S. a false or fraudulent claim for payment or approval.

Question: If the person knowingly presents a false claim to the U.S. Government, the maximum penalty is \$5,000 plus 3 times the amount of damages the Government sustained.

Answer: True
False

Correct answer: False. The maximum penalty is \$10,000 plus 3 times the amount of the damages the Government sustained.

BCBST Code of Conduct

The BCBST Code of Conduct requires that employees:

- Conduct business activities in an honest, open and fair manner.
- Build trusting relationships with our customers, providers, suppliers, business partners, and regulators.
- Ensure ethics and compliance concerns are not sacrificed in the pursuit and achievement of business or personal goals.
- Promote a culture of ethics and compliance as we perform our day-to-day job functions.
- Strive for ethical professionalism.
- Consider ethics and compliance an integral part of all of our business decisions.

The complete BCBST Code of Conduct may be found at:

http://www.bcbst.com/about/company_profile/code-of-conduct/

Protection Under the False Claims Act

- 'Whistleblower' provision
 - Individuals with original information regarding fraud involving government health care programs may file a lawsuit
 - Whistleblower – An employee who discloses suspected fraud or abuse by his/her employer to a government or law enforcement agency
- Successful Whistleblower lawsuit
 - Must meet specific legal requirements
 - Possibly awarded 15% to 30% of total recovered
 - Employee protected from retaliation



Whistleblower Protection

The False Claims Act provides whistleblower protection from retaliation

- Employee must reasonably believe he/she is reporting a violation of the law
- Employer cannot discharge, demote, suspend, harass or in any manner discriminate against the employee for whistleblowing



How Can You Report Suspected Fraud?

- Call BlueCross BlueShield of Tennessee Fraud and Abuse Hotline at 1-800-496-9600;
- E-mail BlueCross BlueShield of Tennessee at <http://www.bcbst.com/fraud/report.shtml>;
- Call the Bureau of TennCare from anywhere in Tennessee at 1-800-433-3982; or
- Log onto www.tncarefraud.tennessee.gov and follow the prompts for “Report Fraud Now”.