

Fraud, Waste and Abuse



Health care fraud, waste and abuse hurts everyone including members, providers, taxpayers and CareSource. As a result, CareSource has a comprehensive fraud, waste and abuse program in our Special Investigations Unit. Please help us by reporting questionable fraud, waste and abuse situations.

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Definition of Terms

Fraud — Is defined as, “An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state law.” (42 CFR Part 455.2)

Waste — involves the taxpayers’ not receiving reasonable value for money in connection with any government funded activities due to an inappropriate act or omission by player with control over or access to government resources. (e.g., executive, judicial or legislative branch employees, grantees or other recipients). Waste goes beyond fraud and abuse, and most waste does not involve a violation of law. Waste relates primarily to mismanagement, inappropriate actions and inadequate oversight — *From the Inspector General*

Abuse — is defined as, “Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary costs to the Medicaid program.” (42 CFR Part 455.2)

Improper Payment — is any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. Includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. (*Improper Payments Elimination and Recovery Act [IPERA]*).

Examples of Member Fraud, Waste or Abuse

- Visiting a variety of providers for controlled substances
- Prescription forging or prescription modification to obtain controlled substances, other medications, or more medication than prescribed
- Members sharing their CareSource ID cards with nonmembers
- Fraudulent Babies First Coupons submitted for prenatal and well-baby visits (*Medicaid Only*)
- Non-disclosed other health insurance coverage

Examples of Provider Fraud, Waste or Abuse

- Lack of medical necessity for medical services and prescription drugs billed
- Services not provided but billed
- Upcoding of CPT and DRG codes to obtain a higher rate of reimbursement
- Inappropriate use of CPT codes and/or modifiers to seek higher reimbursement
- Unbundling CPT codes to obtain higher reimbursement
- Not checking member ID's resulting in claims submitted for non-covered persons
- Prescription drugs that were not dispensed as written
- Home health care and/or durable medical equipment prescribed when not medically necessary
- Inappropriate use of unlisted CPT codes
- Inflating billed charges to seek higher reimbursement
- Scheduling more frequent return visits than are needed to increased reimbursement
- Billing for services outside of your medical qualifications
- Balance billing of members for any balance owed after CareSource has paid the approved state fee-for-service and/or contracted fee for services rendered (*Medicaid only*)
- Fictitious provider operations
- Purchasing enrollee lists for the purpose of submitting fraudulent claims
- Duplicate payments for services
- Drugs billed for inpatients as if they were outpatients
- Payments stemming from kickbacks or Stark Violations

Company/Employee/Delegated Entities Issues

Preventing members from accessing covered services resulting in underutilization of services offered

We routinely monitor claims data and review medical records looking for billing aberrancies. When found, an investigation is initiated and, if warranted, a corrective action is taken. Corrective actions can include but are not limited to:

- Member and/or provider education
- Written corrective action plan
- Provider Termination without cause
- Provider Termination for cause/ Summary Suspension – Refer to your Provider Agreement for specific information on each of these terminations. Refer to the Fair Hearing Policy for the appeal process. The CareSource Fair Hearing Policy is available at www.caresource.com. Search “Fair Hearing Policy”
- Recovery of overpaid funds
- Member disenrollment
- Reporting to one or more applicable state and federal agencies
- Legal action

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Reporting Fraud, Waste and Abuse to CareSource

You can report your suspicions of Fraud, Waste or Abuse to the CareSource Special Investigations Unit or to the Michigan Department of Community Health (MDCH). Contact information is located at the end of this section.

The Federal and State False Claims Acts and Other Fraud, Waste and Abuse Laws

Using the False Claims Act (the Act), you can help reduce fraud against the federal government. The Act allows everyday people to bring “whistleblower” lawsuits on behalf of the government — known as “qui tam” suits — against businesses or other individuals that are defrauding the government through programs, agencies, or contracts.

As amended in 2009, the False Claims Act addresses those who:

- a. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval
- b. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim
- c. Conspires to commit a violation of any other section of the False Claims Act
- d. Has possession, custody or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property
- e. Is authorized to make or deliver a document certifying receipt of property used, or to be used by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true

- f. Knowingly buys, or receives as 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 property
- g. Knowingly makes, used, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government

“Knowingly” means acting with actual knowledge or with reckless disregard or deliberate indifference to the truth or falsity of information.

An example would be if a health care provider, such as a hospital or a physician knowingly “upcodes” or overbills, resulting in overpayment of the claim using Medicaid and/or Medicare dollars.

The Deficit Reduction Act of 2005

The Deficit Reduction Act of 2005 (DRA) contains many provisions reforming Medicare and Medicaid that are designed to reduce program spending. As an entity that offers Medicaid and Medicare coverage, CareSource is required to comply with certain provisions of the DRA. One such provision prompted this communication, as it requires us to provide you with information about the Federal False Claims Act, state False Claims Acts, and other state laws regarding Medicare and Medicaid fraud. In addition, the DRA requires you and your contractors and agents to adopt our policy on fraud, waste and abuse when handling CareSource business.

The time period for a claim to be brought under the False Claims Act is the later of:

- Within six years from the date of the illegal conduct, or
- Within three years after the date the Government knows or should have known about the illegal conduct, but in no event later than ten years after the illegal activity.

In addition, the DRA requires you and your contractors and agents to adopt our policy on fraud, waste, and abuse when handling CareSource business.

The Michigan False Claims Act

Michigan enacted its own False Claims Act in 2005. Under the Michigan Act, the following constitute felonious acts:

1. Knowingly making or causing to be made a false statement or false representation of a material fact in an application for Medicaid benefits
2. Knowingly making or causing to be made a false statement or false representation of a material fact for use in determining rights to a Medicaid benefit
3. Having knowledge of the occurrence of an event affecting his or her initial or continued right to receive a Medicaid benefit or the initial or continued right of any other person on whose behalf he or she has applied for or is receiving a benefit, concealing or failing to disclose that event with intent to obtain a benefit to which the person or any other person is not entitled or in an amount greater than that to which the person or any other person is entitled

4. Soliciting, offering, or receiving a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part pursuant to the Medicaid program, making or receiving the payment, or receiving a rebate of a fee or charge for referring an individual to another person for the furnishing of the goods and services
5. Knowingly and willfully making, or inducing or seeking to induce the making of, a false statement or false representation of a material fact with respect to the conditions or operation of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, or home health agency
6. Entering into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another to obtain the payment or allowance of a false claim
7. Making or presenting or causing to be made or presented to an employee or officer of the state a claim under the Medicaid program, knowing the claim to be false

M.C.L. §400.601, et seq. A person who violates the Michigan Act is guilty of a felony, punishable by imprisonment for not more than four (4) years, or by a fine of not more than \$50,000, or both.

Other Fraud, Waste and Abuse Laws

- Under the **Federal Anti-Kickback Statute**, and subject to certain exceptions, it is a crime for anyone to knowingly and willfully solicit or receive, or pay anything of value, including a kickback, bribe, or rebate in return for referring an individual to a person for any item or service for which payment may be made in whole or in part under a Federal health care program. 42 U.S.C. §1320a-7b.
- Under the **Federal Stark Law**, and subject to certain exceptions, physicians are prohibited from referring federal health care program patients for certain designated health services to an entity with which the physician or an immediate family member has a financial relationship. The Stark Law imposes specific reporting requirements on entities that receive payment for services covered by Federal health care programs. 42 U.S.C. §1395(a) and §1903(s).
- As part of the **Health Insurance Portability and Accountability Act (HIPAA)**, the U.S. Criminal Code was amended, and it is a crime to knowingly and willfully execute, or attempt to execute a scheme or artifice to defraud any federal health care program or obtain by means of false or fraudulent pretenses, representations or promises, any money or property owned by or under the custody or control of any Federal health care program. 18 U.S.C. §1347.

Prohibited Affiliations

CareSource's contracts with federal and state agencies prohibit CareSource (from knowingly having relationships with persons who are debarred, suspended, or otherwise excluded from participating in federal procurement and non-procurement activities). Relationships must be terminated with any trustee, officer, employee, provider or vendor who is identified to be debarred, suspended, or otherwise excluded from participation in federal or state health care programs. If you become aware that you or your office management staff is a prohibited affiliation, you must notify us ***immediately***.

Additional information on the False Claims Act and our fraud, waste and abuse policies can be found www.caresource.com.

Protection for Reporters of Fraud, Waste or Abuse

In addition, federal and state law and CareSource's policy prohibit any retaliation or retribution against persons who report suspected violations of these laws to law enforcement officials or who file "whistleblower" lawsuits on behalf of the government. Anyone who believes that he or she has been subject to any such retribution or retaliation should also report this to the Special Investigations Unit.

Fraud, Waste or Abuse Reporting Process

It is the policy of CareSource to detect and prevent any activity that may violate the federal False Claims Act or the state Medicaid fraud laws cited in this policy. If any employee, provider, delegated entity, subcontractor or agent has knowledge or information that any such activity may have taken place, they should contact the Special Investigations Unit.

You Can Report Fraud, Waste and Abuse to CareSource:

Anonymously:

- **Call: 1-800-390-7102**
- **Write:**
CareSource
Attn: Special Investigations Unit
P.O. Box 1940
Dayton, OH 45401-1940

Other means of reporting fraud, waste and/or abuse that is not anonymous:

- **Email: fraud@caresource.com**
- **Fax: 1-800-418-0248**

Or you may choose to use the Fraud, Waste and Abuse Reporting form located on www.caresource.com or in the Supplements/Forms section in this manual.

You may also report fraud directly to the Michigan Department of Community Health (MDCH) **anonymously** and **confidentially**:

- **Call: 1-866-428-0005**
- **Write:**
Medicaid Integrity Program Section
Capitol Commons Center Building, 6th Floor
P. O. Box 30479
400 S. Pine Street
Lansing, MI 48909-7979

When you report fraud, waste or abuse, please give as many details as you can, including names and phone numbers. You may remain **anonymous**. Your report will be kept **confidential** to the extent permitted by law.

Thank you for helping CareSource keep fraud, waste and abuse out of health care.

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