

Fraud, Waste and Abuse Prevention and Detection Engage Policy

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Authoring Origin: Enterprise Risk Management Services, VP Compliance and Information Security, Rod Hochman, MD - President/CEO

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Scope: This policy applies to Providence Health & Services and its Affiliates¹ (collectively known as “Providence”) and their caregivers (employees); employees of affiliated organizations; members of system, community ministry and foundation boards; volunteers; trainees; independent contractors; and others under the direct control of Providence (collectively referred to as workforce members). Providence educational institutions are excluded from this healthcare related policy. This is a management level policy approved by Leadership Council and signed by the President/CEO.

Purpose: To prevent and detect fraud, waste and abuse (FWA) by providing workforce members detailed information regarding: (1) the federal False Claims Act; (2) federal laws and penalties pertaining to reporting and returning overpayments; (3) state laws and penalties pertaining to false claims; and (4) whistleblower protections under certain laws.

Definitions: For purposes of applying this policy, the following definitions apply:

1. *Agents:* Anyone directly performing services on behalf of Providence.
2. *Caregiver:* Refers to all employees of Providence.
3. *Claim:* As defined in the federal False Claims Act, a “Claim” includes any request or demand, whether under a contract or otherwise, for money or property which is made by a contractor, grantee, or other recipient, if the government provides any portion of the money or property, or will reimburse the requesting entity for any portion of the money or property, that is requested or demanded.
4. *False Claims Act (FCA):* The federal False Claims Act (31 USC 3729-33) makes it a crime for any person or organization to knowingly make a false record or file a false claim with the government for payment. “Knowingly” means that the person or organization:
 - a. Knows the record or claim is false, or
 - b. Seeks payment while ignoring whether or not the record or claim is false, or
 - c. Seeks payment recklessly without caring whether or not the record or claim is false.

¹ For purposes of this policy, “Affiliates” is defined as any entity that is wholly owned or controlled by Providence

Health & Services or Western HealthConnect (for example, Swedish Health Services, Swedish Edmonds, Kadlec Regional Medical Center, PacMed Clinics and Inland Northwest Health Services).

5. *Fraud*: An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to an organization or an individual. It includes any act that constitutes fraud under applicable federal or state law.
6. *Overpayment*: Funds that a person or organization receives or retains under Medicare or Medicaid/MediCal to which the person or organization, after applicable reconciliation, is not entitled under those programs.
7. *Waste and Abuse*: Incidents or practices that are inconsistent with legal, ethical, accepted and sound business, fiscal or medical practices that result in unnecessary cost to federal health programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes Medicare and Medicaid/MediCal practices that result in unnecessary costs to a federal health program.

Examples of potential FWA; this list is not conclusive:

Falsifying Claims	Eligibility determination issues
Improper Alteration of Claim	Misrepresentation of medical condition
Incorrect coding	Failure to report third party liability
Double Billing	Physical, Mental, Emotional, Sexual abuse
Billing for services not provided	Neglect
Misrepresentation of services/supplies	Discrimination
Improper Substitution of services	Providing substandard care
Inaccurate cost reports	Providing medically unnecessary services
Kickback/Stark violations	Financial exploitation
Fraudulent credentials	Fraudulent recoupment practices
Embezzlement	Failure to refer for needed services
Under-utilization and Over-utilization	Violations of Medicare’s Conditions of Participation
Known retention of an Overpayment	

8. *Qui tam/Whistleblower Provision*: Allows a private person to bring a lawsuit on behalf of the government where the private person has information that the named defendant has knowingly submitted or caused the submission of false or fraudulent claims to the government.

Policy:

It is the policy of Providence to comply with applicable federal and state laws and regulations pertaining to FWA in federal and state health care benefit programs and to disseminate information to its workforce members regarding such laws and regulations. Providence is committed to the diligent prevention and detection of FWA through its Board-approved Integrity and Compliance Program.

Requirements:

Providence will train and educate its workforce members and contractors as necessary to comply with the legal and regulatory requirements related to FWA and will work cooperatively with workforce members when problems are identified to resolve those problems as quickly as possible. Providence will follow federal and state False Claims Acts, and will educate existing workforce members and contractors to the policies and procedures intended to meet those requirements, and to educate new workforce members upon hire or engagement. Providence will monitor education given

to employees to verify this policy has been effectively implemented. Providence expects workforce members and contractors who are involved with creating and filing claims for payment for Providence services will only use true, complete and accurate information to make the claim. Billing for clinical trials will follow clinical trial billing protocols and will be submitted in accordance with federal requirements.

Providence will monitor and audit compliance with billing and coding requirements (through the Revenue Cycle department, Providence Health Plan and other appropriate departments) in order to detect errors and inaccuracies and will take appropriate actions to correct any issues causing billing inaccuracies. Providence will exercise reasonable diligence to investigate any instances in which an Overpayment may have been received. In all situations where Overpayments are identified, Providence will report and return Overpayments identified timely and in accordance with applicable federal and/or state requirements.

Providence regions, ministries or facilities will create policies and procedures to comply with any applicable state-level False Claims Act requirements, and will provide education to their existing workforce members and contractors on those policies and procedures and will train new workforce members upon hire or engagement.

Workforce members and contractors are expected to report any concerns about billing issues, a potential Overpayment, or any other issue they feel is illegal or otherwise inappropriate, in accordance with the Code of Conduct. Concerns may be reported to the Providence Integrity Line at (888) 294-8455 or to the [Integrity Online](#) web-based reporting site. Potential Overpayment issues should be brought immediately to the attention of the Department of Legal Affairs, Compliance and/or Revenue Cycle. Workforce members have the right to be protected against retaliation for good-faith reporting of suspected wrongdoing or assisting in an investigation of possible wrongdoing. This commitment is expressed in our Code of Conduct and Non-Retaliation Policy. Providence expects workforce members and contractors to be familiar with the Code of Conduct and other policies and to follow them.

Management is responsible for ensuring that workforce members are educated to the requirements of this policy and that the education is documented. The form and extent of that training will be determined by the workforce member's function. Other workforce members will receive informational materials or awareness training.

Providence workforce members who do not follow this policy may be subject to disciplinary action up to and including termination of employment or contractual relationships.

A person who knows a Claim was filed for payment in violation of the False Claims Act can file a lawsuit in Federal Court on behalf of the government and, in some cases, receive a reward for bringing original information about a violation to the government's attention. Some states have a False Claims Act that allows a similar lawsuit in state court if a false Claim is filed with the state for payment, such as under Medicaid or Workers' Compensation. Penalties are severe for violating the federal False Claims Act and may include repayment of up to three times the value of the false Claim, fines ranging from \$5,500 to \$11,000 per claim and/or imprisonment for 5 years. In addition, individuals and entities can face administrative penalties such as exclusion from participating in federal and state-funded health care benefit programs, including Medicare and Medicaid.

References:

- [Providence Code of Conduct](#)

- [INHS Code of Conduct](#)
- [Swedish Code of Conduct](#)
- [Integrity and Compliance Program Description](#)
- [Non-Retaliation Policy \(PROV-HR-419\)](#)
- [Federal False Claims Act](#)
- [Deficit Reduction Act of 2005](#)
- [Sections 1128J\(d\)](#) (reporting and returning overpayments) and [Section 1909 of the Social Security Act](#) (establishes liability to state for false or fraudulent claims)
- [42 C.F.R. Part 401, Subpart D](#)
- [State False Claims Acts Reviewed by the OIG](#)
- State of Alaska [Alaska Stat. §§ 47.05.210 Medical Assistance Fraud](#)
- State of California [The False Claims Act, Cal. Gov't Code §§ 12650 et seq.](#)
- State of Idaho [Idaho Public Assistance Law, Idaho Code Ann. §§ 56-209 \(h\)\(6\) to 56-209 \(h\)\(10\); 56-227A to 56-227](#)
- State of Montana [Montana False Claims Act, Montana Code Annotated §§ 17-8-401 through 17-8-413](#)
- State of Oregon [Oregon False Claims, Or. Rev. Stat §§ 180.750 to 180.785](#)
- State of Washington [Medicaid Fraud False Claims Act. RCW Chapter 74.66; RCW 74.09.210-.290](#)