

MUNSON HEALTHCARE

CORPORATE CODE OF CONDUCT – POLICY 001.025

Approved by Munson Medical Center Board of Trustees – June 24, 2014

Approved by Munson Healthcare Board of Directors – June 24, 2014

Approved by Kalkaska Memorial Health Center Board – January 26, 2016

Approved by Paul Oliver Memorial Hospital Board of Trustees – February 10, 2016

Approved by Munson Healthcare Charlevoix Hospital Board of Trustees – February 23, 2016

At Munson Healthcare we are committed to conducting business in an ethical and honest manner and within the bounds of the law. This Code of Conduct (Code) is intended to provide employees, physicians, board members, volunteers, suppliers, and other agents of Munson Healthcare (collectively referred to as “Covered Individuals”) with guidelines for conducting business in a manner which fulfills that commitment.

The Code of Conduct is supplementary to the mission, vision and values of Munson Healthcare and applies to all who provide services under the auspices of Munson Healthcare, including Munson Medical Center, Munson Healthcare Foundations, Paul Oliver Memorial Hospital, Kalkaska Memorial Health Center, Munson Medical Group, Munson Support Services, Munson Home Health, Munson Home Care, Munson Home Services, Munson Mobile Imaging, Inc., Munson Services Inc., Sixth Street Drugs, Munson Dialysis Center, Northern Michigan Supply Alliance, North Flight, Inc., Munson Healthcare Cadillac Hospital, Munson Healthcare Cadillac Hospital Foundation, Munson Healthcare Grayling Hospital, and Munson Healthcare Charlevoix Hospital (collectively referred to as “Munson Healthcare”).

The standards contained in this Code of Conduct are important, and therefore any violation will be handled in accordance with the Corrective Action Process policy, up to and including termination of employment as outlined in Human Resource policies or other applicable policies and procedures of Munson Healthcare and its Medical Staff. In addition, referral of certain matters will be made to law enforcement, government and/or regulatory agencies as appropriate.

Ethics and Compliance

The Munson Healthcare Code of Conduct is part of our overall program of ethics and compliance. It serves as a guide for all Covered Individuals as we strive to conduct our business dealings with a high degree of honesty and integrity. To help you, our Code of Conduct sets out our standards on how we should behave with all our stakeholders – patients, coworkers, community, physicians and regulators. However, medical and business decisions can be complex, and no code of conduct can spell out the appropriate behavior for every situation. Munson Healthcare relies on each of us to use good judgment of what is right and proper in any particular situation. If the answer is uncertain, ask yourself:

- Does it comply with Munson Healthcare standards, including this Code and our policies and procedures?
- How would my action look as a headline in tonight’s news or tomorrow’s newspaper?
- How would my family, friends, or coworkers view my behavior?
- Does it follow the letter and spirit of the law and regulation?

How to Ask Questions or Report Concerns

It is important to Munson Healthcare that employees have an effective way to get an answer to any question they may have about how to conduct their job. It is also important for any Covered Individual to report any instance of a known or suspected violation of this Code of Conduct.

In the event that an employee has a question or concern or believes that someone is conducting business in an illegal, unethical, or otherwise questionable manner, or violating Munson Healthcare's policies, it is preferred that the employee first contact his or her supervisor to discuss the matter. There are times, however, when either the employee may feel uncomfortable in discussing the matter with his or her supervisor or the response the employee receives may be inadequate. In those cases, and for other Covered Individuals to report questions or concerns, there are two options:

1. If the person doesn't mind disclosing his/her identity, he/she may call the Corporate Compliance Officer directly at 231.935.7768.
2. If the person prefers to remain anonymous, he/she may call the Compliance Hotline at 231.935.7748, any time, day or night, 24/7. No attempt will be made to identify the caller. The caller's message will be recorded by an answering machine that does not reveal the source of the call, and the message will be retrieved by the Corporate Compliance Officer. It is critical that enough information is provided in the message to begin an investigation, as it will be impossible for the Corporate Compliance Officer to call back for more details.

The Corporate Compliance Officer will conduct a thorough and objective investigation of all reported potential or suspected compliance violations. The source of the information will remain confidential and privileged to the full extent permitted by law. Callers will not be retaliated against for making a report or raising a concern.

What if my manager told me to do something that is dangerous and possibly illegal? I know I should tell someone but I'm afraid my manager will make my job difficult for me if I do.

The best place to raise your concerns is typically with your manager, but since it is your manager's request that concerns you, calling the hotline is a good option. If you report your concerns through the hotline, you will have the assurance of knowing that we are looking into the situation and that retaliation or punishment by your manager or others will not be tolerated.

Munson Healthcare also wants to know about patient safety, security, and ethics concerns. The on-line reporting system called **VOICE** – Voice Organization Incidents, Concerns, and Events – should be used to report patient and visitor occurrences, good catches or near misses related to patient care, and security or ethics concerns. Any issues reported in VOICE will receive appropriate investigation and follow-up, including root cause analysis and proactive risk assessment when warranted.

I witnessed a patient fall today. Do I need to report this?

Yes. This should be reported using the VOICE system.

What if I am not 100% sure if something is inappropriate?

Speak up! You do not have to be 100% sure before speaking up if you have a good faith concern about something you have seen or heard at Munson Healthcare.

Munson Healthcare's Commitment to Compliance

Munson Healthcare strives to:

1. Comply with the Law.

Munson Healthcare is subject to numerous local, state and federal laws pertaining to all aspects of its operation. All employees are required to understand and abide by those laws which are applicable to them in the performance of their jobs.

What if I'm not sure which regulations cover my area of responsibility?

Ask. Munson Healthcare will provide you with the information and education needed to comply fully with all applicable laws and regulations. If any questions remain, ask your supervisor, Human Resources, or Corporate Compliance Officer.

2. Provide Excellent Patient Care.

Munson Healthcare employees shall strive to treat all patients with a spirit of kindness, patience and understanding. Each patient is an individual and should be treated as such. Each patient should be respected, with their needs and desires considered as health care decisions are made. Steps shall be taken so that each patient understands his or her treatment needs and options, treatment methods utilized, and treatment outcomes. Munson Healthcare will provide services in a manner that does not discriminate against any person because of age, race, color, religion, gender, sexual orientation, disability, national origin, veteran status, marital status, or for any other reason prohibited by applicable state and Federal law. At all times, competent and qualified individuals will provide appropriate care, while considering the safety and well-being of the patients.

I often cover breaks for my coworker Molly. Her patients often complain that they have pain, but their medication records show they have recently received pain medication. Molly appears to be very sleepy and grouchy after her breaks. I think she may be taking the drugs from her patients and using them herself. What should I do?

Talk with your charge nurse or manager right away. Reporting your concern via VOICE is also an option. For our patients' sake, we need to ensure that Molly is not under the influence of drugs. Patients must have their pain properly managed. Lastly, if Molly is diverting drugs, that would be considered theft.

3. Protect Confidential Information.

Munson Healthcare is committed to maintaining the confidentiality of patient, employee, and proprietary business information in accordance with applicable legal and ethical standards. Do not access or disclose patient, employee, or business data to outside parties without prior written approval. Gray bins should be used to dispose of any confidential paper documents to ensure that it is appropriately shredded.

Patient information is protected under the federal law known as HIPAA, the Health Insurance Portability and Accessibility Act. All Munson Healthcare employees receive annual HIPAA training, but in a nutshell, you should not use or disclose any patient information beyond that which is necessary to effectively perform your job. In addition, Covered Individuals with electronic access to protected information periodically review and sign the Munson Healthcare Confidentiality and Systems Usage Agreement. It is the duty and responsibility of all employees to report any suspected confidentiality or HIPAA breaches in VOICE.

What if my husband asks me to look up his recent lab results?

You may not look up any family member's confidential medical information unless your husband has first filled out, signed and turned in to the Health Information Management department an e-Authorization form specifically permitting you to look up his medical information.

4. Adhere to Health Care Fraud and Abuse Legislation.

All employees of Munson Healthcare are required to comply with laws which prohibit health care fraud and abuse. It is your **duty and obligation** to report any good-faith belief of potential or suspected compliance violations, and to cooperate fully with investigations of suspected compliance violations. In order to ethically and legally meet all standards regarding fraud and abuse legislation, Munson Healthcare adheres strictly to four primary rules:

- **We do not pay for referrals.** We accept patient referrals and admissions based solely on the patient's clinical needs and our ability to provide the needed services. We do not pay or offer to pay anyone – employees, physicians or other persons – for referral of patients or to induce referrals. Violation of this policy has grave consequences for the organization and the individuals involved, including civil and criminal penalties and possible exclusion from participation in federally funded health care programs.
- **We do not accept payments for referrals that we make.** No Munson Healthcare employee is permitted to solicit or receive anything of value, directly or indirectly, in exchange for the referral of patients. Similarly, when making patient referrals to another health care provider, we do not take into account the volume or value of referrals that the provider has made (or may make) to us.
- **We follow strict regulatory standards in our dealings with physicians.** All business relationships between Munson Healthcare and physicians require a legally compliant contract be in place prior to commencing the arrangement. In addition, we generally cannot provide physicians or their staff with free services, products or business courtesies. The Legal Department should be contacted to answer any questions involving physician arrangements.
- **We submit appropriate claims for services provided to patients.** Our intent is to bill patients and third-party insurance only for medically necessary services. We will not knowingly process claims that are false, fictitious, or fraudulent. Services will be coded and billed appropriately and supported by proper orders and documentation in the medical record.

I keep seeing physician claims that do not have proper documentation to support the coding and charges. What do I do?

Discuss your concerns with your manager and billing specialist. We may need to review the documentation further and offer education. The Internal Audit department and Corporate Compliance Officer are resources as well.

5. Not Accept or Give Inappropriate Gifts or Gratuities.

The following standards apply to the giving or receiving of gifts and gratuities.

Receiving Gifts from Patients and Suppliers

Employees are prohibited from soliciting tips, personal gratuities or gifts from patients or suppliers. We may never give or receive cash or cash equivalents (e.g. gift certificates), or non-monetary items of substantial value such as free trips, lodging, or meals. Employees may, however, accept non-monetary gratuities or gifts of a nominal value, such as cookies, flowers or candy if the gift would not influence, or reasonably appear to others to be capable of influencing, the employee's business judgment in conducting affairs with the patient or supplier.

If the value of the gift is substantial (more than \$25) or there is any question regarding whether the gift meets this standard of reasonableness, the employee must seek prior approval from the appropriate Vice President or Administrator or refuse the gift and promptly return the gift to the supplier or patient. When a more substantial gift is offered, we can kindly refer the person to the Munson Healthcare Foundations.

What if I speak at a professional meeting sponsored by a supplier? May I accept an honorarium or reimbursement of travel expenses?

If you are asked to speak at any conference as a representative of Munson Healthcare, and are offered any item of value, such as a cash honorarium or non-monetary items such as free admission to the conference or free meals, lodging or airfare, you must get pre-approval for the activity from your Vice President or Administrator. Normally, it is inappropriate to accept any items of value from suppliers to speak at conferences. However, exceptions can be made if your Vice President or Administrator determines that acceptance would not influence your business judgment in conducting affairs with the supplier and if participating in the conference would be a benefit to Munson. The Vice-President or Administrator must document the rationale for granting the exception. This is a complicated area, and you are encouraged to reference Munson's policy, "Gifts from MHC Business Partners" and NMSA's "Supplier Policy." If you aren't sure, ask!

Physicians should be aware that beginning August 1, 2013, the Physician Payments Sunshine Act requires manufacturers of drugs, medical devices and biologicals to track and then report certain payments and items of value given to physicians. The reports will be available on a public, searchable website. Physicians employed by Munson should bring any questions or concerns to the Vice President of Medical Affairs.

Giving Gifts to Patients and Suppliers

Employees shall not offer or give money, services or other things of value with the expectation of influencing the judgment or decision making process of any purchaser, supplier, patient, governmental official or any other person. Munson Healthcare has established funds to assist patient needs, subject to meeting specific criteria. Federal law generally limits any gifts to patients to \$10 per event and \$50 in total per year to prevent the appearance of incenting patients to do business with a healthcare provider.

An employee who is in doubt about whether a situation involving the giving or receiving of something of value is acceptable, should ask his or her supervisor, or the Corporate Compliance Officer.

What if I have a friend who works for a supplier... does company policy prohibit me from buying a birthday present for this person?

Not necessarily. Munson Healthcare policy applies to gifts offered in the course of doing business, not the exchange of gifts between friends and family. If the dollar value of the gift is substantial, however, contact your manager or the Corporate Compliance Officer to avoid a perception of an attempt to influence.

6. Avoid Conflicts of Interest.

A conflict of interest occurs when a personal interest actually interferes, or may be perceived to interfere, with our ability to make decisions that are in the best interests of Munson Healthcare and our patients. Munson Healthcare prohibits its employees and other associates from engaging in any activity, practice, or act which conflicts with, or appears to conflict with, the interests of Munson Healthcare or its patients.

Therefore, all employees and volunteers must disclose to their supervisor or to Human Resources any potential conflict of interest they have in any firm which does business with Munson Healthcare or which competes with Munson Healthcare. Board Members and members of the Medical Staff are required to periodically complete a Conflict of Interest Disclosure form.

What if one of my relatives works for a Munson Healthcare supplier?

Munson Healthcare needs to know so that appropriate action can be taken to prevent potential conflicts from affecting (or appearing to affect) company decisions. For example, if your sister works for a supplier and has been involved in procurement activities, and your manager has just informed you that she wants you to join a proposal team looking at bids from various companies, including the one that employs your sister, you must disclose it to your manager.

I am an employee. Can I moonlight for a competitor of Munson Healthcare?

It depends. You must disclose your other employment to your supervisor or Human Resources. The situation will be evaluated to determine whether it could be detrimental to Munson Healthcare. If the situation is determined to be potentially detrimental to Munson Healthcare, you will not be permitted to moonlight. If you are permitted to continue moonlighting, it is expected that your outside employment will not divert work time, business interests, or technical skills from Munson Healthcare.

7. Follow All Antitrust Regulations.

A number of activities engaged in by Munson Healthcare are subject to state and federal antitrust laws. Generally, these laws prohibit agreements or actions that may illegally restrain trade or reduce competition. Examples of activities that violate these laws include, but are not limited to, agreements among competitors to fix or stabilize prices, inappropriate exclusive dealings, sharing supplier prices or wage information with other hospitals, and boycotts of specified suppliers or customers.

What if my former employer was another Michigan health care system? Is it okay to talk with my Munson Healthcare colleagues about some of their marketing strategies?

No. You have an obligation to protect the proprietary information of your former employer, and that obligation does not end when you leave. You should disclose the fact that you formerly worked for another health care system to your manager and be sure to abide by all the obligations of confidentiality owed to your former employer.

8. Keep Accurate and Complete Records.

It is essential that Munson Healthcare report accurate information to governmental entities and other third parties. In order to meet this obligation, it is equally essential that every employee accurately and

clearly report the relevant facts or the true nature of a transaction. No employee should knowingly or with reckless disregard for the truth make any false or misleading statement on any form or to any other officer, employee or auditor for Munson Healthcare. All patient records must meet the documentation standards required for quality care and to meet reimbursement regulations. Documents should be retained according to the Record Retention Policy.

What if my manager is exerting pressure to “make the numbers work”?

We want to know. Your responsibility is to be honest and accurate. If you feel pressured to do otherwise, speak with our Chief Financial Officer or Corporate Compliance Officer. If you feel uncomfortable going through these channels, you can call the hotline, anytime night or day.

9. Conduct Political Activities According to the Law.

Munson Healthcare does not participate or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. While Munson Healthcare supports employee participation in the political process, employees are not permitted to use positions in Munson Healthcare to try to influence the personal decisions of others to contribute or otherwise support political parties or candidates except as lawfully permitted through political action committees.

Munson Healthcare may participate in lobbying activities or advocating the passage or defeat of certain legislation that pertains to issues that affect the healthcare community. Lobbying activities, or advocating the passage or defeat of certain legislation, shall not constitute a substantial part of the activities of Munson Healthcare.

My friend is running for the local school board. May I help her?

Yes, but only in your personal capacity. As a not-for-profit organization, Munson Healthcare may not endorse or intervene on behalf of any candidate for public office. That means that as an employee of Munson Healthcare, you may not use company time or assets to perform political activities, you may not use Munson Healthcare’s logo or name on letters or other written materials supporting political candidates, and you may not distribute political literature at work. Munson Healthcare facilities should never be used for political events.

10. Protect the Environment.

It is the policy of Munson Healthcare to comply with all state and federal laws protecting the environment. Employees shall dispose of all waste and other materials and store all chemicals and substances in accordance with applicable laws and regulations. It is important to file all necessary environmental reports accurately and promptly and to cooperate fully with all governmental authorities in the event of an environmental incident.

11. Provide a Safe Workplace. It is the policy of Munson Healthcare to comply with all applicable state and federal laws designed to improve workplace safety. Munson Healthcare is committed to training employees to carry out their work in a manner that is safe for them, their coworkers and the patients they serve. Above all, Munson is committed to a culture of safety for our patients. Employees are educated about workplace safety through orientation, HealthStream courses, and CREED tips.

What if I see a pool of water in the hallway that could cause a fall? Other employees are walking around it – must I report it?

Yes, all employees are accountable and responsible for keeping our facilities as safe as possible at all times. If you are able, please call EVS, clean the area yourself, and/or put out a yellow caution sign.

I work in the Operating Room and consistently see a surgeon not following Munson’s “time-out” before starting a surgery. I’ve brought to the surgeon’s attention, but he reacts in a negative and rude manner. I’m concerned about our patients’ safety, but fear retaliation. What can I do?

Speak up! Report your concern to your supervisor. This concern should also be reported in VOICE. Munson promotes a non-retaliatory environment when good-faith concerns are reported, especially in matters concerning patient safety.

12. Not Tolerate Harassment or Discrimination.

It is Munson Healthcare’s policy not to discriminate on the basis of age, race, color, religion, gender, sexual orientation, disability, national origin, veteran status, marital status (or for any other reason prohibited by applicable state and Federal law) in providing services to patients or the public, nor in relation to employment practices. Furthermore, Munson Healthcare prohibits harassment of its employees in any form by supervisors, coworkers, customers or suppliers. Concerns of this nature should be reported to one’s manager or to Human Resources.

What if I receive an email from a co-worker that includes very offensive jokes?

Offensive jokes sent through company email are not appropriate. Let the sender know you found the email offensive. Ask them to refrain from sending out such emails in the future and advise that you will report the matter if it continues.

13. Appropriately Use its Assets.

All employees are charged with protecting and preserving Munson Healthcare’s assets and resources by following procedures to prevent their loss, theft or unauthorized use. No part of the net earnings of Munson Healthcare shall inure to the benefit of, or be distributed to, its trustees, Executive Staff, employees or other private persons having directly or indirectly any personal or private interest in the activities of Munson Healthcare, except to the extent that such payments constitute reasonable compensation for services rendered in the necessary course of Munson Healthcare’s business. Employee travel and entertainment related expenses must be accurately documented and supported when seeking reimbursement from the hospital.

What do I do if I think a coworker may be stealing cash collected for co-pays from patients?

This is a serious matter and you should report it immediately to your supervisor. Do not directly confront your coworker.

What if I check my personal email using my office computer or call a family member on my office phone – are these types of activities okay?

Generally, limited personal use of company resources such as computers or phones is permitted as long as it does not interfere or distract you or your co-workers from job responsibilities, and there is no incremental cost to Munson Healthcare.

14. Protect Access to Information Systems.

Munson Healthcare is committed to protecting all aspects of its information systems. All employees and other associates with access to Munson Healthcare's computerized information system shall sign and abide by Munson Healthcare's Confidentiality and Systems Usage Agreement including the protection of confidential passwords and other access information.

A new co-worker does not yet have access to PowerChart. Can she borrow my password?

No. Protecting a password is the responsibility of its owner. You are accountable for all actions associated with it. Keep tight control over your password and change it when prompted to help protect all patient and Munson Healthcare data.

15. Adhere to Intellectual Property Laws.

Munson Healthcare is committed to adhering to all applicable intellectual property laws. All software used in connection with Munson Healthcare's business must be properly licensed and used in accordance with that license. Additionally, Munson Healthcare will respect the intellectual property and copyright laws regarding books, trade journals, magazines, and other applicable resources.

Conclusion

Every Covered Individual is responsible for compliance with this Code of Conduct. We carry out this responsibility by:

- Promoting the mission and values of Munson Healthcare
- Complying with all laws, regulations, and Munson Healthcare policies
- Seeking guidance when unsure of the right course of action
- Raising concerns and instances of actual or potential ethical or compliance issues
- Providing assistance to management as requested, such as participating in investigations related to potential issues or wrongdoing.

Every Munson Healthcare employee responsible for managing or supervising others is expected to:

- Set the right example regarding responsible conduct
- Encourage employees to attend educational sessions that help them understand their responsibilities, including those that pertain to ethics and compliance
- Reinforce a culture that values responsible conduct and encourages employees to seek guidance and report concerns
- Respond promptly to employees who bring code of conduct concerns to management

Munson Healthcare's reputation as a health care system of integrity and excellence is one of its greatest resources. Working by this Code of Conduct will help pursue Munson Healthcare's vision of becoming northern Michigan's indispensable system of health care.

Appendix A

Summary of Federal and State False Claims Laws and related Qui Tam/Whistleblower Provisions

The government has taken steps to prevent and detect fraud, waste and abuse in the U.S. health care system. The Deficit Reduction Act of 2005 requires that information regarding the federal and state false claims laws and related qui tam/whistleblower provisions be communicated to all employees, agents and contractors. This information is shared through the distribution of Munson Healthcare's Code of Conduct via Appendix A.

Supporting Policies

Detailed policies providing additional guidance on all of the topics in this Code of Conduct can be found on the Munson Intranet.

Appendix A

Summary of Federal and State False Claims Laws and Qui Tam/Whistleblower Provisions

Federal and State Laws

The government has taken steps to prevent and detect fraud, waste and abuse in the U.S. health system. In accordance with the Deficit Reduction Act of 2005, information regarding the federal and state false claims laws and related qui tam/whistleblower provisions will be communicated to all employees, agents and contractors. This information is included in the Employee Handbook and is also shared through the Munson Healthcare Code of Conduct.

Medicaid and Medicare Overview

The Medicaid program, originating in 1965, was designed to ensure health care coverage and services for low-income and financially needy people. Medicaid is administered by the states but jointly funded by both the federal and state governments. Medicaid program benefits and eligibility are defined by each state. In Michigan, the state Attorney General's Office oversees the fraud control units.

In 1965, Title XVIII of the Social Security Act established the Medicare program. Medicare is a federally funded health insurance program for senior citizens age 65 and older, as well as persons who have a long-term disability or end-stage renal disease as defined by the Social Security Act. The Medicare Program consists of distinct parts covering various health care items and services. CMS (Centers for Medicare and Medicaid Services), an agency within the Department of Health and Human Services, administers the Medicare and Medicaid programs. Information about CMS can be obtained by visiting its website at www.cms.gov

Oversight of the Medicare program is accomplished by the Office of the Inspector General (OIG), which is charged with the investigation of suspected fraud and abuse. Reports and compliance guidance for the healthcare industry can be obtained at www.oig.hhs.gov

Federal Civil False Claims Act

The False Claims Act, 31 U.S.C. § 3729, et seq. (FCA), is a federal law that covers fraud involving any federally funded contract or program, including Medicare and Medicaid. The government believes that the FCA is a very effective means to detect fraud by encouraging individuals, often called "whistleblowers"

or “relators”, to uncover and report fraud, and to prevent fraud by creating strong incentives for individuals and organizations to be vigilant in their pursuit of compliance and to avoid penalties and fines under the law.

The False Claims Act prohibits any individual or organization from knowingly submitting false or fraudulent claims, causing such claims to be submitted, making a false record or statement in order to secure payment from the federal government for such a claim, or conspiring to get such a claim allowed or paid. The term “knowingly” includes having actual knowledge of the information or acting in deliberate ignorance or reckless disregard of the truth or falsity of the information in a claim. The Act does not require proof of a specific intent to defraud.

Healthcare providers who violate the FCA may be subject to civil and monetary penalties ranging from \$5,500 to \$11,000 for each false claim that is submitted. Penalties of up to three times the amount of damages may also be ordered. The provider may also be excluded from participation in federal health care programs.

FCA Qui Tam and Whistleblower Protection Provision

To encourage individuals to come forward and report misconduct involving false claims, the FCA includes a “qui tam” or “whistleblower” provision. This provision allows any individual with actual knowledge of an alleged false or fraudulent claim to file a lawsuit on behalf of the U.S. government. These individuals are referred to as “relators” or “whistleblowers”. Individuals seeking whistleblower status must meet specific criteria.

The whistleblower must file his/her lawsuit on behalf of the government in a federal district court. The lawsuit will be kept “under seal” or confidential while the government reviews and investigates the allegations and decides how to proceed, which must be done within sixty days. If the government determines the lawsuit has merit and decides to intervene, the U.S. Department of Justice will direct the prosecution. If the government decides not to intervene, the whistleblower may pursue the action alone.

If the lawsuit is successful, and certain legal requirements are met, the whistleblower may receive an award ranging from 15 percent to 30 percent of the amount recovered plus reasonable expenses, such as attorneys’ fees. This award may be reduced if the court finds the whistleblower planned and initiated the violation. If the whistleblower is convicted of crimes related to the false claims, no award will be given. Whistleblowers that prosecute clearly frivolous qui tam claims can be held liable to a defendant for its attorneys’ fees and costs.

The FCA protects whistleblowers who file claims in good faith. Retaliatory conduct (firing, demoting, threatening, or harassing) by his/her employer against an employee who files an FCA lawsuit, or tries to stop or prevent an FCA violation, may entitle the employee to additional relief. Employers cannot retaliate in any manner against such individuals. This protection is provided to encourage individuals with legitimate concerns to step forward without fear of reprisal or retaliation.

Michigan Medicaid False Claims Acts

The Michigan Medicaid False Claims Act (MMFCA) is a state law designed to prevent fraud, kickbacks, and conspiracies in the Michigan Medicaid program. This law was enacted in 1977 through Public Act 72 and amended through Public Act 337 in 2005. The MMFCA outlines the procedures for initiating a false claims action, the Attorney General’s role, and the protection provided to the initiator of the action.

Healthcare providers who violate the MMFCA may be subject civil penalties equal to the full amount received as a result of the fraud, plus triple damages. Providers may also be subject to a felony punishable by imprisonment of up to ten years, fines of \$50,000 or less, or both.

MMFCA Qui Tam and Whistleblower Protection Provision

The MMFCA allows any person to file a civil lawsuit to recover losses to the state of Michigan. Such persons are called “whistleblowers.” The whistleblower must file his or her lawsuit. A suit filed under the MMFCA will be dismissed unless the attorney general is notified and has an opportunity to oppose the dismissal. If the government decides that the lawsuit has merit, it may intervene. In this case, the attorney general will prosecute the case. The whistleblower has the right to continue as a party to the action, subject to certain limitations. The government may decide not to intervene. In this case, the whistleblower can continue with the lawsuit on his or her own.

If the lawsuit is successful, the whistleblower may receive an award ranging from 15 percent to 30 percent of the amount recovered. This award may be reduced if the court finds the whistleblower actively participated in the false claims. If the whistleblower is convicted of crimes related to the false claims, no award will be given. If the court finds that the action brought by the whistleblower was frivolous, the court may fine the whistleblower up to \$10,000.

Similar to the federal law, the MMFCA prohibits an employer from taking any retaliatory action against an employee for involvement in a whistleblower action. MMFCA protection may not apply to whistleblowers who file frivolous claims, files claims in bad faith, or were directly involved in certain aspects of the claim.

The full text of the MMFCA can be found at www.legislature.mi.gov