

Anti Fraud Policy

SAINT LOUIS UNIVERSITY POLICY FOR THE PREVENTION OF HEALTHCARE FRAUD, WASTE AND ABUSE

I. Purpose

This policy is intended to affirm that Saint Louis University affirmatively seeks to prevent healthcare fraud, waste and abuse, and to inform University employees, agents and contractors regarding existing laws and University policies and procedures to prevent fraud, waste and abuse in the administration of government healthcare contracts and programs, including protections extended to persons reporting suspicious activity.

II. Policy

It is the policy of Saint Louis University to prevent fraud, waste and abuse in its operations and to comply with all laws and regulations prohibiting such activity by contractors, grantors or recipients of funds through government contracts and programs. Important examples of areas subject to University and legal anti-fraud, waste and abuse requirements include claims administration and billing under government contracts for goods and services, research grants, and healthcare programs such as Medicare and Medicaid.

In the event that a compliance deficiency is identified, the University will take prompt remedial action to correct the problem. This may entail self-reporting of any violation and making appropriate adjustments to claims or refunds of monies to the government. It also may involve corrective action with individual employees, agents and contractors including discipline and termination of employment or contracts with third parties for goods or services.

This policy applies to all employees, agents and contractors of Saint Louis University. Saint Louis University has adopted this policy as part of its continuing commitment to the ethical standards embodied in its institutional statement on Living the Mission and Standards of Conduct for the Common Good. (<http://LivingtheMission.slu.edu>).

To maintain a strong culture of compliance, the University encourages individuals to seek assistance with compliance-related questions and to report concerns to appropriate University compliance personnel so that unintentional mistakes or illegal activity can be detected and eliminated.

III. Federal Laws

A. Federal Civil False Claims Act

The federal Civil False Claims Act (the "FCA") was first enacted during the Civil War in response to fraudulent practices of contractors supplying the Union Army. The law has undergone a number of iterations, most recently in 1986 when it was expanded to include the federal Medicare and Medicaid programs.

The FCA is an anti-fraud statute that is not limited to federal Medicare and Medicaid programs. Under the FCA persons, which includes organizations, are prohibited from:

- Knowingly presenting or causing to be presented to the federal government (or agent or employee of the federal government) a false or fraudulent claim for payment or approval;
- Knowingly making, using or causing to be made or used, a false record or statement to have a false or fraudulent claim paid or approved by the federal government; and

- Conspiring to defraud the federal government by having a false claim allowed or paid.

For purposes of fraud liability under the FCA, a "claim" is defined as any request or demand for money or property made by a contractor, grantee, or recipient of federal funds if the United States Government provides or reimburses any portion of the money or property requested or demanded.

The term "knowingly," with respect to information or statements related to a claim, is defined in the FCA as:

- Having actual knowledge of the information;
- Acting in deliberate ignorance of the truth or falsity of the information; or,
- Acting in reckless disregard of the truth or falsity of the information.

Persons may incur a civil penalty of a fine of not less than \$5,000 or more than \$10,000, plus a fine three (3) times the amount of damages sustained by the government or three (3) times the amount paid by the government for each false claim that is filed.

Any person may bring an action under the FCA (called a qui tam suit) in federal court. The case is initiated by causing a copy of the complaint and all available relevant evidence to be served on the federal government. The case will remain sealed for at least sixty (60) days and will not be served on the defendant so the government can investigate the complaint. The government may obtain additional time for good cause.

After the sixty (60) day period, or any extensions, has expired, the government may pursue the matter in its own name or decline to proceed. If the government declines to proceed, the person bringing the action has the right to conduct the action. If the government proceeds with the case, the person bringing the action will receive between 15 and 25 percent of any proceeds, depending upon whether the person is the original source of information leading to a finding of the violation and the individual's contributions to the success of the case. If the government declines to pursue the case, the person bringing the action will be entitled to between 25 and 30 percent of the proceeds of the case, plus reasonable expenses and attorneys fees and costs, which are awarded against the defendant. Any case must be brought within six years of the filing of the false claim.

Anyone initiating a qui tam case may not be discriminated or retaliated against in any manner by that person's employer. The employee is authorized under the FCA to initiate court proceedings to make themselves whole for any job related losses resulting from such illegal activity, including reinstatement with the same seniority status the employee would have had but for the discrimination, two-times the amount of back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys fees.

Generally speaking, persons acting in good faith will not be deemed to violate the FCA or similar laws. By contacting University compliance personnel for guidance or to report concerns good faith can be established and potential violations can be avoided before they ever occur.

B. Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act (the "Act") creates administrative remedies for making false claims separate from and in addition to the remedies for false claims provided

by the federal Civil False Claims Act. The Act is similar to the FCA, but broader and more detailed with differing penalties. The Act makes illegal and subject to administrative investigation and remedy submission of either a false "claim" or a "written statement" to a federal agency.

A person (including any organization) violates the Act if he or she knows or has reason to know that a claim is:

- False, fictitious or fraudulent; or,
- Includes or is supported by written statements that are false, fictitious or fraudulent; or,
- Includes or is supported by a written statement that omits a material fact; the statement is false, fictitious or fraudulent as a result of the omission and the person submitting the statement has a duty to include the omitted facts; or
- Is for payment for property or services not provided as claimed.

A violation carries a \$5,000 civil penalty for each wrongfully filed claim. In addition, an assessment of two (2) times the amount of the claim will be made, unless the claim has not actually been paid.

A person also violates the Act if that person submits a written statement which he or she knows or should know:

- Asserts a material fact which is false, fictitious or fraudulent; or,
- Omits a material fact and is false, fictitious or fraudulent as a result of the omission. In this case, there must be a duty to include the fact, and the statement submitted contains a certification of the accuracy or truthfulness of the statement.

Submitting an improper statement carries a civil penalty of up to \$5,000.

IV. State Laws

A. Missouri Health Care Anti-Fraud and Abuse Statutes

The state of Missouri Health Care Payment Fraud and Abuse statutes (§§191.900 - 191.910 RSMo) were enacted for the purpose of preventing Medicaid fraud. The statutes carry both civil and criminal penalties. Because violation of the statutes can be criminal in nature, the element of intent to engage in the proscribed activity is required.

The acts proscribed by the Missouri statutes fall into two categories: direct fraudulent conduct and conduct related to improper remuneration in exchange for referrals or purchasing of "health care" defined as all health care services and products.

Direct fraud is defined as:

- Knowingly presenting a claim for payment that falsely states the health care provided was medically necessary.
- Knowingly concealing an event affecting initial or continued payments by a medical assistance program for providing care.
- Knowingly concealing or failing to disclose any information in order to obtain a payment from a medical assistance program to which the health care provider is not entitled, or improperly increasing the amount of any such payment to which the health care provider is entitled.

- Knowingly making a claim for payment for health care that was provided that has a lesser value than the amount of the claim.

Improper remuneration in exchange for referrals or the purchase of health care involves knowingly offering or paying, or soliciting or receiving anything of value in exchange for referring another person for health care services or for purchasing or furnishing of health care.

Violations are classified as a Class D felony and require restitution. Additionally, a civil monetary penalty may be assessed for each claim in an amount of not less than \$5,000 and not more than \$10,000, plus three times the amount of damages sustained by the government.

B. Standards for Hospitals/Ambulatory Surgical Centers

Often University employees or contractors are working in affiliated hospitals and ambulatory surgical centers. The Missouri Medical Treatment Facility Licenses statute (§197.285 RSMo) requires hospitals to have policies filed with the Missouri Department of Health and Senior Services (DHSS) that:

- Prohibit any supervisor with power to hire and fire an employee from preventing an employee from making reports described below;
- Prohibit any supervisor with power to hire or fire from using their authority from discriminating against, retaliating against, dismissing or in any manner penalizing any employee making reports described below; and
- Establishes a program to identify a compliance officer responsible for administering the reporting and investigation process making reports described below.

These protections apply to any employee who in good faith reports information concerning:

- alleged facility mismanagement or fraudulent activity;
- alleged violations of federal or state laws or administrative rules regarding patient care, patient safety; or,
- the ability of employees to successfully perform their assigned duties.

Employees wishing to make a report to a governmental agency other than the Missouri DHSS must first make the report to the compliance officer identified by the hospital to administer this process. Provisions must be made to allow the employee to remain anonymous, as well as safeguard the confidentiality of patients and the integrity of data and medical record information.

V. University Policies and Procedures

A sound compliance program requires strong preventive programs and practices to educate individuals and empower them to seek assistance and report concerns without fear that by doing so it will be viewed as a performance deficiency or trigger any adverse action.

The University Medical Group's ("UMG") Compliance Policy establishes standards of conduct for providing patient care and administration of claims for reimbursement of healthcare services. These standards prohibit the same conduct outlined under the state and federal laws discussed above. The UMG Compliance Hotline Reporting Policy provides a confidential alternative for individuals to alert institutional officials regarding potential

compliance issues. Copies of these policies may be accessed at (<https://www.slu.edu/services/compliance/>).

The UMG Compliance Department plays a central role to ensure healthcare claims administration compliance with government and University requirements through patient billing support, education, training and auditing. Additionally, the department coordinates internal handling of compliance reports by maintaining a compliance hotline where an individual may register concerns relating to any compliance matter including, but not limited to, healthcare claims administration. Anonymous or self-identifying reports of any nature can be made to a toll-free Hot Line (877) 525-KNOW (5669).

All University employees, agents and contractors are protected from discrimination and retaliation for filing a report or complaint or participating in internal or external compliance related activities or proceedings. Any individual who believes that he or she has been subjected to discrimination or retaliation for raising compliance issues should immediately contact the Provost/Vice President for their administrative unit, the UMG Compliance Department, or the University General Counsel.

Copies of this policy have been included in the University's Staff Employee Handbook and will be posted on the Provost's website and Faculty Senate website as a supplement to The Faculty Manual of Saint Louis University. Appropriate steps will be taken to ensure that all University employees receive a copy of this policy. The University will also distribute copies of this policy to University agents and contractors involved in healthcare operations. Additional education and training will be provided through new employee orientation, compliance based training programs and dissemination of information through internal channels, including the UMG Compliance Department's quarterly newsletter.