

**STATE OF CONNECTICUT
DEPARTMENT OF DEVELOPMENTAL SERVICES**

Procedure No: I.F.PR.012

**Subject: Prevention and Reporting of Fraud, Waste
and Abuse** (Formerly II.A.PR.002 False Claims Act)

Section: Human Rights and Legal Responsibilities

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Approved:/s/Jordan Scheff/LT

Policy Statement

No employee, contractor or agent of the Department of Developmental Services (DDS) shall participate in fraud, waste or abuse of state or federal resources, including the submission of false claims for payment.

All employees, contractors and agents of DDS are required to immediately report any suspicion of fraud, waste or abuse in connection with the funding, services or programs of DDS to the Compliance Office within the DDS Audit Unit.

DDS shall engage in specific compliance efforts to detect and prevent fraud, waste and abuse of state or federal resources including:

1. New employee orientation and ongoing training,
2. Office of the Inspector General federal program exclusion screening for contractors or agents,
3. Training regarding medical records documentation and billing protocol, and
4. Training regarding the application of other pertinent state and federal laws.

DDS will also report all unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds to the State Comptroller and Auditors of Public Accounts in accordance with Section 4-33a of the General Statutes.

As a steward of state dollars and federal Medicaid funding, DDS must maintain the integrity of spending in our supports and services. By reducing or eliminating fraud, waste and abuse which stems from false claims, DDS is protecting the funding of DDS programs, which allows DDS to provide services that persons with intellectual disability need to live and work in the community.

A. Purpose

This procedure provides information and guidance to DDS employees, DDS qualified providers and their employees, DDS contractors, agents and fiscal intermediaries, individuals who self-direct services, and persons who are employers of record for individuals who self-direct services on prevention, detection and reporting of suspected fraud, waste and abuse of federal and state funds. This procedure also provides information on vendor fraud, whistleblower protections, and protections against blacklisting in Connecticut statute as they relate to the False Claims Act requirements.

B. Applicability

This procedure applies to all DDS staff, DDS qualified providers and their employees, DDS contractors, agents and fiscal intermediaries, individuals who self-direct services, and persons who are employers of record for individuals who self-direct services.

This procedure does not apply to financial exploitation allegations relating to an individual's personal funds which are covered under the DDS Abuse and Neglect procedure series (I.F.PR.001 through I.F.PR.007a).

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C. Definitions

"Contractor" or "agent" means any contractor, subcontractor, agent or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of, the delivery of Medicaid health care items or services, performs billing or coding functions, or is involved in the monitoring of health care provided by the entity.

"DDS Compliance Office" means the DDS staff, including the department's Director of Audit, Health Management Administrator and Operations Center Director, who receive and record reports of suspected fraud, waste and abuse; review the reports; research and investigate allegations; request staff input and expertise on report allegations; determine which government agency the report should be sent to, if any; recommend strategies to prevent fraud, waste and abuse; and respond to the person who has filed the report, if that person is identified when the report is filed. All reports of suspected fraud, waste and abuse shall remain confidential within the limits of state and federal law. The Compliance Office is within the DDS Audit Unit and is headed by the Director of Audit.

"Employee" means any officer or employee of an entity and includes management.

"Employer of Record" or "EOR" means an individual, family member or responsible person who hires and directs employees for residential services or day services or both under a DDS Self-Directed Support Agreement (SDSA).

"Entity" means a government agency, organization, unit, corporation, partnership, or other business arrangement, including any Medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists, whether for-profit or not-for profit, which furnishes directly, or otherwise authorizes the furnishing of, the delivery of Medicaid health services where payments made with respect to those services are received, or made, under a State Plan approved under Title XIX, or under any waiver of such plan totaling at least \$5,000,000 annually. If an entity furnishes items or services at more than a single location, or under more than one contractual or other payment arrangement, the provisions of sections 17b-262-770 to 17b-262-773, inclusive, of the Regulations of Connecticut State Agencies apply if the aggregate payments to that entity meet the \$5,000,000 annual threshold whether the entity submits claims for payments using one or more provider identification or tax identification numbers.

"Individual" means a person who has been made eligible for and is receiving funding or services from the Department of Developmental Services (DDS).

"Knowing" and "knowingly" means that a person, with respect to information: (1) Has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, without regard to whether the person intends to defraud.

"Medicaid" means the program operated by the Department of Social Services (DSS) pursuant to section 17b-260 of the Connecticut General Statutes and authorized by Title XIX of the Social Security Act, as amended from time to time.

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D. Implementation

1. Provisions of the Federal False Claims Act

The federal False Claims Act (“FCA”) imposes civil penalties on persons and entities that knowingly submit false claims or statements to a federally funded program, or otherwise conspire to defraud the government, to receive payment. The federal FCA also protects persons who report suspected fraud, waste or abuse.

- a. The federal FCA prohibits any person, firm, corporation, or entity from knowingly presenting or causing to be presented a false claim or statement to a federal funded program or conspires to defraud the federal government. Any person, company or entity that acts in deliberate ignorance of or with reckless disregard of the truth of such information is considered to have acted knowingly.
- b. The civil penalty for violating the federal FCA is a fine of not less than \$5,500 and not more than \$11,000. The person, company or entity also may be fined an additional three times the amount of damages sustained by the federal government. Additionally, the Program Fraud Civil Remedies Act (“PFCRA”) provides that any person or company that commits fraud by making a false statement or claim can be assessed a penalty of \$5,000 per false claim or statement in addition to the penalties available under the federal FCA.
- c. A person may bring a civil action for violating the federal FCA on behalf of the person and the United States government. If the federal government proceeds with an action brought by a person then that person shall receive at least 15 percent, but not more than 25 percent, of the proceeds of the action or settlement. If the federal government does not proceed with the action then the person bringing the action shall receive a reasonable amount, to be determined by the court, but not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement.
- d. The federal FCA prohibits retaliation by an employer against an employee for bringing a false claims action or participating in such action (i.e., whistleblower protection). Any employee subject to retaliation by an entity, contractor or agent shall be entitled to all relief necessary to make the employee whole, including but not limited to reinstatement, two times the amount of back pay, interest on back pay and special damages.

2. Provisions of the Connecticut’s False Claims Act

- a. It is a crime in Connecticut to bill Medicaid or the state’s general assistance program fraudulently. All employees, contractors and agents of DDS shall immediately report suspicion of any criminal activity occurring at DDS, including criminal fraud, to the DDS Compliance Office.
- b. Anyone who provides services to a state Medicaid beneficiary and seeks or accepts payment for unnecessary or improper services is subject to possible imprisonment and criminal fines under state law. Depending upon the amount of the fraudulent services involved, such offenses carry penalties of up to 20 years in prison and a maximum fine of \$15,000.

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- c. Connecticut law established in sections 4-61dd, 4-284, 31-51, and 31-51m of the general statutes protects employees who report suspected violations of state or federal law including reports of criminal fraud. An employer may not discharge, discipline or otherwise penalize an employee for reporting a violation of the law, or a suspected violation, if the employee does not knowingly report false information.

3. Examples of Fraud, Waste and Abuse

The following are examples of complaints or cases of suspected fraud, waste or abuse that relate to health and human services agencies, including DDS:

- a. Billing DDS for services not provided;
- b. Double billing DDS or individuals for the same service paid for by another program or entity;
- c. Using DDS funds to purchase items that are not allowed by DDS; or
- d. Charging individuals higher rates for goods and services than those established by DDS.

4. Reporting Fraud, Waste and Abuse

- a. All DDS employees, DDS qualified providers and their employees, DDS contractors, agents, and fiscal intermediaries, individuals who self-direct services and who act as employers of record (EOR), and persons who act as EORs for individuals who self-direct services are required to report false claims, fraud, waste and abuse in programs that receive state or federal funding.
- b. Any DDS employee, DDS qualified provider or employee, DDS contractor, agent, and fiscal intermediary, individual who self-directs services and who acts as employer of record (EOR), and any person who acts as an EOR for an individual who self-directs services and who believes that they have detected fraud, waste or abuse of federal or state funding in DDS programs or services shall report such fraud, waste or abuse to the DDS Compliance Office.
- c. The report of the suspected fraud, waste or abuse shall be filed with the DDS Compliance Office on the [DDS Report Fraud Form.pdf \(ct.gov\)](#) found on the DDS “To Report Fraud, Waste or Abuse” webpage at <https://portal.ct.gov/DDS/Investigations/Fraud/To-Report-Fraud>. The completed report may be submitted electronically at DDSReportFraud@ct.gov or by mail to: **DDS Compliance Office, DDS Audit Unit, 460 Capitol Avenue, Hartford, CT 06106**. All reports shall remain confidential to the extent of federal and state law. An acknowledgement of the receipt of the report shall be sent to the reporter if the reporter chooses to use his or her name in reporting. Reports of suspected fraud, waste or abuse may be made anonymously.
- d. Upon receipt of a report of suspected fraud, waste or abuse, the Compliance Office shall record the receipt of the report and open a case to review the report’s allegations; seek additional information concerning the allegations; and determine if the report should be sent to the Department of Social Services (DSS) – Special Investigation Unit, Connecticut’s Office of the Attorney General, the Office of the Chief State’s Attorney, the Auditors of Public Accounts, or other government oversight agency.

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- e. If the report of suspected fraud, waste or abuse is not sent to another government oversight agency, the Compliance Office shall determine what actions may be taken to address the allegations and provide them to the Commissioner, or the Commissioner's designee, for further review and implementation.
- f. When a report of suspected fraud, waste or abuse is sent to the Department of Social Services (DSS) – Special Investigation Unit, Connecticut's Office of the Attorney General, the Office of the Chief State's Attorney, the Auditors of Public Accounts, or other government oversight agency, the Compliance Office shall track and document the report when it has been referred to any of these state agencies.
- g. Reported cases of fraud, waste or abuse that have been determined by the DDS Compliance Office to be Medicaid fraud shall be sent via email by the DDS Audit Unit to the Department of Social Services (DSS) – Special Investigation Unit. The DSS – Special Investigations Unit shall refer substantiated cases of Medicaid fraud to Connecticut's Office of the Attorney General, or the Office of the Chief State's Attorney, as the Unit's staff deems appropriate.
- h. DDS employees, DDS qualified providers and their employees, DDS contractors, agents, and fiscal intermediaries, individuals who self-direct services and who act as employers of record (EOR), and persons who act as EORs for individuals who self-direct services also may report cases of suspected fraud, waste or abuse directly to Connecticut's [Office of the Attorney General](#) or the [Auditors of Public Accounts](#).

For further information on how to report suspected fraud, waste or abuse may be reported to these state government offices see the following websites:

[Connecticut Fight Fraud](#) – Connecticut's Office of the Attorney General
[File a Complaint – APA | CT](#) - Auditors of Public Accounts

5. DDS reporting of unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds

In addition to the requirements for reporting suspected fraud, waste and abuse, section 4-33a of the general statutes requires the department to promptly report all losses to the Auditors of Public Accounts and the State Comptroller's Office. The DDS Audit Unit shall forward via email reports of unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds to these state agencies. See [State of Connecticut Office of the State Comptroller MEMORANDUM NO. 2007-34](#) for additional information.

6. Employee Training Records

This procedure shall be distributed to and reviewed by DDS employees, qualified providers and their employees, contractors, agents and fiscal intermediaries. Records of employees having received and reviewed this procedure and the federal and state False Claims Acts shall be retained in employees' personnel files.

E. References

Federal Law

Section 6032 of the Federal Deficit Reduction Act of 2005

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31 U.S.C. §§ 3729 - 3733 – Federal False Claims Act

Chapter 38 Administrative Remedies for False Claims and Statements - 31 U.S.C. §§ 3801-3812
- Program Fraud Civil Remedies Act (PFCRA) of 1986

PFCRA (1) provides Federal agencies which are the victims of false, fictitious, and fraudulent claims and statements with an administrative remedy to recompense such agencies for losses resulting from such claims and statements, to permit administrative proceedings to be brought against persons who make, present, or submit such claims and statements, and to deter the making, presenting, and submitting of such claims and statements in the future; and (2) provides due process protections to all persons who are subject to the administrative adjudication of false, fictitious, or fraudulent claims or statements.

Connecticut General Statutes

Chapter 55e False Claims and Other Prohibited Acts Under State-Administered Health or Human Services Programs of the Connecticut General Statutes, Sections 4-274 et seq.

Section 1-210(b)(13) “Access to public records. Exempt records.”

Section 4-33a. “Illegal, irregular or unsafe handling of state or quasi-public agency funds. Breakdown in safekeeping of agency resources. Breach of security. Notification.”

Section 4-61dd “Whistle-blowing. Disclosure of information to Auditors of Public Accounts. Investigation by Attorney General. Rejection of complaint. Complaints re retaliatory personnel actions. Report to General Assembly. Large state contractors. Posting of notice. Definitions. State shellfish grounds lessees”

Section 17b-99 “Vendor fraud penalties. Distribution of medical assistance program rules. Regulations. Audits of service providers. Appeal”

Section 17b-99a. “Audits of long-term care facilities”

Section 31-51 “Blacklisting”

Section 31-51m “Protection of employee who discloses employer's illegal activities or unethical practices or reports a suspected incident of child abuse or neglect. Civil action”

Section 53a-290 et seq. “Vendor Fraud”

Office of the Attorney General Website

[Stop Healthcare Fraud and Abuse \(ct.gov\)](https://www.ct.gov/stophealthcarefraud)

F. Attachments

I.F.PR.012 Attachment A [Fraud Information Form](#)