

A large, detailed marble statue of Abraham Lincoln, seated in a chair. He is wearing a suit and a bow tie. The statue is set against a dark background.

Understanding the False Claims Act FCA

DSAMH PROMISE
Provider
Relations Training

The False Claims Act (31 U.S.C. §§ 3729–3733, also called the "Lincoln Law") is a federal law that imposes liability on persons and companies who defraud governmental programs.

It is the federal Government's primary tool in combating fraud against the Government.



FCA HISTORY:

The False Claims Act was enacted in 1863 by a Congress concerned that suppliers were defrauding the Army. The FCA provided that any person who knowingly submitted false claims to the government was liable for double the government's damages plus a penalty of \$2,000 for each false claim.

In 1986, there were significant changes to the FCA, including increasing damages from double damages to triple damages and raising the penalties from \$2,000 to a range of \$5,000 to \$10,000.

Read more about the FCA here: <https://www.taf.org/false-claims-act-story>

WHAT'S NEW & WHY NOW?



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Delaware and the Centers for Medicare and Medicaid Services (CMS) have entered a partnership to create and implement the new PROMISE program.



MEDICARE AND MEDICAID SERVICES (CMS)



Under CMS, there are stringent billing duties for both the State and it's contractors.

AN OVERVIEW OF THE FCA

In terms of billing the government, fraud can be defined as:

Billing for services not provided, not -covered and/or for higher reimbursement rates than the contract permitted



http://www.justice.gov/civil/docs_forms/C-FRAUDS_FCA_Primer.pdf

IF FRAUD HAS OCCURRED, CMS AND OTHER FEDERAL ENTITIES CAN:

Recoup funds falsely claimed

Institute fines, penalties and possibly prosecute person(s) determined to be involved in the fraudulent practice



DOCUMENTATION



All staff must be properly trained and credentialed to conduct treatment/services

All documents and benefactor information must remain confidential

All documentation must be properly signed, completed and submitted within established timelines

Benefactors must be active partners (within their capacities) in the Recovery Planning process

Services must individualized to the benefactors recovery plan and properly documented

DOCUMENTATION

All paperwork not electronically transmitted must:

Be legible and written in black or blue ink.

Properly dated listing each benefactor contact

When necessary include the benefactor's signature

Be well written including all agency specific and contractually related information in proper order and detail

Handled according to HIPAA (Health Insurance Portability and Accountability) standards to protect the PHI (Personal Health Information) of the benefactors at all time.

All billing must be completed and submitted within

31 U.S. Code § 3729 - False claims- any person 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 subparagraph (A), (B), (D), (E), (F), or (G);

(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

(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; or

(G) knowingly makes, uses, 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,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410 ^[1]), plus 3 times the amount of damages which the Government sustains because of the act of that person.

See this and more at: <http://www.law.cornell.edu/uscode/text/31/3729>

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