

Family Service Association
Policy and Procedure
for
Fraud Prevention, Detection and Whistleblower Protection

Date of Issue: 2.16.08

Date of Review: 1.6.21

Review Number: 5

Submitted by: Susan K. Potvin RN; Director of Quality Improvement

Date: 1.28.08

CEO Signature: *Shawn E. Ford*

Date: 1/6/2009

Chairman, Board of Directors: *Jan M. Pelletier*

Date: 4/12/21

I. Policy

It is the policy of Family Service Association (FSA) to comply with state and federal laws relevant to fraud prevention and detection; to encourage its employees to disclose misconduct or questionable practices, and to create an environment where employees can act without fear of retaliatory action for said disclosures.

II. Scope

This policy applies to all FSA programs and employees; including interns, students, contracted employees and consultants.

III. Purpose

The purpose of this policy is to:

- Discourage illegal activity
- Encourage reporting of misconduct and questionable practices
- Promote a climate of accountability
- Prevent retaliation or reprisal against whistleblowers
- Establish fraud prevention activities

IV. Definitions

Good faith – a reasonably held belief that disclosures are true or fact-based and have not been made out of malice, spite, jealousy, for personal gain or for any ulterior motive

Retaliatory action – the discharge, suspension or demotion of an employee, or any other adverse employment action taken against an employee related to whistleblower activities

Whistleblower – an employee who in good faith reports misconduct or questionable practices or provides information in connection with an investigation regarding such a disclosure

V. Procedures

A. Legal Citations

The False Claims Act is a federal law that allows people to file actions against contractors who are committing fraud against the government. The Act is a legal tool to counteract fraudulent billing. Since FSA is a provider of services to Medicaid and Medicare recipients, federal and state False Claims Act statutes apply to this organization and each of its employees. The filing of a claim under the False Claim Act is informally known as “whistleblowing”.

B. Whistleblower Protection

1. In keeping with federal and state laws, FSA will not take retaliatory action against any employee who in good faith:
 - a. Discloses or expresses the intention to disclose to a supervisor or to any public entity an activity, policy or practice that the employee reasonably believes is in violation of a law, rule or regulation; or which the employee reasonably believes poses a risk to the health or safety of others or the environment
 - b. Provides information to, or testifies before any supervisor or public entity conducting an investigation, hearing or inquiry into any violation of a law, rule or regulation; or activity that may pose a risk to the health or safety of others or the environment
 - c. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, rule or regulation; or which the employee reasonably believes poses a risk to the health or safety of the public or the environment
2. Employees who believe they have been the subject of reprisal or retaliatory acts because of a good faith disclosure of misconduct or questionable practices should immediately notify the Director of Human Resources. Such reports will be handled in keeping with Policy 7.7 Service Related Grievances in FSA Programs.
3. Baseless allegations waste time and resources and undermine the intent of the Whistleblower Protection policy. Employees must not intentionally make baseless allegations. Any employee found to initiate a disclosure without reasonable belief of misconduct or questionable practices, or who initiates a disclosure out of malice, spite, jealousy, retaliation or for personal gain or other ulterior motives will be subject to the full scope of disciplinary action.
4. FSA will conspicuously display notices designed to inform employees of Whistleblower Protection and reporting protocols. **(Attachment A)**

C. Reporting Misconduct

1. The state and federal False Claims Acts require employers to establish protocols that provide confidential, anonymous mechanisms for employees to report misconduct or questionable practices of, or endorsed by, any other employee regardless of rank or authority.
2. Misconduct or questionable practices include any action which is:
 - undertaken in the performance of the employee's official duties, whether or not the action is within the scope of the employee's job description
 - a violation of federal or state law, rule or regulation
 - a fraudulent or false claim against a payee
 - an abuse of authority
 - of substantial and specific danger to public health or safety
 - a gross misappropriation or waste of public and/or private funds
 - an attempt to conceal misconduct or questionable practices
3. Employees who in good faith believe that misconduct or questionable practices are occurring, or have occurred in the past, are encouraged to report all relevant information as soon as possible. Reports should be submitted in written form with all details of the alleged misconduct or questionable practices specified. Reports should be submitted to the Program Leadership of the employee(s) involved in the misconduct or questionable practices. In the event that Program Leadership is also involved in the misconduct or questionable practices, the report should be made to appropriate Senior Leadership staff.

4. Employees are not required to report to Program or Senior Leadership if there is a reasonable belief that the misconduct or questionable practices are known to Program or Senior Leadership. In such instances, the report should be made directly to the Chief Executive Officer.
5. Employees are not required to report to the Chief Executive Officer if there is a reasonable belief that the misconduct or questionable practices are known to the Chief Executive Officer. Employees may report directly to any member of the Board of Directors or a public entity if:
 - the allegations involve the Chief Executive Officer
 - the situation is of an emergency nature, or
 - the employee reasonably fears physical harm as a result of the disclosure
6. All written reports will be held in the strictest confidence. Only individuals with a direct need-to-know will be apprised of the report and any subsequent actions. Employees will be kept informed of any actions subsequent to the submission of a written report. Follow-up that specifically addresses the performance of an individual employee or a group of employees will be held in confidence in keeping with standard Human Resource practices, but reporters will be advised if/when appropriate corrective action is warranted and has been taken.
7. Employees may submit written reports anonymously. In such instances, the employee waives all rights to further knowledge of the actions or response to the written report. Whistleblower protections apply in full, whether the report is made anonymously or openly.

Individual employees, as agents of Family Service Association, are also required to ensure that documentation and service delivery comply with legal and regulatory requirements. Individuals are expected to know and understand their job responsibilities and to function within established standards. Failure to comply may result in disciplinary action, up to, and including termination. This includes deliberate ignorance or reckless disregard of legal and regulatory statutes that apply to an individual's personal responsibility.

D. Fraud Prevention and Detection

FSA has a long history of sound and ethical fiscal operations with comprehensive internal and external safeguards in place to prevent and detect fraud. The organization's established auditing process serves as the external safeguard. Each year the organization undergoes a full fiscal review conducted by an external auditor to confirm that existing operations are in concert with Generally Accepted Accounting Principles (GAAP). The selection of the auditor, as well as the entire audit process, is overseen by the Audit Committee, an arm of the Board of Directors. The final audit report is presented to and voted on by the entire Board of Directors and evidenced in meeting minutes. External auditors are selected via a competitive bidding process every five years.

Internal safeguards are extensive. Individuals responsible for billing or for documenting evidence of service delivery are qualified for the positions they hold by education and experience. Structured supervision processes are in place and consistently implemented to ensure that each level of employee receives supervision from an individual qualified to serve in a supervisory capacity. Supervision meetings are evidenced in notes held by the supervisor of record. Ultimate responsibility for billing activities, including the integrity and accuracy of claims related documentation, lies with the Program Director. To monitor quality of services & screen for signs of fraud, records in all programs undergo review via Mileage Audits, Case Record Review, and Utilization Review. FSA is required to review at least 5% of all client records annually in accordance to the Council on Accreditation's recommended case record sampling guidelines.

Funds coming into the organization flow through the Billing and/or Accounting departments and are deposited into organizational accounts. Approved signatories to disburse organizational funds are limited to the Chief Executive Officer, the Chief Financial Officer, the Chairman of the Board of Directors, the Treasurer and the Assistant Treasurer. All receipts and disbursements are recorded through the Billing and/or Accounting departments and are reviewed and verified annually via the external fiscal audit. FSA utilizes only reputable software systems that reflect industry standard and adherence to GAAP for all electronic fiscal management activities.

Program and organizational budgets, which are established on an annual basis, drive fiscal operations and also serve as internal fraud controls. Through the accounting department, fiscal status is monitored. Monthly profit and loss statements carefully track expenses and revenues against established budgets. The accounting department has the capacity to provide historical data for comparison from previous year's performance and alert Senior Leadership to significant changes in fiscal trends. The Board of Directors is apprised of the organization's fiscal status on a monthly basis via the Treasurer's fiscal report. Members are required to vote to accept this report which is evidenced in meeting minutes. Budgets are presented annually to the Board of Directors who review and vote to accept these program and organizational fiscal plans. The Billing and Accounting Departments are overseen by the Chief Financial Officer who reports directly to the Chief Executive Officer. All Billing and Accounting activities are scrutinized annually through the external audit. Accounting and Billing procedures are detailed in the Fiscal Policies and Procedures.

E. Training

FSA has a clearly defined policy for employee education and professional development. This policy mandates training in key areas, including fiscal accountability on a regular basis for leadership staff. In compliance with mandates from The Centers for Medicare and Medicaid Services (CMS), all employees providing services under the Medicare Advantage – Prescription Drug health plans participate annually in web-based training on Fraud, Waste and Abuse. New hires will complete the training within 90 days of hire. This training is mandated by FSA for all clinical direct service and leadership staff, fiscal/billing employees, Continuous Quality Improvement staff and the Chief Financial Officer. Evidence of training compliance is maintained in the FSA employee training database.

VI. Statutes, Regulations, Standards

42 U.S. C. section 1396a(A)(68), enacted under Section 6032 of the Deficit Reduction Act of 2005
Sarbanes-Oxley Act of 2002

M.G.L – chapter 149, Section 185

130 CMR 450.205 (F)(1) and 450.223 (C)(7)

Prescription Drug Benefit Manual, Chapter 9—Part D Program to Control Fraud, Waste and Abuse (Rev.2, 04-25-2006). Federal Register, Part V Department of Health and Human Services Centers for Medicare & Medicaid Services 42 CFR 422 and 423, Wednesday, December 5, 2007.

Council on Accreditation 2020edition

VII. Related Policies

7.7 Service Related Grievances in FSA Programs

VIII. Attachments

A. Whistleblower Protection

Issued: 2.16.08
Rev 1: 12.8.08
Rev 2: 3.20.12
Rev 3: 4.14.15
Rev 4: 11.29.17
Rev 5: 1.6.21