

Prevention of False Claims, Fraud & Abuse in Government Funded Health Programs

It is the policy of the Dubuque Community School District to prohibit any waste, abuse, and fraudulent practices, including but not limited to Medicaid funding. Federal and state laws prohibit waste, abuse, and fraud of Medicaid funds that this district receives for services provided. These laws include the 2005 Deficit Reduction Act and False Claims Act.

Adopted: March 11, 2013
Reviewed: November 12, 2018
Revised: May 13, 2024

A. Definitions

1. Waste, abuse or fraud may include, but are not limited to, the following:

- Billing for services that were never provided,
- False cost reports whereby inappropriate expenses not related to service provision are intentionally included in cost reports,
- Illegal kickbacks, in which a provider may conspire with another provider to share part of the monetary reimbursement that the providers receive in exchange for services/referrals. Such kickbacks could include cash, vacation trips, automobiles or other items of value.

2. Fraudulent Practice

The definition of fraudulent practices according to Iowa Code is a person who knowingly makes or causes to be made false statements or misrepresentations of material facts or knowingly fails to disclose material facts in application for payment of services or merchandise rendered or purportedly rendered by a provider participating in the medical assistance program. Filing false claims may result in fines of up to three times the programs' loss plus \$11,000 per claim filed. Under the civil False Claims Act (FCA), each instance of an item or a service billed to Medicare or Medicaid counts as a claim, so fines can add up quickly. The fact that a claim results from a kickback may render it false or fraudulent, creating liability under the civil FCA.

Fraudulent acts include:

- Claim for payment or approval
- False records to obtain fraudulent payment
- Conspiring against the government by obtaining fraudulent claims payment
- Possession, control or custody of items with the intent to defraud the government
- Certifying receipt of property to be used by the government while intending to defraud
- Buying/receiving items from a government member not authorized to sell the item
- False record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government

3. Government Codes/Acts/Sections (Basis for policy development)

a. FCA under title 31 of the United States Code, sections 3729 through 3733. The civil FCA defines "knowing" to include not only actual knowledge but also instances in which the person acted in deliberate ignorance or reckless disregard of the truth or falsity of the information.

b. Administrative remedies for false claims and statements under title 31 of the United States Code, chapter 38.

- c. Criminal FCA (18 U.S.C. § 287). Criminal penalties for submitting false claims include imprisonment and criminal fines. OIG also may impose administrative civil monetary penalties for false or fraudulent claims.
- d. Iowa Code 249A.8
- e. Iowa Code 714.8(10)-714.14

B. Reporting-Whistleblowing

The FCA allows a private individual to file a lawsuit on behalf of the United States and entitles that whistleblower to a percentage of any recoveries. Whistleblowers could be current or ex-business partners or employees, district staff, students, parents, or competitors. Any employee who suspects Medicaid, or other, waste, abuse or fraud must immediately report that allegation.

1. The employee should report the suspicion to the Special Education Coordinator or to the Health Services Coordinator. If the employee suspects either Coordinator of waste, abuse, or fraud, the report should be made to either the Director of Special Education or the Executive Director of Human Resources with the Dubuque Community School District (DCSD).
 - a. An internal investigative review shall be initiated immediately.
 - b. Appropriate corrective actions shall be taken as a result of the review findings.
 - c. DCSD shall self-report to the Department of Human Services (DHS) via the Program Integrity Unit of the Iowa Medicaid Enterprise.
 - d. If warranted, appropriate disciplinary actions shall be implemented as a result of the internal investigative review.
 - e. All documentation related to the investigative review shall be maintained in the DCSD Administrative/Human Resource confidential records.

C. Reporting Protection

1. The False Claims Act contains language protecting "whistleblower employees" who report suspected Medicaid waste, abuse and fraud from retaliation by their employer. Employees that are discharged, demoted, suspended, threatened, harassed or in any way discriminated against in the terms and conditions of employment by the employer for "blowing the whistle" are entitled to recover all relief necessary to make the employee whole.
2. A whistle blower may be eligible to recover a portion of the government's recovery from the fraudulent practice. The False Claims Act allows a private person to file a lawsuit on behalf of the United States government against a person or business that has committed the fraud.
3. Any employee who feels they are being retaliated against for reporting Medicaid waste, abuse or fraud should immediately report this concern to the Executive Director of Human Resources. DCSD shall implement appropriate protective actions for the employee.

An internal investigative review shall be initiated immediately with appropriate corrective actions taken as a result of the investigative findings. If warranted, appropriate disciplinary actions shall be implemented as a result of the internal investigative review. All documentation related to the investigative review shall be maintained in the Human Resource confidential records.

D. Internal Prevention

DCSD has key mechanisms and procedures in place to detect and prevent waste, abuse, fraud, and improper documentation, including, but not limited to:

1. Annual external audits for DCSD are completed by an outside Certified Public Accountant (CPA) for all funded services.
2. Certified Annual Reports are submitted by the district to the Iowa Department of Education.
3. Ongoing training and consultation are provided to DCSD employees to facilitate the integrity of the entire Medicaid Claiming Process.
4. Service documentation notes are internally reviewed each month prior to billing for services ensuring documentation completion prior to billing for services. Corrective actions are implemented as needed to improve the quality of documentation.
5. DCSD policies have been established and employees are provided an informational fact sheet upon hire and annually thereafter. The fact sheet addresses detection and prevention of Medicaid abuse, waste, and fraud, including reporting and whistleblowing protection.
6. Quarterly, the district Medicaid team will complete random reviews of service documentation notes and files for the Medicaid services rendered and for which claims reimbursement has been sought. A subsequent report of the review findings including any corrective action suggestions for improvement of the quality of documentation will be shared with the district special education team.
7. OIG background checks are completed upon hire and on a regular basis throughout the fiscal year to identify any individuals who may be excluded from involvement in government funded health programs such as Medicaid.
8. DCSD upholds its Enrollment Status as a Medicaid Provider with the Iowa Medicaid Enterprise and will continue to honor the guidelines and constructs of this relationship.