



## **The Deficit Reduction Act**

The Deficit Reduction Act (DRA) is an act that became effective Jan. 1, 2007 that requires certain providers who have over \$5 million in Medicaid receipts to have a compliance program and plan to reduce Medicaid fraud, waste and abuse, and to enhance enforcement and prevention. Previously having a compliance plan was voluntary. The DRA also requires entities to provide information to employees, contractors and agents on written policies and procedures for detection of fraud, waste and abuse. It is the intent that contractors and agents shall comply with these guidelines/practices, as these requirements are a condition of payment.

### **Summary and Overview**

This document is intended to give you information about the False Claims Act and the State of Vermont False Claims Act; to provide information about other administrative remedies for false claims under Federal Law; to provide information about any and all whistleblower provisions; to provide information about the roles of such laws in preventing and detecting fraud, waste and abuse in the Federal healthcare programs; and to provide you with a summary of the GMSS Compliance Program.

### **Categories of Fraud & Abuse: Categories of fraud and abuse may include but not be limited to:**

- Improper billing practices: upcoding (assigning an inaccurate billing code to increase reimbursement), phantom treatment, delivering more treatment than is medically necessary or that is not prescribed in the treatment plan.
- Misrepresenting qualifications: false credentials, performing outside the bounds of one's license.
- Improper business practices: kickbacks for referrals to a provider or product, anti-trust, cost report issues, enhancements of profits by limiting care.

### **False Claims Act**

- The False Claims Act exists to fight fraud, or false claims against the federal government.
- Examples may include: overcharging for a service, failing to perform a service, delivering less than the promised amount, underpaying money owed to the government, charging for one thing and providing another.

- A violation may be based on actual knowledge that a claim is false or on deliberate ignorance or reckless disregard of whether a claim is true or false.
- Penalties for knowingly submitting or causing the submission of a false claim may be liable for damages up to 3 times the erroneous payment plus civil penalties of \$5,500 to \$11,000 per claim.

### **Vermont False Claims Act**

- Vermont also has a False Claims Act which prohibits a person from making false or fraudulent statements or claims to any government official with intent to defraud.
- Penalties may include a fine of up to \$10,000 and/or imprisonment of up to 5 years.

### **Methods of Prevention, Detection and Response Under the Agency's Compliance Program**

- Leadership and Structure: Designation of a Compliance Officer and compliance review activities;
- Written Policy and Ethical and Professional Standards: Establishing policies and procedures that promote and encourage respect for clients while enhancing quality of care, together with a written and published code of ethics to ensure employee professional conduct;
- Open Lines of Communication: Development of open lines of communications with staff and governmental entities with respect to compliance activity.
- Qualifications, Education and Training: Building staff orientation and training modules to include compliance standards and procedures to minimize the likelihood of violation of applicable laws and regulations;
- Responding to Questions and Potential Violations: Institute a culture of self-reporting to respond appropriately to detected offenses and prevent repeated offenses;
- Internal Auditing and Monitoring: Build a strong compliance culture empowering employees and agents to prevent, detect and resolve actions or behaviors of others that do not comply with our Standards of Ethical and Professional Behavior;
- Enforcing Standards and Correction Action Processes: Address and correct areas or processes that are found not to meet established policies, procedures or protocols;
- Disciplinary Action: Establish and adhere to consistent disciplinary mechanisms in response to violations of law, policy, and failure to report an identified offense.

## **Whistleblowers Provisions**

- Qui Tam – Qui Tam is a provision of the Federal False Claims Act that allows private citizens to file a lawsuit in the name of the U.S. Government charging fraud by government contractors and others who receive or use government funds and share in any money recovered.
- Whistleblowers must have direct and independent knowledge of information regarding a false claim and file a case within six years.
- Whistleblowers may share in any monetary recovery from a report of non-compliance and recover their attorney fees, costs and expenses

## **Whistleblower Rights & Protections**

- There shall be no retaliation in the terms or conditions of employment against any employee who makes a report in good faith as outlined in the agency's policy on Non-Retaliation.
- The False Claims Act provides a remedy for whistleblowers that feel that they are discriminated or retaliated against.
- If discrimination has been substantiated financial remedies and/or reinstatement are available.
- Staff has a duty to report findings or suspicions of non-compliance per your organization's compliance program.
- Reports of non-compliance must be made in good faith. Reports can be made via your supervisor, the Compliance Officer, the compliance hotline or anonymously.

## **Where to Obtain Additional Information or to Report Concerns**

- Contractors or agents may receive additional information including a copy of GMSS compliance- related policies by contacting the GMSS Executive Director or Quality Director.
- Contractors or agency who wish to report compliance concerns may contact the GMSS Executive Director at [Elizabeth.walters@gmssvt.org](mailto:Elizabeth.walters@gmssvt.org) or 802-888-7602 or the GMSS Quality Director (Compliance Officer) at [Salvador.Acosta@gmssvt.org](mailto:Salvador.Acosta@gmssvt.org) or 802-888-7602.