

Name of Policy: <u>Detecting and preventing fraud, waste and abuse</u>		 <p>Revision date: February 18, 2020</p> <p>Original effective date: January 1, 2007</p>	
Policy Number: 3364-15-02			
Approving Officer: President			
Responsible Agent: Executive Director of Internal Audit and Chief Compliance Officer			
Scope: All University of Toledo Campuses, including vendors and contractors			
<input type="checkbox"/>	New policy proposal	<input checked="" type="checkbox"/>	Minor/technical revision of existing policy
<input type="checkbox"/>	Major revision of existing policy	<input type="checkbox"/>	Reaffirmation of existing policy

(A) Policy statement

The University of Toledo (UToledo) is committed to ensuring compliance with laws and regulations that address the False Claims Act that includes Medicare fraud, waste, and abuse.

(B) Purpose of policy

This policy defines False Claims Act including fraud, waste, and abuse and the sanctions for violation of the federal and state regulations.

(C) Scope

All University of Toledo campuses including vendors and contractors that perform services for The University of Toledo Medical Center and its clinics. In addition, any academic department that performs services for the covered entity. The academic departments are but not limited to: Physical Therapy, Speech Therapy, and Occupational Therapy and Psychology departments.

(D) Definitions

- (1) “Abuse” is payment for items or services when there is no legal entitlement to that payment and the individual or entity has not knowingly and/or intentionally misrepresented the facts to obtain payment.
- (2) “False Claims Act (FCA)” establishes liability for any person who knowingly presents or causes to be present a false or fraudulent claim to the federal government for payment.
- (3) “Fraud” is generally defined as knowingly and willfully executing or attempting to execute or artifice to defraud any healthcare benefit program or to obtain (by means of false or fraudulent pretenses, representation or promises) any of the money or property owned by, or under the custody or control of, any healthcare benefit program. (18 U.S.C.§1347)
- (4) “Waste” is overutilization of services or other practices that, directly or indirectly, result in unnecessary costs to the healthcare system, including the Medicare and Medicaid programs. It is not generally considered to be caused by criminally negligent actions but by misuse of resources.

(E) Whistleblower protection

The Whistleblower Protection Act provides employees that come forward and report in good faith misconduct involving false claims (fraud, waste, and abuse) protection from workplace retaliation. See 3364-15-04 Non-Retaliation policy.

(F) Fraud, Waste and Abuse

- (1) Examples of Fraud:
 - (a) Billing for services not provided.
 - (b) Giving false information about credentials such as a college degree.
 - (c) Billing for more services than were performed.
 - (d) Billing and receiving duplicate payments, not returning the funds.
 - (e) Billing non-covered services as a covered code.
 - (f) Prescription drug switching.
- (2) Examples of Waste:

- (a) Waste can include spending on services that lack evidence of producing better health outcomes compared to less-expensive alternatives;
- (b) Inefficiencies in the provision of health care goods and services; and
- (c) Costs incurred while treating avoidable medical injuries, such as preventable infections in hospitals.

(3) Examples of Abuse

Abuse is defined as practices that are inconsistent with accepted sound fiscal, business, or medical practices, and result in:

- (a) an unnecessary cost or in reimbursement for services that are not medically necessary or
- (b) that fail to meet professionally recognized standards for health care,
- (c) such as:
 - (i) Misusing codes on a claim;
 - (ii) Charging excessively for services or supplies; and
 - (iii) Billing for services that were not medically necessary.

(4) Penalties and fines

Violations of the FCA that includes Fraud, Waste and Abuse may result in any or all of the following

- (a) Civil monetary penalties: Payment of interest at the maximum rate on the amount of the payments, a fine between five thousand five hundred dollars and eleven thousand dollars for each false filing, and any other reasonable expenses determined by the court.
- (b) Fines: In addition to five thousand five hundred dollars to eleven thousand dollars for each act, an assessment of damages three times the amount of the overpayment may be prescribed.
- (c) Criminal penalties: If convicted, the individual could face jail time and be ordered to pay fines and restitution. Additionally, a licensure could come under review and be suspended or permanently revoked.

- (d) Medicare/Medicaid Exclusion: A conviction under the FCA could lead to exclusion from Medicare, Medicaid and all other Federal health care programs. If excluded, then no payment will be made by any Federal health care program for any items or services furnished, ordered or prescribed by an excluded individual or entity.
- (e) Health care providers and suppliers (person and organizations) who violate the FCA are subject to an investigation by the Office of Inspector General (OIG), who may seek to exclude the provider or supplier from participation in federal health care programs.

(G) Reporting

- (1) Workforce members should report suspected violations of the False Claims Act that includes Fraud, Waste and Abuse. Reports should follow our UToledo policies 3364-15-03 Compliance Incident Reporting and 3364-15-05 "Protected disclosures and anonymous reporting line".
- (2) Employees that report violations of the FCA and UToledo does not investigate or does not remediate verified violations may report to the federal government as a Whistleblower.
- (3) UToledo will not retaliate against any workforce member who reports in good faith suspected violation of the FCA, workforce members who reports is protected from retaliation. See Policy 3364-15-04 Non-Retaliation.

(H) Non Retaliation

In accordance with the FCA, any employee who reports suspected misconduct is protected from retaliation. See Policy 3364-15-04 Non-Retaliation.

<p>Approved by:</p> <p><u>/s/</u> Sharon L. Gaber, Ph.D. President</p> <p><u>February 18, 2020</u> Date</p> <p><i>Review/Revision Completed by: Executive Director of Internal Audit and Chief Compliance Officer, Director of UTMC Compliance and University Privacy, SLT</i></p>	<p>Policies Superseded by This Policy:</p> <ul style="list-style-type: none">• <i>Previous 3364-15-02, effective date June 1, 2016</i> <p>Initial effective date: January 1, 2007</p> <p>Review/Revision Date: July 5, 2011; June 1, 2016, February 18, 2020</p> <p>Next review date: February 20, 2023</p>
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