

Wisconsin

Wisconsin False Claims Laws

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in Wisconsin. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Wisconsin Medical Assistance Offenses statute and other Wisconsin laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Wisconsin laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Wisconsin's Medicaid program for services or goods not provided;
- Billing Wisconsin's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Wisconsin's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Wisconsin's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks or rebates;
- Accepting any gift, money, donation or other compensation from a Medicaid beneficiary or his or her family;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement;

Civil and Criminal Penalties for False Claims or Statements

A violation of these Wisconsin laws may result in restitution for any improper payment and a civil penalty of up to \$15,000 for each false statement, plus three times the amount of excess payments, payment of the government's expenses to remedy the harmful effects of the violation, and suspension or termination from the Medicaid program. In addition, a person who makes a false claim in connection with furnishing items or services under the Wisconsin medical assistance program in violation of these law commits a crime punishable by imprisonment of up to six years and/or a fine up to \$25,000.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Wisconsin law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to Federal law and Society policy, Wisconsin law prohibits state employers from retaliating, discriminating or harassing any state employee who discloses information that the employee reasonably believes demonstrates a violation of a state or federal law, rule or regulation. Wisconsin law does not contain similar protections for non-governmental employees. Nevertheless, The Society expects employees to adhere to Federal law and to The Society's policy prohibiting retaliation.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Society's Code of Ethics or regulatory violation, or (2) refused to violate The Society's Code of Ethics or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. For additional guidance, please see the "Fair Treatment Policy" section of the Employee Handbook and section IV "Reporting Compliance Concerns" of The Society's Compliance Program Handbook.

Copies of Wisconsin Laws

The Wisconsin laws summarized above include: (1) Medical Assistance Offenses Statute, Wisc. Stat. §§ 49.49 and 49.495; (2) Criminal Code, Wisc. Stat. §§ 939.50 and 973.20; and (3) Public Employee Protection Statute, Wisc. Stat. §§ 230.80-230.85. If you have questions about any of these requirements, you may contact The Society's Compliance Solutions Hotline at 1-800-631-6142.