

Colorado

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in Colorado. 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, Colorado false claims 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 Colorado laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Colorado's Medicaid program for services or goods not provided;
- Billing Colorado'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 Colorado's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Colorado'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 and rebates;
- Failing to maintain, or destroying, 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 Colorado laws may result in restitution of any improper payment and other monetary damages directly related to pursuing reimbursement, plus penalties of up to \$5,000 for each false claim or two times the amount of the false claim, and also may result in suspension or termination from the Medicaid program. In addition, a person who violates these laws commits a crime punishable by imprisonment for two to eight years and a fine from \$1,000 to \$750,000.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Colorado 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, Colorado law prohibits state employers from retaliating against any state employee who discloses evidence, or testifies, about waste of public funds, state agency mismanagement or abuse of authority. Colorado law does not contain whistleblower 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 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 Colorado Laws

The Colorado laws summarized above include: (1) False claims laws, Colo. Rev. Stat. §§ 25.5-4-301; 25.5-4-304 to 25.5-4-306; and 26-1-127; and (2) State Employee Protection law (public sector whistleblower statute), Colo. Rev. Stat. §§ 24-50.5-101 to 24-50.5-107. If you have questions about any of these requirements, you may contact The Society's Compliance Solutions Hotline at 1-800-631-6142. This summary and others are also posted on The Society's external web site, www.good-sam.com, then click on the "Links" tab and then click on the "Fraud and Abuse Prevention" tab.