

## Fraud and Abuse Laws and Regulations

### False Claims Act

**General Information:** Provides monetary penalties that can be imposed upon a health care provider for knowingly and willfully making false statements or representations in connection with filing a claim seeking reimbursement from a federally funded health care program. In this act, the definition of “knowingly” includes actual knowledge, deliberate ignorance and reckless disregard for the truth. Some examples of health care fraud have included: certifications and information, lack of medical necessity, duplicate claims for the same service, submitting claims for an excluded provider, inserting diagnosis codes not obtained from a physician or other authorized individual, etc. There is often some falsification of records to support improper billings.

### Potential Penalties

- Fines up to \$11,000 per services billed and/or three times the amount originally billed and/or
- Exclusion from Medicare, Medicaid, and other federally funded health care programs

### False Claims Act Whistleblower Employee Protection

While Highmark believes it has confidential reporting and investigative processes in place, employees may consider pursuing under the anti-retaliatory provisions or the False Claims Act contained in 31 U.S.C Sec 3730 (h). These provisions protect workers from retaliation or other illegal treatment and provide ways to recover a share of monetary damages if such damages are awarded to the Federal Government if/when a lawsuit is settled.

### Anti-Kickback Statute

**General Information:** Provides civil and criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive “remuneration” to induce the referral of business. Examples of “remuneration” include services (such as free testing or supplies) as well as items (such as cash, equipment, software, gifts, and other things of value). No bribes, kickbacks or other inappropriate payments should be offered or given. Highmark BCBSD Inc. d/b/a Highmark Blue Cross Blue Shield is an independent licensee of the Blue Cross Blue Shield Association. Highmark Health Options Duals is offered by Highmark Blue Cross Blue Shield.

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to any person or entity for any reason including, but not limited to, the acquisition or retention of business.

### **Potential Penalties**

- Imprisonment up to 5 years and/or
- Criminal and civil fines up to \$25,000 and/or
- Exclusion from the Medicare, Medicaid, and other federally funded health care programs

### **Stark Law**

**General Information:** Provides criminal penalties for individuals or entities that do not adhere to the regulations regarding financial arrangements between referring physicians (or a member of the physician's immediate family) and entities that provided designated health services payable by Medicare or Medicaid. In contrast to the anti-kickback statute, it does not require any showing of the "wrongdoer's" intent. Penalties can be applied if an arrangement exists that does not satisfy allowed exceptions.

### **Potential Penalties**

- Civil money penalty of \$15,000 per service billed
- Civil money penalty of \$100,000 and exclusion for arrangements or schemes to circumvent the statute
- Exclusion from the Medicare, Medicaid, and other federally funded health care programs and/or
- Refund of amounts collected in violation of the statute

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