

ARIZONA LAW

Arizona law prohibits the presentation of false claims to the state Medicaid program. For example, Arizona Revised Statutes § 36-2918 provides in pertinent part, that:

- A. A person may not present or cause to be presented to this state or to a contractor:
1. A claim for a medical or other item or service that the person knows or has reason to know was not provided as claimed.
 2. A claim for a medical or other item or service that the person knows or has reason to know is false or fraudulent.

- B. A person who violates a provision of Subsection A is subject, in addition to any other penalties that may be prescribed by federal or state law, to a civil penalty of not to exceed two thousand dollars for each item or service claimed and is subject to an assessment of not to exceed twice the amount claimed for each item or service.

Under rules of the Arizona Health Care Cost Containment System (“AHCCCS”), the state Medicaid agency, the agency determines the amount of a penalty, assessment, or penalty and assessment imposed on a provider for violations of A.R.S. § 36-2918.

In addition, false claims to the state Medicaid program could result in criminal prosecution. A.R.S. § 13-2311 provides:

- A. Notwithstanding any provision of the law to the contrary, in any matter related to the business conducted by any department or agency of this state or any political subdivision thereof, any person who, pursuant to a scheme or artifice to defraud or deceive, knowingly falsifies, conceals or covers up a material fact by any trick, scheme or device or makes or uses any false writing or document knowing such writing or document contains any false, fictitious or fraudulent statement or entry is guilty of a class 5 felony.

Under Arizona law, providers of services under the Medicaid program have a duty to immediately report in writing cases of suspected fraud or abuse to the director of the AHCCCS. The AHCCCS reviews the report, and if on the basis of a preliminary investigation a full investigation is determined to be warranted, the matter is referred to the state attorney general. Any person making a complaint of furnishing a report, information or records in good faith is immune from any civil liability by reason of that action unless that person has been charged with or is suspected of the fraud or abuse reported.

At the time VistaCare’s False Claims Policy was adopted, Arizona had not enacted its own legislation similar to the Federal False Claims Act allowing private citizens or

employees to file civil lawsuits to recover monetary damages against individuals and entities that submit false or fraudulent claims to the state Medicaid program.

A.R.S. § 23-1501 provides that an employee has a claim against an employer for termination of employment in retaliation for:

The disclosure by the employee in a reasonable manner that the employee has information or a reasonable belief that the employer, or an employee of the employer, has violated, is violating or will violate the Constitution of Arizona or the statutes of this state to either the employer or a representative of the employer who the employee reasonably believes is in a managerial or supervisory position and has the authority to investigate the information provided by the employee and to take action to prevent further violations of the Constitution of Arizona or statutes of this state or an employee of a public body or political subdivision of this state or any agency of a public body or political subdivision.

In addition to the federal and state laws protecting employees who make lawful reports of a suspected violation of state or federal statutes, VistaCare's False Claims Policy prohibits retaliation or retribution against employees, contractors and agents who report potential fraud and abuse situations.

Should Arizona enact additional legislation pertaining to the submission of false claims, this summary will be updated to include detailed information about this false claims legislation and any additional penalties, civil or criminal, imposed pursuant to that legislation for false claims and statements.

References:

Medicaid false statements: A.R.S. § 36-2918

Duty to report fraud or abuse: A.R.S. § 36-2918.01

Fraudulent schemes and practices: A.R.S. § 13-2311

Protection from retaliatory discharges: A.R.S. § 23-1501

Civil Monetary Penalties and Assessments: A.A.C. § R9-22-1101, et seq.