

OKLAHOMA LAW

Oklahoma law provides that it is unlawful to make a false claim or a false statement or representation to obtain payment from the Oklahoma Medicaid program. The Oklahoma Medicaid Program Integrity Act (the “Act”) includes provisions that define the prohibited conduct, establish a Medicaid Fraud Unit within the Attorney General’s office and create civil and criminal penalties for violations.

Section 1005 of the Act provides, in pertinent part, that it shall be unlawful for any person to willfully and knowingly:

1. Make or cause to be made a claim, knowing the claim to be false, in whole or in part, by commission or omission;
2. Make or cause to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide a good or a service knowing the statement or representation to be false, in whole or in part, by commission or omission;
3. Make or cause to be made a statement or representation for use by another in obtaining a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;
4. Make or cause to be made a statement or representation for use in qualifying as a provider of a good or a service under the Oklahoma Medicaid Program, knowing the statement or representation to be false, in whole or in part, by commission or omission;

A person violating these provisions of Section 1005 is deemed guilty of Medicaid fraud. Where the aggregate amount of payments illegally claimed or received is \$2,500 or more, the violation is a felony punishable by a fine of not more than three times the amount of payments claimed or received or \$10,000, whichever is greater, or imprisonment for not more than three years, of both a fine and imprisonment. A violation of less than \$2,500 is a misdemeanor punishable by a fine of not more than three times the amount of payments or \$1,000, whichever is greater, or imprisonment for not more than one year, or both a fine and imprisonment.

A person who receives payment for furnishing goods or services under the Medicaid program which the person is not entitled to receive due to committing Medicaid fraud under the Act is subject to additional penalties. These penalties include full restitution of payments received, interest on the payments received, and the cost of investigation, litigation and attorney fees. Further, the person is liable for either a civil penalty of two times the amount of restitution and interest or a civil penalty of \$2,000 and interest from the date of the judgment for each false or fraudulent claim, statement or representation. The Medicaid provider agreement of a person violating the Act can be suspended for up to five years.

The Medicaid Fraud Control Unit within the Office of the Oklahoma Attorney General is the state entity to which all cases of suspected medicaid fraud are referred by the Oklahoma Health Care Authority or its fiscal agents for the purposes of investigation, civil action, criminal action or referral to the district attorney. The Oklahoma Health Care Authority may also investigate or additionally refer to other proper law enforcement agencies cases of suspected Medicaid fraud.

At the time VistaCare's False Claims Policy was adopted, Oklahoma 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.

Oklahoma has not enacted legislation prohibiting employers from taking disciplinary or retaliatory action against an employee who makes a lawful report of a violation of state or federal statutes. However, VistaCare's False Claims Policy requires all employees, contractors and agents with knowledge of potential fraud and abuse situations to report them, and prohibits retaliation or retribution for good faith reporting.

References:

Oklahoma Medicaid Program Integrity Act: 56 Okl. St. §§ 1001 to 1008