

## UTAH LAW

Utah law prohibits the making or presenting of false claims to obtain payment from the Utah Medicaid program. The Utah False Claims Act (the “Act”) includes provisions that define the prohibited conduct, authorize enforcement by state agencies and create civil and criminal penalties for violations.

Section 26-20-7 of the Act provides, in pertinent part, that:

- (1) A person may not make or present or cause to be made or presented to an employee or officer of the state a claim for a medical benefit:
  - (a) which is wholly or partially false, fictitious, or fraudulent;
  - (b) for services which were not rendered or for items or materials which were not delivered;
  - (c) which misrepresents the type, quality, or quantity of items or services rendered;

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A person violating these provisions of Section 26-20-7 of the Act is subject to civil penalties including restitution to the state of all damages, payment of the costs of enforcement, a civil penalty equal to three times the amount of damages and not less than \$5,000 or more than \$10,000 for each claim filed or act done in violation of the Act. A criminal action need not be brought against the person in order for that person to be liable for the civil penalties. In addition, the person violating the Act has committed a criminal act punishable by a fine or imprisonment. Punishment is determined based on the cumulative value of the funds or benefits received or claimed. For example, a violation by a person valued at \$5,000 or more is classified as a second degree felony punishable by imprisonment for a term of not less than one year nor more than 15 years and a fine not exceeding \$10,000. A corporation violating the Act is subject to a fine not exceeding \$20,000 and additional sanctions including advertising the conviction and disqualifying company officers from serving in a similar capacity for another company for up to five years.

The Utah Department of Health is responsible for investigating and prosecuting civil violations of the Act or for referring suspected civil violations to the state Attorney General for investigation and prosecution. The Department of Health is responsible for referring suspected criminal violations of the Act to the Attorney General for criminal investigation and prosecution.

At the time VistaCare’s False Claims Policy was adopted, Utah 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.

Utah has not enacted legislation prohibiting private 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:

Utah False Claims Act: Utah Code Ann. §§ 26-20-1 to 25-20-15

Classification of theft offenses: Utah Code Ann. § 76-6-412

Terms of imprisonment: Utah Code Ann. §§ 76-3-203 and 76-3-204

Corporation fines and sanctions: Utah Code Ann. §§ 76-3-302 and 76-3-303