

**THE CHILDREN'S MERCY HOSPITAL  
ADMINISTRATIVE POLICY**

**TITLE:** Fraud, Waste, and Abuse Plan  
**NUMBER:**  
**EFFECTIVE:** 1/1/2007  
**REVISION DATE:** 2/2014  
**REVIEWED WITH NO CHANGES:** 1/2010, 6/2017  
**RETIRED:**

**PURPOSE:**

It is the fundamental policy of The Children's Mercy Hospital (Hospital) to conduct all of its business and other practices in compliance with all applicable laws and regulations. In furtherance of this policy, it is the Hospital's objective to use its best efforts to prevent and detect possible fraud, waste and abuse (FWA) in its operations and to encourage its employees, agents and contractors to report any incidents that they, in good faith, believe could lead to FWA against federal and state health care programs, such as Medicare and Medicaid.

The FWA plan safeguards are required to identify excluded providers and entities credentialed by Children's Mercy, and to prevent fraud, waste and abuse. Government payers' payments may not be made for items or services furnished or prescribed by an excluded provider or entity.

**LOCATION/SCOPE:** Children's Mercy Hospital, Children's Mercy Hospital Kansas, Children's Mercy Clinics and other locations and affiliates.

**DEPRATMENT RESPONSIBLE FOR POLICY MANAGEMENT & EXECUTION:**  
Corporate Compliance Department

**POLICY STATEMENT:**

**I. Fraud Waste and Abuse Prevention and Detection**

**A. Overview**

**OVERVIEW OF REGULATIONS CONCERNING FWA:**

State and federal laws have been enacted which provide civil and criminal penalties for certain forms of FWA. Both the Hospital and any involved individual may face such penalties, which may include fines and/or a prison sentence. These laws include:

- 1. Federal False Claims Act\_(FCA),\_which,\_in general, prohibits presenting a false claim for payment or approval and related acts. Violation of this statute may result in civil or criminal penalties, including fines and/or imprisonment against and individual or the Hospital.**
- 2. Federal False Claims Act (FCA), Qui Tam "Whistle-blower" Provisions** which allows a person who observes activities or behaviors that may violate the law in some manner to report their observations either to management or to a

governmental agency and then recover a percentage of any recoveries, plus reasonable expenses, costs and attorney's fees, depending upon the contributions the individual made to the success of the case.

3. **Federal False Claims Act (FCA), Non-Retaliation Provisions** which provides protection for whistleblowers.
4. **Program Fraud Civil Remedies Act** is similar to the FCA, but imposes different penalties.
5. **Missouri False Claims Statute** is not as broad as the FCA because it only deals with claims submitted to Medicaid.

**NOTE:** Missouri's false claims statute does not have a "whistleblower provision" similar to the one found in the FCA. An individual may not bring an action in state court. Employees are encouraged to report any concerns as outlined in Section I.C.2. below.

6. **Kansas False Claims Statute** is very similar to Missouri's statute.
7. **Anti-Kickback Statute** prohibits knowingly and willfully soliciting, receiving, offering or paying remuneration (including any kickback, bribe, or rebate) for referrals for services that are paid in whole or part under a federal health care program (which includes the Medicare program). Penalties may include fines and/or imprisonment.
8. **Stark Statute (Physician Self Referral Law)** prohibits a physician from making a referral for certain designated services to an entity in which the physician (or a member of his or her family) has an ownership/investment interest or with which he or she has a compensation arrangement (exceptions apply). Penalties are in the form of potentially substantial fines.
9. **Health Care Program Exclusions**  
No Federal health care program payment may be made for any item or service furnished, ordered or prescribed by an individual or entity excluded by the Office of Inspector General. (See Health Care Sanction Policy) As a penalty physicians and providers may be excluded from participation in Federal health care programs.
10. **HIPAA (Health Insurance Portability and Accountability Act)** can apply to FWA claims for failing to prevent unauthorized access, use or disclosure of protected health information.

## **B. Prevention**

1. The Hospital has several processes in place to prevent FWA. The most effective tool to prevent FWA is staff education.
2. Prevention occurs through system-generated edits that identify billing inconsistencies allowing these inconsistencies to be addressed prior to submission of a claim. Prevention also occurs through identifying and correcting inconsistencies with billings submitted to payers.
3. Prevention also occurs through auditing and monitoring processes to ensure that such processes have appropriate checks and balances and oversight.

## **C. Detection/Reporting by Hospital Employees**

1. All Hospital employees have the responsibility to report concerns regarding inconsistencies with care, services, documentation and claims. See Attachment A for examples of types of FWA by area.
2. Employees, medical staff members, officers, directors and others have the ability to report any concerns regarding FWA through the established Compliance Program Reporting methods, which include:
  - a) Reporting to supervisor
  - b) Reporting to any [Compliance Department team member](#)
  - c) Reporting via [Compliance Reporting Form](#)
  - d) Reporting via email at [compliance@cmh.edu](mailto:compliance@cmh.edu)
  - e) Reporting via the Compliance Hotline (816-460-1000), this may be done anonymously.
3. The Hospital's computer systems are designed to identify incomplete, inaccurate or inconsistent data. These inconsistencies are manually evaluated and addressed.
4. The [Compliance Exit Questionnaire](#) is provided to employees who leave the Hospital's employment giving them an additional opportunity to provide information on concerns.

## **II. Training/Education**

- A. The Hospital provides mandatory FWA training and education within the Compliance education materials by the following methods and during the following time periods:
  1. New Employee Orientation – at the time of new employee orientation through the [Hospital's Education Learning Platform](#).
  2. Annually – Employees must complete on line Compliance training that includes FWA information and acknowledge review of the [Compliance Plan](#) and [Code of Conduct](#). This training is completed through the [Hospital's Education Learning Platform](#).
  3. Pharmacy Department requires mandatory annual online training specific to FWA in addition to the trainings outlined above.
  4. New providers are trained on billing and coding policies and processes to ensure that documentation provides an accurate basis for billing.
  5. Revenue Cycle employee are trained on federal, state and payer billing guidelines and requirements to ensure compliant billing practices.

6. Staff responsible for credentialing activities are required to complete the on-line FWA module through the [Hospital's Education Learning Platform](#).

### **III. Investigation of Identified Inconsistencies**

- A. FWA inconsistencies are investigated in accordance with the [Compliance Plan](#) and Compliance department procedures.

### **IV. Investigation Resolution**

- A. FWA investigations are resolved and documented in accordance with the [Compliance Plan](#) and Compliance department procedures.
- B. Records in Compliance cases that are retained permanently, per the Record Retention Policy.

### **V. Enforcement/Disciplinary Actions**

- A. Confirmed actions by an employee that result in FWA are evaluated on a case-by-case basis to determine the scope of the FWA actions. Disciplinary actions are taken in accordance with the [Conduct and Discipline Policy](#).

### **VI. Retaliation**

- A. The [Compliance Plan](#), consistent in concert with state and federal laws, prohibits retaliation against any employee who reports a compliance concern in good faith to either the Compliance Department or an external oversight agency.
- B. The Compliance Department is responsible for ensuring that employees who report alleged compliance concerns are not retaliated against submitting the report, as outlined in the [Non-Retaliation: Prohibition from Reprisal Policy](#).

### **VII. Reporting**

- A. FWA concerns are documented in accordance with the Compliance Department concerns reporting standards.
- B. FWA case statistics are reported within the Compliance Department case reporting system with Nature of Issue being Alleged Fraud and Abuse.
- C. Compliance Department statistics are reported to the Children's Mercy's Corporate Compliance Committee and the Audit and Compliance Committee of the Board.

### **VIII. Disclosure**

- A. The Hospital under the direction of the VP, Audit and Compliance will disclose FWA inconsistencies to payers in accordance with contractual requirements and as required to government agencies.

### **DEFINITIONS:**

Abuse – Practices that, either directly or indirectly, result in unnecessary costs. Abuse includes any practice that is not consistent with the goals of providing patients with services that are medically necessary, meet professionally recognized standards, and are fairly priced.

Criminal Fraud –\_Knowingly and willingly executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program; or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program. (18 US Code §1347).

Fraud –\_Making false statements or misrepresentations of material facts to obtain some benefit or payment for which no entitlement exists. These acts may be committed for the person’s own benefit or for the benefit of some other party. Fraud includes the obtaining of something of value through misrepresentation or concealment of material facts.

Waste – Overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.

Knowingly - Meaning the person has actual knowledge that the information is false or acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

**REQUEST FOR GUIDANCE REGARDING THE POLICY:** Requests for guidance regarding this policy will be directed to the Administrative Council Sponsor for this policy.

**RELATED POLICIES:**

[Billing and Claims Submission Policy](#)

[Code of Conduct](#)

[Conduct and Discipline Policy](#)

[Corporate Compliance Plan](#)

[Exit Questionnaire Review and Monitoring Process](#)

[Non-Retaliation: Prohibition from Reprisal Policy](#)

**RELATED FORMS:**

[Compliance Reporting Form](#)

**REFERENCES:**

**REGULATIONS:**

Deficit Reduction Act

False Claims Act

Qui Tam Provisions

Program Fraud Civil Remedies Act

Missouri False Claims Statute

Kansas False Claims Statute

**POLICY CONTENT OWNER:**

Mikki Massey, MHA, CHC, CHPC, Privacy Officer

**ADMINISTRATIVE COUNCIL SPONSOR:**

Kim Brown, VP, Audit and Compliance

**REVIEWED BY: (2014)**


Ricky Ogden, Interim Director of Pharmacy  
Chip Bruce, Assistant Director, Pharmacy  
Amy Andrade, Sr. Director Revenue Cycle  
Robin Foster, Sr. VP, Legal Affairs  
April Smith, Compliance Manager  
Lyn Henry, Director, Compliance Coding and Education

**REVIEW PERIOD:** 3 years unless required more frequently by regulatory or accreditation requirements.


**APPROVED:**

Medical Executive 2/13/2014

Administrative Council 2/13/2014

  
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Charles Snyder, MD  
Medical Staff President

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Randall O'Donnell, PhD  
Chief Executive Officer

  
\_\_\_\_\_  
Date

## **Examples of Types of Actual or Potential FWA by Area**

### **Pharmacy/Prescriptions**

- Prescription appears to be altered or forged
- Filling of identical prescriptions for the patient, from different ordering physicians
- Individual picking up the prescription is unable to provide patient information (name, DOB, address) accurately (identity theft)
- The prescription is not appropriate based upon other prescriptions previously filled
- Prescription requested to be or being filled is not supported by the patient's medical history
- Provider writing for diverse drugs or primarily controlled substances which prescriptions are inconsistent his/her with clinical area of expertise.
- Prescriptions are not appropriate for the patient's health condition (medically necessary)
- Prescription is written for a higher quantity than medically necessary or indicated by the patient's age or size.
- Dispensing expired drugs, fake or diluted or illegal drugs
- Providing generics when brand is required to be dispensed
- Billing for prescriptions not filled or picked up
- Drug diversion
- Promotion of off label drug use

### **Providers**

- Patient medical history does not support the services being provided
- Unnecessary services being provided to the patient
- Patient's diagnosis is not supported in the medical record
- Billing for services not provided
- Billing for a higher level of service than provided
- Billing for supplies not provided
- Billing for appointments not kept

### **Billing**

- Altering claims forms or receipts for higher reimbursement
- Billing claims which do not have supporting documentation
- Billing for services that are not medically necessary

### **Miscellaneous**

- Patients using another individual's identity/insurance to seek care
- Patient/parent misrepresentation to obtain financial assistance or services

