**False Claims Prevention - Deficit Reduction Act of 2005**

**Pennsylvania Laws Addendum**

***Pennsylvania False Claims Laws (62 P.S. § 1407(a))***

The Pennsylvania Public Welfare Code governs Pennsylvania’s Medical Assistance (Medicaid) program and contains a provision that prohibits a number of fraudulent acts.  Some of the prohibited acts include:

* Knowingly or intentionally presenting for payment or allowance any false or fraudulent claim or cost report for furnishing services or items paid for by the Medical Assistance program
* Knowingly presenting for payment or allowance any claim or cost report for medically unnecessary services or items under the Medical Assistance program
* Knowingly submitting false information for the purpose of obtaining greater reimbursement than what one is legally entitled for furnishing services or items under the Medical Assistance program
* Knowingly submitting false information for the purpose of obtaining authorization for furnishing services or items under the Medical Assistance program
* Submitting a duplicate claim for services, supplies or equipment for which the provider has already received or claimed reimbursement from any source
* Submitting a claim for services, supplies or equipment that was not provided to a person receiving Medical Assistance benefits (a “recipient”)
* Submitting a claim for services, supplies or equipment which includes costs or charges not related to such services, supplies or equipment rendered to a recipient
* Submitting a claim or referring a recipient to another provider by referral, order or prescription, for services, supplies or equipment which are not documented in the record in the prescribed manner and are of little or no benefit to the client, are below the accepted medical treatment standards, or are unneeded by the client
* Submitting a claim which misrepresents the description of services, supplies or equipment dispensed or provided; the dates of services; the identity of the recipient; the identity of the attending, prescribing or referring practitioner; or the identity of the actual provider
* Submitting a claim for a service or item that was not rendered by the provider
* Making a false statement in the application for enrollment or reenrollment as a provider

***Pennsylvania False Claims Laws Penalties (62 P.S. § 1407(b))***

A person (including organizations) who commits any of these prohibited acts may be convicted of a third degree felony for each violation with a maximum penalty of $15,000 and seven years imprisonment.  Whenever a person has been previously convicted in any state or federal court of similar conduct, subsequent violations of these prohibited acts may result in a second degree felony punishable by a maximum penalty of $25,000 and ten years imprisonment.  A person convicted under this provision must also repay the amount of excess benefits or payments received plus interest and pay an amount not to exceed three times the amount of excess benefits or payments.  Moreover, the provider will be excluded from the Medical Assistance program for five years.

***Pennsylvania Insurance Fraud Law (18 Pa. C.S. § 4117)***

The Pennsylvania Insurance Fraud law makes it a criminal offense to knowingly submit any false, incomplete or misleading information concerning any material fact to an insurer or self-insured.  If a claim is made by computer billing or other electronic means, there is a presumption that the “knowingly” requirement has been proven.  Additionally, the law provides that a provider’s knowledge of a potential violation without further action may trigger another provision of the law that makes it an offense to be an owner, administrator, or team member of a health care facility and knowingly allow the use of the facility by a person who is engaged in violating the law.  In addition to criminal penalties and restitution, a person convicted of violating this statute shall be subject to civil penalties of not more than $ 5,000 for the first violation, $ 10,000 for the second violation and $ 15,000 for each subsequent violation.

***Pennsylvania Whistleblower Law (43 P.S. § 1421 et seq.)***

The Pennsylvania Whistleblower Law makes it unlawful for a public employer to discharge, threaten, discriminate or otherwise retaliate against an employee for making a good faith report (or is about to report) to the employer or appropriate authority of wrongdoing or waste or for participating in an investigation of any suspected wrongdoing.  Although the Whistleblower Law defines an employee as a person who performs a service for wages or other compensation for a “public body,” the Pennsylvania Superior Court has interpreted “public body” to include a skilled nursing facility that received Medicaid reimbursement.  A whistleblower who believes that he or she has been retaliated against can file a lawsuit under the Pennsylvania Whistleblower Law.  If the lawsuit is successful, the employee can be reinstated in his or her job with full fringe benefits and seniority rights and receive back payments and damages, or any combination of these remedies.