



The Deficit Reduction Act (DRA) 2005 aims to cut fraud, waste and abuse from the Medicare and Medicaid programs. Health care entities, like Molina Healthcare, who receive or pay out at least \$5 million in Medicaid funds per year, must comply with the DRA. These entities must have written policies that inform employees, contractors, and agents of the following:

- The Federal False Claims Act and state laws pertaining to submitting false claims
- How to detect and prevent fraud, waste, and abuse
- Employee protected rights as whistleblowers

As a Molina Healthcare of Ohio, Inc. provider, you are either an entity or contractor/agent. **Contractors/agents are required to follow Molina Healthcare's policy and procedures on the DRA, Fraud and Abuse.**

Federal False Claims Act

The civil False Claims Act protects the Government from being overcharged or sold inferior goods or services. It is illegal to submit claims for payment to Medicare or Medicaid that you know or should know are false or fraudulent. Filing false claims may result in fines of up to three times the programs' loss plus \$11,000 per claim filed. Under the civil False Claims Act, each instance of an item or a service billed to Medicare or Medicaid counts as a claim, so fines can add up quickly. The fact that a claim results from a kickback or is made in violation of the Stark law also may render it false or fraudulent, creating liability under the civil False Claims Act as well as the Anti-Kickback Statute or Stark law. Under the civil False Claims Act, no specific intent to defraud is required. The civil False Claims Act defines "knowing" to include not only actual knowledge but also instances in which the person acted in deliberate ignorance or reckless disregard of the truth or falsity of the information.

Further, the civil False Claims Act contains a whistleblower provision that allows a private individual to file a lawsuit on behalf of the United States and entitles that whistleblower to a percentage of any recoveries. Whistleblowers could be current or ex-business partners, employees, patients, or competitors. The False Claims Act contains a provision that protects a whistleblower from retaliation by his or her employer. This applies to any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his or her employment as a result of the employee's lawful acts in furtherance of a false claims action.

There also is a criminal False Claims Act. Criminal penalties for submitting false claims include imprisonment and criminal fines. Physicians have gone to prison for submitting false health care claims. The Office of Inspector General also may impose administrative civil monetary penalties for false or fraudulent claims.



State Provisions – False Claims

Ohio does not have a state law equivalent to the Federal False Claims Act. However, similar to the False Claims Act, a combination of Ohio laws imposes liability on providers or persons who commit fraud in the Ohio medical assistance program.

1. Medicaid fraud laws:

- a. Ohio Revised Code 109.85 Investigation and prosecution of violation of Medicaid law
- b. Ohio Revised Code 2307.65 Civil action to recover benefits improperly paid
- c. Ohio Revised Code 2913.40; Medicaid fraud
- d. Ohio Revised Code 2913.401; Medicaid eligibility fraud
- e. Ohio Revised Code 5111.03 Provider offenses
- f. Ohio Administrative Code 5101:3-1-29 Medicaid fraud, waste, and abuse

Molina Healthcare of Ohio Policy

It is the policy of Molina Healthcare to detect, investigate, report and prevent any activity that may violate the Federal False Claims Act or state Medicaid fraud laws. If any employee, provider, delegated entity, contractor or agent has knowledge or information that any such activity is or may have taken place, they should contact Molina Healthcare's Compliance Department at (866) 366-5462. Information may be reported anonymously.

In addition, Federal and State law and Molina Healthcare of Ohio prohibit any retaliation against persons who in good faith report suspected violations of these laws to law enforcement officials or who file "whistleblower" lawsuits on behalf of the government.