Policy Number:	**10.15**	**Original Date Issued:**	July 11, 2008
Section:	Compliance	**Date Reviewed:**	June 16, 2020
Title:	Fraud, Abuse and False Claims	**Date Revised:**	June 16, 2020
Regulatory Agency:	**OIG, CMS**		

I. POLICY:

Children's Healthcare of Atlanta ("Children's") conducts all of its business and other practices in compliance with all applicable laws and regulations. Children's uses its best efforts to prevent and detect possible fraud, waste and abuse in its operations and encourages its employees, agents and contractors to report any incidents that they, in good faith, believe could lead to waste, fraud and abuse or submission of a false claim against federal and state healthcare programs, such as Medicare and Medicaid.

II. PURPOSE:

To educate Children's staff, non-employed providers and vendors regarding Fraud and Abuse, the federal and state False Claims Acts and similar laws in compliance with Section 6032 of the Deficit Reduction Act of 2005 and to affirm Children's Healthcare of Atlanta's commitment to detecting and preventing fraud and abuse.

The Federal False Claims Act

The Federal False Claims Act (FCA) prohibits a health care provider from: (i) knowingly presenting or causing to be presented a false or fraudulent claim or (ii) knowingly making or causing to be made a false record or statement, to the federal government for payment. The term "knowingly" is defined to mean 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. Conduct that could lead to the submission of a false or fraudulent claim might include falsifying records, double billing for items or services or submitting bills for services never performed or items never furnished. Anyone who violates the FCA could be subject to fines between $11,665 and $23,331 for each false claim (as of January 13, 2020), in addition to three times the actual damages sustained by the federal government.

Georgia State False Medicaid Claims Act

The Georgia State False Medicaid Claims Act (SFMCA) also prohibits any person from knowingly submitting or causing to be submitted a claim for payment under the state Medicaid program when the claim is (i) presented which is false or fraudulent or (ii) based on a false record or statement in order to get a claim paid. The definition of

"knowingly" is the same as the definition found under the Federal FCA. In addition to the above prohibitions, the SFMCA extends beyond the submission of a false or fraudulent claim for payment and prohibits anyone from (i) conspiring to defraud the Medicaid program by getting a false or fraudulent claim allowed or paid and (ii) knowingly making, using or causing to be made or used, a false record or statement to conceal, avoid or decrease any obligation to pay, repay or transmit money or property to the State of Georgia. Violation of this statute can lead to a civil penalty between $5,500 and $11,000 for EACH false or fraudulent claim plus three times the amount of damages which the Medicaid program sustains.

Federal Qui Tam "Whistleblower" Provisions

"Whistleblowers" are generally individuals who observe activities or behaviors that may be deemed as a violation of the law in some manner. These individuals report their observations either to management or to governmental agencies. To encourage these individuals to come forward and report possible misconduct involving false claims, the FCA includes a "qui tam" or whistleblower provision which essentially allows a person with actual knowledge of false claims activity to bring an action in federal court. The lawsuit is initiated by filing a copy of the complaint and all available relevant evidence with the federal government. The lawsuit will remain sealed (meaning it will be kept confidential) for at least 60 days so the federal government can investigate the complaint and decide how to proceed. The government may decide to pursue the matter in its own name or decline to proceed, at which time the person bringing the action has the right to continue with the lawsuit on his/her own. If the lawsuit is successful, the whistleblower bringing the action may receive between 15-30% of any proceeds, plus reasonable expenses, costs and attorney's fees, depending upon the contributions the individual made to the success of the case. Any case must be brought within six 6) years from the date that the false claim was submitted for payment.

State "Whistleblower" Provisions

As with the FCA, the SFMCA has a provision to encourage individuals ("Whistleblowers") to come forward and report possible misconduct involving false claims presented to Medicaid for payment. An individual would initiate an action by filing a civil action under the name of the State of Georgia. A copy of the complaint and written disclosure of substantially all material evidence and information the Whistleblower possesses shall be provided to Georgia's Attorney General. As in the FCA, the action shall remain sealed for 60 days so the Attorney General can investigate the allegations of the complaint. The Attorney General will make a decision as to whether or not the state will proceed with the civil action and if so, the action shall be conducted by the Attorney General. If the Attorney General proceeds with the whistleblower case and it is successful, the person bringing the action forward may be entitled to receive 15-25% of the proceeds or settlement of the claim. If the Attorney General does not proceed with the case and the individual proceeds on his/her own and is successful, the individual may receive between 25 and 30% of the proceeds of the action. Any case must be brought within six (6) years from the date that the violation was committed or three (3) years after the

date when facts material to the right of civil action are known or reasonably should have been known by the state official charged with responsibility whichever occurs last provided that in no event shall any civil action be filed more than ten (10) years after date upon which the violation was committed.

Non-Retaliation

The FCA and the SFMCA provides protection for whistleblowers. Anyone initiating a qui tam case may not be discriminated or retaliated against in any manner by his/her employer for filing the lawsuit. The employee is authorized under the FCA and SFMCA to initiate court proceedings to make him or herself whole for any job-related losses resulting from any such discrimination or retaliation.

Children's Healthcare of Atlanta strictly prohibits retaliation, in any form, against any individual making a report by either internal or external mechanisms, in good faith. For more information refer to the Standards of Conduct or to policy 1.04 Problem Reporting and Non-Retaliation.

III. PROCEDURE:

Children's Healthcare of Atlanta is committed to complying with all applicable laws and regulations. Children's Healthcare Of Atlanta established the Corporate Compliance Program, which includes anonymous Hotline reporting, Standards of Conduct, policies and procedures, training and education, and auditing and monitoring as an expression of our commitment to uphold ethical and legal behavior and business practices.

Children's Healthcare of Atlanta has several processes in place to prevent fraud and abuse. The most effective tool is the establishment of appropriate policies and procedures that guide employees to perform their responsibilities consistent with applicable laws and staff education on the laws and processes. Staff is educated during New Employee Orientation, job specific and annual training.

The Children's Healthcare of Atlanta community must follow the Standards of Conduct which includes abiding by the requirements of Medicare, Medicaid, and other federal and state health care programs. This involves maintaining proper patient and business records and following truthful and accurate coding and billing practices. Children's Healthcare of Atlanta also requires that individuals comply with appropriate billing and coding policies and procedures designed to assure proper coding and billing practices. Furthermore, in instances where Children's provides the delegated credentialing function to a health plan, Children's has agreed to forward referrals of confirmed fraud, waste and abuse related to that function to that health plan.

The Children's Healthcare of Atlanta community should contact one of the following resources available if they have knowledge or concern regarding potential fraud or abuse:

a. Report to your immediate supervisor; or
b. Contact the Chief Compliance Officer or the Compliance Office
c. Report a concern anonymously by calling the Compliance Hotline at 877-373-0126; or
d. Report a concern anonymously by visiting choa.ethicspoint.com.