

Document Number:	7.2
Document Name:	Medicaid Fraud, Waste and Abuse Policy
Document Description:	Administrative Policies and Procedures
Effective Date:	12/15/2023
Date Finalized by DDD:	TBD
Date of Last Revision:	5/15/2024
Document Status:	Pending

7.0 Purpose: The purpose of this policy is to establish Eleos Family Services (EFS) role/responsibilities in preventing, detecting and reporting Medicaid Fraud, Waste and Abuse, ensuring Eleos activities are conducted in a lawful and ethical manner with regard to the [Deficit Reduction Act of 2005](#), and in compliance with [Division Circular: 54; Federal Deficit Reduction Act of, Section 6032 Policy on Fraud, Waste and Abuse](#) and to provide whistleblower/reporter protections.

7.1 Policy: EFS will aim to prevent, detect, and report Medicaid Fraud, Waste and Abuse in accordance with the [Deficit Reduction Act of 2005](#) and as required by the [Community Care and Supports Program Waivers](#). As an agency, we understand that Medicaid participation is voluntary and to participate we must know, accept, understand and abide by the rules and regulations. Our continued participation requires compliance with the regulatory requirements. The policy includes definitions, examples and steps for reporting fraud.

1. EFS will establish that the prevention, detection and reporting of Medicaid Fraud, Waste and Abuse is the responsibility of all staff, including contractors and vendors.
2. EFS will inform all staff of their employee rights to be protected as whistleblowers when reporting Medicaid Fraud, Waste and Abuse.
3. EFS will train all staff and contractors on the responsibility to prevent, detect, and report Medicaid Fraud, Waste and Abuse on an annual basis.

Examples

Medicaid Fraud and Waste include:

- Providing unnecessary services
- Billing for medical services not actually performed
- Billing for unnecessary services
- Billing more than once for the same service
- Billing separately for services that legitimately should be billing one
- Dispensing generic drugs but billing for brand-name drugs
- Giving or accepting something of value (kickbacks), such as cash, gifts, or services, in return for medical services.
- Falsifying cost of reports or claims.
- Billing for deliverables without having provided the service.
- Dishonest documentation and subsequent claiming (for example, documenting that a face-to-face visit was completed when it was a phone

call).

- Unethical behavior in referral patterns to providers.
- Work completed by staff that do not meet staff qualification requirements.

Medicaid Abuse include:

- When someone lies about their medical condition.
- When someone lies about their eligibility.
- When someone forges prescriptions.
- When someone loans their Medicaid care to others.

7.2 Policy Elements

1. Providing the correct service
2. Adhering to waiver and regulatory standards, including hiring practices, properly completing Medicaid application, and training yourself and all staff about their requirements
3. Accurately Documenting the Services Rendered
4. Instituting Responsible Billing Practices
5. Properly Supervising all Employees' Provision of Services
6. Establishing a System to Identify and Correct Errors and Omissions concerning Credentialing,

7.2.1. Providing the Correct Services

1. Service must be “prior authorize” in the approved plan
2. Service provided must align with the Individual's documented outcomes/goals
3. Provider must receive and review a copy of the Service Detail Report
4. Provider must adhere to approved service units, unauthorized units will not be paid

7.2.2. Documentation

1. Records/documentation must accurately reflect the services that were rendered
2. Documentation should occur at the same time as services rendered
3. Do not shortchange yourself
4. If it's not documented or not documented correctly, it was not done.
5. Medicaid will not pay for undocumented or improperly documented services
6. All records/documentation used to support billing must be individualized, reflect actual services delivered, and include:
 - Individual's name
 - Date of service
 - Signature of the person authoring the note
 - Signature of supervisor if required

Record must reflect all elements for which a provider bills

- Should be done at the time of services are rendered, or as close to that as possible
- Time based procedure codes require documentation of time

7.2.2 Legal Consequences - Civil and Criminal

1. Civil judgment and liens
2. Exclusion from the Medicaid/Medicare programs

3. Suspension or loss of professional licenses
4. Referral for criminal prosecution
5. Restitution/Recovery of overpayments
6. Additional penalties in addition to repaying Medicaid overpayments

7.2.3. Criminal Health Care Claims Fraud jail time

1. It is illegal to submit a false claim to the Medicaid program or an insurance company in order to be paid for health care services which were not received or provided.
2. Punishable by up to 10 years in state prison.
3. In addition to all other criminal penalties allowed by law, a violator may be subject to a fine up to five times the amount of any false claims.
4. Suspension or debarment from government funded healthcare programs.
5. Forfeiture of professional license.

7.2.4. False claims

- If you are a practitioner and hold a professional license, you only need to submit one false claim to be convicted.
- Willful ignorance of the truth or falsity of a claim is not a defense.
- You can be found guilty of Health Care Claims fraud even if your claims were not intentionally fraudulent.

7.3 Scope:

The policy and procedure applies to EFS as a provider agency and EFS staff, including but not limited to: executive management, administration, employees, contractors and volunteers. EFS will ensure that staff receive training specific to Medicaid Fraud, Waste and Abuse to ensure adherence to applicable Federal and State regulations and requirements and this policy.

7.4 Definitions:

Medicaid a joint Federal and State program that provides funding for medical costs and specialized services for Individuals, including those who meet DDD eligibility requirements.

Fraud “Fraud” means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit, unlawful gain, or unfair gain to that person or another person. It includes any act that constitutes fraud under applicable Federal or State law. ([42 CFR § 455.2](#))

Waste “Waste” includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls. This could be the overutilization of services or other practices that directly or indirectly results in unnecessary costs to the health care system.

Abuse “Abuse” means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in unnecessary costs to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid programs. ([42 CFR § 455.2](#))

Complaint: When a staff member indicates to management they have a concern or problem. Complaints can be expressed several ways - verbally, in writing or via phone or text - and can pertain to bullying and harassment, discrimination, work environment, workload, workplace relationships, misconduct and fraud.

Retaliation: Any kind of negative action or treatment against a current or former employee that takes the form of punishment, and creates a hostile, threatening or uncomfortable environment as a result of their reported complaint.

Misconduct: Describes staff behavior that's illegal, inappropriate for the workplace and negatively impacts the employee's work, environment or peers. Misconduct can range from minor issues to serious breaches of company policy and violations and non-compliance with applicable Federal, State and DDD requirements, including Fraud, Waste and Abuse. This may include a failure to perform properly or neglect of duty is wilful and misconduct if he or she intentionally, knowingly, or deliberately fails to perform, or performs in a grossly negligent manner, or repeatedly performs negligently after prior warning or reprimand and in substantial disregard of the our policy and Federal, State and DDD requirements. Misconduct includes behavior that occurs within the company's place of business or outside and within company hours and outside of company hours.

Whistleblower/Reporter: staff who reports inappropriate behavior, fraud, waste, abuse, misconduct or violations by another staff member.

Wrongdoer: staff who are accused of illegal, inappropriate behavior or practices and negatively impacts the employee's work, environment or peers.. Wrongdoers who are found guilty are subject to, but not limited to criminal prosecution, and termination of employment.

Note: Information related to this topic can be found here: [Steering Clear of Medicaid Fraud, Waste and Abuse](#)

7.5 Procedure

7.5.1. Reporting Misconduct or Violations

All complaints and accusations are treated with discretion, ensuring minimal disruption during investigations and preserving the reporter's anonymity.

Please do not let these fears deter you. Our company will do everything possible to stop misconduct, harassment, retaliation and bullying of any kind from happening, while supporting harassed and injured employees. We need to know what's going on so we can act on it. And by raising your voice on this issue, you help our company create a happy workplace and thrive.

HR, supervisors or managers must not, under any circumstances, blame the reporter, conceal a report or discourage employees from reporting misconduct, violations or retaliation. If HR, supervisor or a manager behaves that way, please send an email to their own manager, the Human Resources Director(HRD), Compliance Manager or Executive Director explaining the situation.

1. If you have witnessed or become aware of employee misconduct, such as Federal, State, DDD or EFS policy violations, including Fraud, Waste or Abuse, please notify your Supervisor, Manager, Compliance Manager or Executive Director.
2. If you want to report misconduct within our company, there are two options:
 - a. Ask for a meeting with your Supervisor, Manager, HRD, Compliance Manager or Executive Director. **If any of the above mentioned employees or staff is involved in the misconduct, you do not have to include them in your meeting request, call or email.**
 - i. Once in the meeting, explain the situation in as much detail as possible.
 - ii. If you have any hard evidence (e.g. emails), forward it or bring it with you to the meeting.
 - b. Send your complaint via email to your Supervisor, Manager, HRD, Compliance Manager or Executive Director. **If any of the above mentioned employees is involved in the discrimination, you do not have to include them in your meeting request, call or email.**
 - i. If you address it to your supervisor or manager, please cc HRD in the email and attach any evidence or information that can be used in the investigation.
 - ii. HR and your supervisor or manager will discuss the issue and contact you as soon as possible.

7.5.2. Reporting Retaliation

All complaints are treated with discretion, ensuring minimal disruption during investigations and preserving the reporter's anonymity.

HR, supervisors or managers must not, under any circumstances, blame the reporter, conceal a report or discourage staff from reporting misconduct or violations. If HR, supervisor or a manager behaves that way, please send an email to their own manager, the Human Resources Director (HRD), Compliance Manager or Executive Director explaining the situation.

Please refer to our [Complaint & Anti-Retaliation](#) policy above for additional information related to retaliation against reporters and whistleblowers. The policy establishes and ensures Eleos Family Services (EFS) role and responsibility to protect staff members who report illegal, harmful, discriminatory, or unethical behaviors.

If you are being retaliated against, or suspect another person is being harassed or bullied, please report it to your Supervisor, Manager or the Human Resources Director (HRD). We acknowledge it's often hard to come forward about these issues, but we need your help to build a fair and safe workplace for you and your coworkers.

If an Individual, family, guardians, or coworkers are involved in your complaint, you may reach out to your Supervisor or Manager. Your Supervisor or Manager will assess your situation and may contact the Human Resources Director (HRD), Compliance Manager or Executive Director if appropriate.

Feel free to reach out to the HRD, Compliance Manager or Executive Director in any case of harassment or bullying or discrimination no matter how minor it may seem. For your safety, contact the HRD as soon as possible in cases of serious harassment (e.g. sexual advances) or if your Supervisor is involved in your complaint. Anything you disclose will remain confidential.

If you want to report harassment or bullying within our company, there are two options:

- a. Ask for a meeting with your Supervisor, Manager, HRD, Compliance Manager or Executive Director.

If any of the above mentioned staff members is involved in the discrimination, you do not have to include them in your meeting request, call or email.

- i. Once in the meeting, explain the situation in as much detail as possible.
- ii. If you have any hard evidence (e.g. emails), forward it or bring it with you to the meeting.

b. Send your complaint via email to your Supervisor, Manager, HRD, Compliance Manager or Executive Director.

If any of the above mentioned staff members is involved in the discrimination, you do not have to include them in your meeting request, call or email.

- i. If you address it to your supervisor or manager, please cc HRD in the email and attach any evidence or information that can be used in the investigation.
- ii. HR and your supervisor or manager will discuss the issue and contact you as soon as possible.

If you report physical assault to the police, our company will provide any possible support until the matter is resolved. In any case, we will ensure you are not victimized and that you have access to relevant evidence admissible in court, like security video footage or emails (without revealing confidential information about.

References

<https://www.nj.gov/humanservices/ddd/assets/documents/circulars/DC54.pdf>

a. Division of Developmental Disabilities

Email: DDD.FeeForService@dhs.nj.gov

Website: <https://www.state.nj.us/humanservices/ddd/home/index.html>

b. Medicaid Fraud Division

Email: provider-education@osc.nj.gov

Website: <https://www.nj.gov/comptroller/divisions/medicaid/>

c. Medicaid Fraud Control Unit

Email: NJMFCU@njdcj.org

Website: <https://www.nj.gov/oag/medicaidfraud/>

Websites for Obtaining Additional Information:

- Deficit Reduction Act - Public Law 109-171

www.gpoaccess.gov/plaws/index.html

- New Jersey Statutes

www.njleg.state.nj.us

- U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, Deficit Reduction Act

<http://www.cms.hhs.gov/DeficitReductionAct/>