

Nebraska

Nebraska State False Claims Laws

This is a supplement to The Evangelical Lutheran Good Samaritan Society's ("The Society") Employee Handbook for employees who work in Nebraska. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Nebraska False Medicaid Claims Act and other Nebraska laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Nebraska laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Nebraska's Medicaid program for services or goods not provided;
- Billing Nebraska's Medicaid program for undocumented services;
- Making inaccurate, false or improper entries in medical records, cost reports and any other records used to support reimbursement;
- Billing Nebraska's Medicaid program for medically unnecessary services;
- Characterizing non-covered services or costs in a way that secures reimbursement from Nebraska's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources
- Participating in kickbacks and rebates;
- Failing to maintain, or destroying, medical records, income and expenditure reports or any other records that support Medicaid reimbursement.

A person who benefits from submission of a false claim must report the claim to the Nebraska Department of Health and Human Services within 60 days of discovery or be subject to civil penalties.

Civil and Criminal Penalties for False Claims or Statements

A violation of these Nebraska laws may result in penalties of up to \$10,000 for the false claim, plus three times the amount of the false claim, and must pay the government's costs and attorney fees to pursue reimbursement. In addition, a person who violates these laws commits a crime punishable by imprisonment for up to one year or a fine not to exceed \$1,000, or both.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Nebraska law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to federal law and Society policy, Nebraska law prohibits employers from retaliating or discriminating against employees because of their lawful participation in making a complaint to the Nebraska Department of Health and Human Services. These laws also provide for certain monetary awards and equitable relief to the prevailing plaintiff including compensation for lost wages and reinstatement to a former position.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of violation of The Society's Code of Conduct or regulatory violation, or (2) refused to violate The Society's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. For additional guidance, please see the "Fair Treatment Policy" section of the Employee Handbook and section IV "Reporting Compliance Concerns" of The Society's Compliance Program Handbook.

Copies of Nebraska Laws

The Nebraska laws summarized above include: (1) False Medicaid Claims Act, Neb. Rev. Stat (NRS) §§ 68-934 to 68-947; (2) Discrimination or retaliation prohibition law, NRS § 71-445. If you have questions about any of these requirements, you may contact The Society's Compliance Solutions Hotline at 1-800-631-6142. This summary and others are also posted on The Society's external web site, www.good-sam.com, then click on the "Links" tab and then click on the "Fraud and Abuse Prevention" tab.