

**Policies and Procedures**  
**Ethics and Compliance**

**Apria Healthcare, Inc.**

Policy: EC006  
Page: 1 of 4  
Issued: 08/11/09  
Revised: 08/17/09

Subject: **FALSE CLAIMS UNDER FEDERAL AND STATE LAWS**

---

**PURPOSE**

The purpose of this policy is to set forth Apria Healthcare's commitment to: accurate coding and billing practices; compliance with the federal civil False Claims Act and any similar state or federal civil or criminal law that prohibits the submission of a false claim; and compliance with state Medicaid plan amendments promulgated to comply with the Deficit Reduction Act of 2005.

**SCOPE**

This policy applies to all officers and employees (including part-time and per diem) of Apria Healthcare and its operating subsidiaries and affiliates and certain contactors/agents as it relates to the work they perform for Apria Healthcare. The name "Apria" shall refer to all operating subsidiaries and affiliates.

**POLICY**


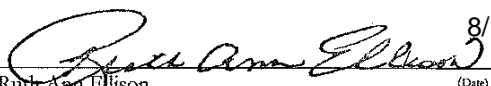
Compliance with all relevant federal and state laws and regulations including, but not limited to, those laws and regulations related to billing and coding practices, is expected. No Apria employee has the authority to direct, participate in, approve, or allow any violation of any of the laws described in this policy.

**REFERENCES**

- Apria Healthcare *Code of Ethical Business Conduct*
- Policy No. EC025 Compliance Audit Program
- Policy No. EC011 Reporting, Investigating and Responding to Compliance-Related Complaints
- Policy No. EC015 Ethics and Compliance Program Training

**ATTACHMENTS**

1. Information About State False Claims Acts or Similar Laws
2. Information About Ohio State Law Addressing False Claims and Statements

<b><i>CONFIDENTIAL: Exempt from disclosure under The Freedom of Information Act</i></b>	
This policy has been reviewed and approved by:	
 Margaret Brown, SVP, Quality, Ethics and Compliance	8/17/09 (Date)
 Ruth Ann Ellison, Director of TQM, Licensing and Accreditation	8/17/09 (Date)

**Confidential:** For use only by employees and authorized agents of Apria Healthcare, its operating subsidiaries and affiliates, and certain contractors/agents. This document contains confidential and proprietary information NOT to be reproduced or disclosed to others without the prior written approval of Apria Healthcare.

**Policies and Procedures**  
**Ethics and Compliance**

**Apria Healthcare, Inc.**

Policy: EC006  
Page: 2 of 4  
Issued: 08/11/09  
Revised: 08/17/09

Subject: **FALSE CLAIMS UNDER FEDERAL AND STATE LAWS**

---

**REQUIREMENTS**

**Detecting and Preventing Fraud, Waste and Abuse:**

1. Apria Healthcare has a comprehensive Compliance Program in place and encourages employees to bring any compliance concerns to the attention of management or call the compliance hotline or access an online compliance reporting website at [www.ethicspoint.com](http://www.ethicspoint.com) to anonymously report such concerns.
2. Apria has policies and procedures in place for detecting and preventing fraud, waste and abuse that can be accessed on Apria's intranet (ApriaNET) or [mycoram.com](http://mycoram.com).
3. The Corporate Compliance Officer, in conjunction with legal and regulatory counsel and other Company compliance professionals, is responsible for promoting the proactive prevention of fraud and abuse through education and training of Apria employees.
4. Contractors doing certain work for Apria are encouraged to report concerns about actual or potential wrongdoing related to the work they perform for Apria.
5. Any Apria employee who knows or reasonably believes that Apria, including any Apria employee, may be involved in any activity prohibited by the False Claims Act, similar state laws, or other fraud and abuse laws shall immediately report such belief using established Apria compliance reporting procedures described in Policy EC011 Reporting, Investigating, and Responding to Compliance-Related Complaints. Similarly, any Apria employee who has any questions about the possible application of the laws noted in this policy to any activities should consult with appropriate personnel in accordance with Policy EC011 Reporting, Investigating, and Responding to Compliance-Related Complaints.
  - 5.1. Reports or questions may be submitted to a supervisor, manager, a member of the Legal Department, or Apria's Corporate Compliance Officer or his/her designee. Oral reports may be made in person, via telephone or through Apria's confidential compliance hotline, and written reports may be made to the Corporate Compliance Officer by email, fax or mail or to the EthicsPoint website.
  - 5.2. Apria will not take, or tolerate, any intimidating or retaliatory action against an individual who in good faith makes a report of practices reasonably believed to be a violation of this policy.
6. In accordance with this policy and EC015 Ethics and Compliance Program Training, Apria shall make information available to all Apria employees and certain contractors/agents regarding compliance with the False Claims Act, similar state laws, and other false claims laws (see "Summary of Laws" below).

# Policies and Procedures

## Ethics and Compliance

Apria Healthcare, Inc.

Policy: EC006  
Page: 3 of 4  
Issued: 08/11/09  
Revised: 08/17/09

Subject: **FALSE CLAIMS UNDER FEDERAL AND STATE LAWS**

---

7. In accordance with this policy, Apria shall maintain internal systems and controls to monitor its coding and billing practices on an ongoing basis to foster compliance with the False Claims Act and similar state laws.

### Summary of Laws

1. **Deficit Reduction Act of 2005 (DRA)** – Federal law that requires, among other provisions, that state Medicaid Plans be amended to require certain types of providers to establish written policies that address the following: (1) the federal civil False Claims Act (FCA); (2) state laws pertaining to civil or criminal penalties for false claims and statements; (3) the whistleblower protections provided under both federal and state laws, and the role of these laws in preventing and detecting fraud, waste and abuse; (4) the administrative remedies found in the Program Fraud Civil Remedies Act; and (5) the Company’s policies and procedures for detecting and preventing fraud, waste and abuse.
2. **Federal Civil False Claims Act (FCA)** – The federal civil False Claims Act, 31 U.S.C. section 3729, *et seq.* (“FCA”), was originally enacted in 1863 after a series of Congressional inquiries disclosed several instances of fraud among defense contractors during the Civil War. The current FCA was passed by Congress in 1982 and has been amended a number of times. The FCA contains provisions designed to enhance the government’s ability to identify and recover losses it suffers due to fraud.
  - 2.1. FCA Prohibitions
    - 2.1.1. The FCA prohibits any individual or company from knowingly submitting, or causing to be submitted, false or fraudulent claims for payment or approval, making a false record or statement material to a false or fraudulent claim, or conspiring to engage in such acts or other acts described in 31 U.S.C. section 3729(a)(1). Under the statute, the terms “knowing” and “knowingly” mean that a person (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information. Thus, specific intent to defraud is not required for there to be a violation of the law.
    - 2.2. Penalties – Individuals or companies found to have violated the statute are liable for a civil penalty for each claim of not less than \$5,500 and not more than \$11,000, plus up to three times the amount of damages sustained by the federal government
    - 2.3. Qui Tam and Whistleblower Protection Provisions

**Subject: FALSE CLAIMS UNDER FEDERAL AND STATE LAWS**

---

- 2.3.1. The statute authorizes private citizens to file a lawsuit in the name of the United States alleging violations of the statute. Commonly known as a *qui tam* action, a lawsuit brought under the FCA by a private citizen commences upon the filing of a civil complaint in federal court under seal and service of a disclosure of material evidence on the Attorney General. As an incentive to bring these cases, the FCA provides that whistleblowers who file a *qui tam* action may receive a percentage of the monies recovered for the government plus attorneys' fees and costs.
    - 2.3.2. The FCA provides protection for the relator/whistleblower. It prohibits any adverse employment action (e.g., demotion or termination) to be taken against an employee, contractor, or agent because of lawful acts done by that individual in an effort to stop any violation of the provisions of 31 U.S.C. section 3729.
  3. **State False Claims Acts** – Most states have enacted statutes like the federal FCA that provide a civil remedy for the submission of false and fraudulent claims to state healthcare programs, including Medicaid. Like the federal FCA, several of these statutes include whistleblower provisions that allow enforcement through *qui tam* actions and protect whistleblowers from retaliation.
    - 3.1. Attachment 1, Information About State False Claims Acts or Similar Laws, includes citations and links to the laws in some states.
    - 3.2. Several states also impose criminal penalties for the submission of false claims to a state healthcare program. See Attachment 2, Information About Ohio State Law Addressing False Claims and Statements.
    - 3.3. If a state obtains a recovery as a result of a state action relating to false or fraudulent claims submitted to the Medicaid program, it must share the damages recovered with the Federal Government in the same proportion as the Federal Government's share in the cost of the particular state's Medicaid program. However, if a state has in effect a state false claims act that meets certain requirements, then the state's share will be increased by 10 percentage points.
  4. **Administrative Remedies** – There are also administrative remedies for false claims or statements including recoupment for overpayments, program exclusions, and civil monetary penalties/sanctions. See 31 U.S.C. section 3801, *et seq.*