

**ROOSEVELT CARE CENTER
DEFICIT REDUCTION ACT OF 2005
POLICY AND PROCEDURE**

POLICY

Roosevelt Care Center is committed to adhering to all fraud and abuse compliance regulations. The Deficit Reduction Act of 2005 (“Act”) requires Roosevelt Care Center to educate and train staff on federal and state false claims laws, whistleblower protections and Roosevelt Care Center’s policies and procedures for detecting and preventing fraud, waste and abuse.

PROCEDURE

Roosevelt Care Center’s Compliance Officer shall implement this policy and procedure.

Roosevelt Care Center shall require Vendors and Contractors to adopt this policy. Roosevelt Care Center further expects that Vendors and Contractors shall disseminate this policy to their employees and managers.

BACKGROUND CHECKS

Roosevelt Care Center shall verify that any current or prospective employees (regular and/or temporary), contractors, or subcontractors who directly or indirectly will be furnishing, ordering, directing, managing, or prescribing items or services in whole or in part are not excluded, unlicensed, or uncertified by searching the following databases on a monthly basis:

1. Federal Exclusions Database:
<http://oig.hhs.gov/fraud/exclusions.asp>
2. Excluded Parties List System
<http://www.epls.gov/>
3. N.J. Treasurer’s Exclusions Database:
www.state.nj.us/treasury/debarred/
4. N.J. Division of Consumer Affairs Licensure Databases:
<https://newjersey.mylicense.com/verification/>
<http://12.150.185.184/dca/>
5. N.J. Certified Nurse Aide and Personal Care Assistant Registry:
<http://www.cnatips.com/registry/nurse-aide-nj.php>
6. N.J. Department of Health and Senior Services Licensure Databases:
<http://www.state.nj.us/health/healthfacilities/search.shtml>

Because the Affordable Care Act has proclaimed an individual excluded in one state as excluded in all states, Roosevelt Care Center shall also verify that no current or prospective employees (regular and/or temporary), contractors, or subcontractors who directly or indirectly will be furnishing, ordering, directing, managing, or prescribing items or services in whole or in part are excluded, unlicensed, or uncertified by searching currently maintained state databases.

AUDIT OF BILLING RECORDS

Roosevelt Care Center shall review billing records routinely. Review may be both prospective and retrospective.

The billing records shall be provided at random. Roosevelt Care Center shall examine the records for compliance with the applicable standards of practice, specifically compliance with billing-related statutes, regulations, and guidelines

CORRECTIVE ACTION PLANS

The Compliance Officer and Compliance Committee shall develop a work plan based on the audit findings to address any negative practices. Corrections may include, but are not limited to, the following actions:

- Review of documentation process and/or forms; changes shall be made, if necessary.
- In-service to professional staff.
- Disciplinary actions to individual(s) who may be repeat offenders of improper documentation.

STAFF EDUCATION

Written policies, employee handbooks and employee training shall cover:

- The Federal False Claims Act [31 U.S.C. §§ 3729–33]
- The Federal Program Fraud Civil Remedies Act [31 U.S.C. §§ 3801–12]
- Any applicable state false claims laws, which in New Jersey include:
 - New Jersey Medical Assistance and Health Services Act – Criminal Penalties [N.J.S.A. 30:4D-17(a)–(d)]
 - New Jersey Medical Assistance and Health Services Act – Civil Remedies [N.J.S.A. 30:4D-7.h; N.J.S.A. 30:4D-17(e)–(i); N.J.S.A. 30:4D-17.1.a]
 - New Jersey Health Care Claims Fraud Act [N.J.S.A. 2C:21-4.2; 4.3; N.J.S.A. 2C:51-5]
 - New Jersey False Claims Act [P.L. 2007, Chapter 265]
- The right of employees for whistleblower protections under the New Jersey Conscientious Employee Protection Act [N.J.S. 34:19-1 et seq.], and some of the Federal and State statutes mentioned above.
- The employer’s policies and procedures for detecting and preventing fraud, waste and abuse in Medicaid, NJ FamilyCare, Medicare and other federally funded health care programs, as outlined above.

All employees shall be trained upon initial hire and on an annual basis thereafter.

DISCUSSION OF APPLICABLE LAW

1. Deficit Reduction Act of 2005 [42 U.S.C. § 1396a(a)(68)]
 - A. Federal law that requires Roosevelt Care Center, because it receives Medicaid funding, to take the following actions to address fraud, waste and abuse in health care programs that receive federal funds:
 - i. Establish written policies for all employees and contractors or agents.
 - a. Provide detailed information about the Federal and State False Claims Act; administrative remedies for false claims or statements; and whistleblower protection;
 - b. Include provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse, and;
 - c. Provide employees with a specific discussion of employees' rights to be protected as whistleblowers.
 - ii. Under Section 6032, Roosevelt Care Center must establish and make available to their employees, contractors, and agents policies that explain:
 - a. Federal and state laws dealing with false claims for payment from federally funded programs; and
 - b. Roosevelt Care Center's policies and procedures to detect and prevent fraud, waste and abuse in these programs.
 - iii. Contractors and agents must also adopt Roosevelt Care Center's policies and make them available to their employees.
2. Federal False Claims Act [31 U.S.C. §§ 3729–33]
 - A. Federal law that creates liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the U.S. government for payment from any federally funded contract or program.
 - i. "Knowingly" means that a person, with respect to information:
 - a. Has actual knowledge of falsity of information in the claim;
 - b. Acts in deliberate ignorance of the truth or falsity of the information in a claim; or
 - c. Acts in reckless disregard of the truth or falsity of the information in a claim.

- B. Health care providers and suppliers who violate the False Claims Act can be subject to civil monetary penalties ranging from \$5,500 to \$11,000 for each false claim submitted.
 - i. PLUS up to three times the amount of damages sustained by the U.S. Government.
 - ii. PLUS, if convicted, possible exclusion from participation in federal health care programs.

- C. Qui Tam “Whistleblower” Provisions
 - i. Allow any person, also known as the “relator”, with actual knowledge of allegedly false claims to file a lawsuit on behalf of the U.S. government.
 - ii. Relators may receive a percentage of the moneys recovered by the U.S. government.
 - iii. Roosevelt Care Center is prohibited from retaliating against Relators for complaining or filing lawsuits. If there is retaliation, Relators are entitled to employment reinstatement, back pay and any other compensation arising from retaliatory conduct against a whistleblower for filing an action, investigating a false claim or providing testimony for or assistance in a False Claims Act action.

- D. Examples of Health Care Fraud [31 U.S.C. §§ 3801-12]
 - i. Billing for services not rendered or goods not provided
 - ii. Falsifying certificates of medical necessity
 - iii. Billing for services not medically necessary
 - iv. Billing separately for services that should be a single service
 - v. Falsifying treatment plans or medical records to maximize payments
 - vi. Failing to report overpayments or credit balances
 - vii. Duplicate billing

- 3. Federal Program Fraud Civil Remedies Act [31 U.S.C. §§ 3801-12]
 - A. Federal law that provides federal administrative remedies for false claims and statements to federally funded health care programs.
 - B. Current civil penalties are \$5,500 for each false claim or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment.

- 4. New Jersey False Claims Act [adding N.J.S.A. 2A:32C-1–2A:32C-17 and amending N.J.S.A. 30:4D-17(e)]

- A. State law creates liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the State of New Jersey for payment from any state funded contract or program.
 - B. Prohibits retaliation by Roosevelt Care Center against any employee for the disclosure of information regarding this law; thus, Roosevelt Care Center shall not discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee in the terms and conditions of employment because of the employee's good faith report to the State or law enforcement agency.
 - i. If there is retaliation, the employer must make the employee "whole" by reinstating him/her, paying him/her two times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination and, where appropriate, punitive damages.
 - ii. No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a State or law enforcement agency or from acting to further a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed under this act.
 - iii. In addition, the defendant shall be required to pay litigation costs and reasonable attorney's fees associated with an action brought under this section.
 - C. Health care providers and suppliers who violate the New Jersey False Claims Act can be subject to civil monetary penalties ranging from \$5,500 to \$11,000 for each false claim submitted.
5. New Jersey Medical Assistance and Health Services Act [N.J.S.A. 30:4D-7h; N.J.S.A. 30:4D-17(e)-(i); N.J.S.A. 30:4D-17.1.a]
- A. State law that provides criminal and civil penalties for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs.
 - B. Criminal penalties include:
 - i. fraudulent receipt of payments or benefits: fine of up to \$10,000, imprisonment for up to 3 years, or both;
 - ii. false claims, statements or omissions, or conversion of benefits or payments: fine of up to \$10,000, imprisonment for up to 3 years, or both;
 - iii. kickbacks, rebates and bribes: fine of up to \$10,000, imprisonment for up to 3 years, or both; and
 - iv. false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to \$3,000, or imprisonment for up to 1 year, or both.

- C. Civil sanctions include:
 - i. unintentional violations: recovery of overpayments and interest;
 - ii. intentional violation, and violation of New Jersey False Claims Act: recovery of overpayments, interest, up to triple damages, and between \$5,500 and \$11,000 for each false claim.

- D. Violations can result in the exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services.

- 6. New Jersey Health Care Claims Fraud Act [N.J.S.A. 2C:21-4.2 and 4.3; N.J.S.A. 2C:51-5]
 - A. State law that provides for criminal penalties for health care claims fraud, including the submission of false claims to programs funded in whole or in part by state funds.
 - i. “Health care claims fraud” means making, or causing to be made, a false, fictitious, fraudulent, or misleading statement of material fact in, or omitting a material fact from, or causing a material fact to be omitted from, any record, bill, claim or other document, in writing, electronically or in any other form, that a person attempts to submit, submits, causes to be submitted, or attempts to cause to be submitted for payment or reimbursement for health care services.

- 7. New Jersey Conscientious Employee Protection Act [N.J.S.A. 34:19-1 et seq.]
 - A. State law that prohibits Roosevelt Care Center from taking any retaliatory action against an employee because the employee:
 - i. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes:
 - a. is in violation of a law, or a rule or regulation promulgated pursuant to law and/or
 - b. is fraudulent or criminal,
 - ii. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer; or

- iii. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
 - a. is in violation of a law, or a rule or regulation promulgated pursuant to law and/or ;
 - b. is fraudulent or criminal; and/or
 - c. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.
 - B. An employee who feels that he/she has been retaliated against may make a report by contacting any of the following:
 - i. Frank Damiani, Edison Administrator, Compliance Officer Edison/OB:732-767-4001
 - ii. Alan Fialka, Old Bridge Administrator, Privacy Officer Edison/OB: 732-360-9830
 - iii. Compliance Hotline: 800-557-1066
 - iv. NJ Medicaid Fraud and Abuse Hotline: 609-826-4701 or 1-888-937-2385
 - v. Centers for Medicaid and Medicare Services: 1-800-447-8477
8. New Jersey Uniform Enforcement Act [N.J.S.A. 45:1-21]
- A. State law that provides that a licensure board within the N.J. Division of Consumer Affairs “may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board” who has engaged in “dishonesty, fraud, deception, misrepresentation, false promise or false pretense:, or has “advertised fraudulently in any manner.”
9. New Jersey Consumer Fraud Act [N.J.S.A. 56:8-2, 56:8-3.1, 56:8-13, 56:8-14 and 56:8-15]
- A. State law that makes it unlawful to use “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact”, with the intent that others rely upon it, in connection with the sale, rental or distribution of any items or services by a person, or with the subsequent performance of that person.
 - B. Penalties include a fine of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense. Restitution to the victim can also be ordered.

**ROOSEVELT CARE CENTER
ACKNOWLEDGEMENT OF TRAINING
AND RECEIPT OF POLICY AND PROCEDURE #22020
DEFICIT REDUCTION ACT OF 2005**

I hereby acknowledge by my signature that in accordance with the Deficit Reduction Act of 2005, I understand that:

- Our Compliance Program has committed our organization to support each employee in our efforts to provide quality of care while adhering to all applicable laws and regulations.
- If I have any concerns that may involve a violation of a law or regulation, I am expected to report such concern. Even if I am unsure it is a violation of any law or regulation, I am encouraged to report the concern without delay.
- I should report concerns to either my manager, the Administrator, the Compliance Officer, or as a last resort by openly or anonymously calling our Compliance Hotline at (800) 557-1066.
- If my concern is reported in good faith, there will never be any retaliation for making the report.
- Roosevelt Care Center is committed to complying with the Deficit Reduction Act of 2005 as outlined in this Policy and Procedure #22020 of Roosevelt Care Center's Compliance Program. Roosevelt Care Center's Compliance Program Manual is located in the Administrator's office and is available for my review.
- If I am a vendor and/or contractor, I agree to abide by the standards contained in Policy and Procedure #22020, *Deficit Reduction Act of 2005*, and also agree to participate in Roosevelt Care Center's mandatory compliance training. Vendor shall disseminate Roosevelt Care Center's policies to Vendor's managers and employees.

I acknowledge that I have received and read Policy and Procedure #22020, *Deficit Reduction Act of 2005*, and agree to comply with it.

Employee Health Care Provider Vendor Other _____

Print name of individual

Company Name (if applicable)

Signature of individual

Date