

## Michigan

### **Compliance Program: Code of Conduct**

This is a supplement to Kindred's Employee Handbook for employees who work in Michigan. 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 Michigan Medicaid False Claims Act ("MMFCA"), and other Michigan 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 Michigan laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Michigan's Medicaid program for services not rendered
- Submitting a false claim for payment
- Conspiring to make a false claim or get one paid
- Solicit, offer or receive a kickback in connection with furnishing goods or services for Medicaid
- Making a false statement with respect to the conditions of operation in order to obtain certification as a hospital or skilled nursing facility
- Presenting a claim that falsely represents the medical necessity of the good or services
- Creating false records or making false statements concealing, avoiding or decreasing an obligation to pay or transmit money or property to the state with respect to Medicaid reimbursement claims.

### **Civil and Criminal Penalties for False Claims or Statements**

A violation of these Michigan laws may result in civil penalties equal to the full amount of the benefit received as a result of the fraud, a civil penalty of not less than \$5,000 or more than \$10,000, plus three times the amount of damages sustained by the state government. In addition, a person who violates these laws commits a crime punishable by imprisonment for up to four years and a fine of not more than \$50,000.

### **Civil Lawsuits**

Like the federal False Claims Act, Michigan law also allows civil lawsuits to be filed by the state government or by private citizens, including employees. If the private citizen (also called a *qui tam* plaintiff) is successful in the lawsuit, he/she may share a percentage of any monetary recovery and receive an award for reasonable attorney's fees and costs. However, if a *qui tam* plaintiff brings a lawsuit and the court finds that the claim was frivolous, then the court must award the defendant its reasonable attorney fees and costs and impose a civil fine of not more than \$10,000 against the *qui tam* plaintiff.

## **No Retaliation**

Like federal law and Kindred policy, various Michigan laws, including the MFCA, prohibit employers from retaliating, discriminating or harassing employees because of their lawful participation in a false claims disclosure or their refusal to assist employers in violating laws such as the MFCA. 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 Kindred's Code of Conduct or regulatory violation, or (2) refused to violate Kindred's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See Kindred's Concern Resolution Procedure in the Employee Handbook for information on reporting concerns.

## **Copies of Michigan Laws**

The Michigan laws summarized above include: (1) The Michigan Medicaid False Claims Act, Mich. Comp. Laws Ann. §§ 400.601-400.613; and (2) Mich. Comp. Laws Ann. §§ 15.361-15.369. If you have questions about any of these requirements, you may contact Kindred's Compliance Hotline at 1-800-359-7412. This summary and others are also posted on Kindred's external web site, [www.kindredhealthcare.com](http://www.kindredhealthcare.com), and Kindred's intranet site (KNECT) under the Compliance home page.