

Wisconsin

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Wisconsin. 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 Wisconsin Medical Assistance Offenses statute and other Wisconsin 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 Wisconsin laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Wisconsin's Medicaid program for services or goods not provided;
- Billing Wisconsin'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 Wisconsin's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Wisconsin'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 or rebates;
- Accepting any gift, money, donation or other compensation from a Medicaid beneficiary or his or her family;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement;

Civil and Criminal Penalties for False Claims or Statements

A violation of these Wisconsin laws may result in restitution for any improper payment and a civil penalty of \$5,000 to \$15,000 for each false statement, plus three times the amount of excess payments, payment of the government's expenses to remedy the harmful effects of the violation, and suspension or termination from the Medicaid program. In addition, a person who makes a false claim in connection with furnishing items or services under the Wisconsin medical assistance program in violation of these law commits a crime punishable by imprisonment of up to six years and/or a fine up to \$25,000.

Civil Lawsuits

Like the federal False Claims Act, Wisconsin 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 the private plaintiff is convicted of a crime related to the legal violation that is the subject of the civil suit, the plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. If the state chooses not to join the civil suit, the private plaintiff may proceed with the action without the state's participation.

No Retaliation

Like federal law and Kindred policy, various Wisconsin laws prohibit public and private 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 the law. 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 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 Wisconsin Laws

The Wisconsin laws summarized above include: (1) False Claims for Medical Assistance Statute, Wisc. Stat. § 20.931; (2) Medical Assistance Offenses Statute, Wisc. Stat. §§ 49.49 and 49.495; (3) Criminal Code, Wisc. Stat. §§ 939.50 and 973.20; and (4) Public Employee Protection Statute, Wisc. Stat. §§ 230.80-230.85. 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, and Kindred's intranet site (KNECT) under the Compliance home page.