

Arkansas

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Arkansas. 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 Arkansas Medicaid Fraud False Claims Act and the Arkansas Medicaid Fraud Act impose liability on persons or companies that make or cause to be made false or fraudulent claims to the Arkansas Medicaid program 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 Arkansas Medicaid program. These laws apply to Arkansas Medicaid reimbursement and prohibit, among other things:

- Billing the Medicaid program for services or goods not provided;
- Submitting a false claim to Medicaid for payment;
- Conspiring to make a false claim to or to get one paid by Medicaid;
- Making or using a false record to avoid payments owed to the state;
- Knowingly delivering a receipt that falsely represents property received;
- Failing to disclose the fact that a benefit was obtained from a false claim that was mistakenly submitted; and
- Soliciting or receiving a kickback.

Civil and Criminal Penalties for False Claims or Statements

A violation of the Arkansas False Claims Act may result in payment of restitution and a civil penalty of \$5,000 to \$10,000 per false claim, three times the amount of the payments fraudulently received from the Arkansas Medicaid program, and the reasonable expenses of the Attorney General, including the cost of the investigation, attorneys' fees, court costs, witness fees, and deposition fees. A violation may also result in the suspension or termination from the Medicaid program.

In addition, submitting false or fraudulent claims to the Arkansas Medicaid program is a criminal offense under the Arkansas Medicaid Fraud Act and is punishable by payment of restitution, a fine of three times the total amount of the false claims, a fine up to \$3,000 per claim, and suspension or termination from the Medicaid program. Submitting false or fraudulent claims to the Arkansas Medicaid program may also constitute a Class A misdemeanor up to a Class B felony, and depending on the severity of the act, may be punishable by no more than 20 years in prison and a \$15,000 fine.

Arkansas law prevents the application of the Arkansas False Claims Act and the Arkansas Medicaid Fraud Act to the same payment.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Arkansas law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. However, the Arkansas False Claims Act and Medicaid Fraud Act permit the court, as it deems just, to award to individuals who report fraud to the Attorney General up to 10% of the total amount recovered, not to exceed \$100,000.

No Retaliation

Similar to Federal law and Kindred policy, Arkansas law prohibits public employers from discharging, threatening, discriminating or retaliating against, a public employee who communicate to an appropriate authority waste of public funds, property or manpower or a suspected violation of a state law, rule or regulation in sworn testimony or in an affidavit. Arkansas law does not contain similar protections for non-governmental employees. Nevertheless, Kindred expects employees to adhere to Federal law and to Kindred's policy prohibiting retaliation.

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 Arkansas Laws

The Arkansas laws summarized above include the: (1) Medicaid Fraud False Claims Act, Ark. Stat. Ann. §§ 20-77-901 through 20-77- 911; (2) Medicaid Fraud Act, Ark. Stat. Ann. §§ 5-55-101 through 5-55-113; and (3) Arkansas Whistle-Blower Act, Ark. Code Ann. §§ 21-1-601 through 21-1-608. 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.