



## Fraud and Abuse

How the Deficit Reduction Act of 2005  
Impacts BlueCare Tennessee and Our  
Providers

# Background

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The Deficit Reduction Act is a piece of legislation passed by Congress that included provisions impacting Federal Health Care Programs. This includes any plan that provides health benefits that are funded by the U.S. Government or any state health care program defined under section 42 U.S.C. 1320a-7(h).

- BlueCare Tennessee falls under the definition of a state health care program.
- This law was effective on Jan. 1, 2007.
- As a BlueCare Tennessee provider, this information impacts you and your staff.

# The False Claims Act

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The False Claims Act covers liability for certain acts (Title 31 U.S.C., Section 3729). It applies to any person who:

- Knowingly presents to an officer or employee of the U.S. Government or member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;
- Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- Authorizes to make or deliver a document certifying receipt of property used, or to be used, by the Government, without completely knowing that the information on the receipt is true;
- Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government;
- Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
- Has possession, custody, or control of property or money used, or to be used, by the Government, and willfully conceals the property, or delivers less property than the amount for which they receive a certificate or receipt;
- Knowingly buys, or receives a pledge of an obligation or debt, public property from an officer or employee of the Government or a member of the Armed Forces who lawfully may not sell or pledge the property.

# Penalties for False Claims

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- Civil penalty of no less than \$11,181 and no more than \$22,363 PLUS three times the amount of damages the Government sustains because of the act of the person

# Exceptions

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The court may assess no less than two times the amount of damages that the Government sustains because of a person's actions if the court finds that:

- The person committing the violation furnished investigating officials all information known about the violation within 30 days after the date the defendant first obtained the information;
- Such person fully cooperated with any Government investigation of such violation; and
- At the time the information was presented, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

The person committing the violation shall also be liable to the U.S. Government for the costs of a civil action brought to recover any such penalty or damages.

# Quick Quiz

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**Question:** The Deficit Reduction Act, effective Jan. 1, 2007, affects BlueCare Tennessee and its providers. True or false?

A) True

B) False

**Correct Answer:** A

# Quick Quiz

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**Question:** Which of the following is NOT considered a violation of the False Claims Act?

A) Unintentionally presenting to an officer or employee of the U.S. Government or a member of the U.S. Armed Forces a false or fraudulent claim for payment or approval

B) Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid

C) A and B

**Correct Answer:** A, Unintentionally presenting to an officer or employee of the U.S. Government or a member of the U.S. Armed Forces a false or fraudulent claim for payment or approval

# Quick Quiz

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**Question:** If a person knowingly presents a false claim to the U.S. Government, the maximum penalty is \$5,000 plus three times the amount of damages the Government sustained. True or false?

A) True

B) False

**Correct Answer:** B. The maximum penalty is \$22,363 plus three times the amount of the damages the Government sustained.

# BlueCare Tennessee Code of Conduct

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The BlueCare Tennessee Code of Conduct requires that employees:

- Conduct business activities in an honest, open and fair manner.
- Build trusting relationships with our customers, providers, suppliers, business partners and regulators.
- Ensure ethics and compliance concerns aren't sacrificed in the pursuit and achievement of business or personal goals.
- Promote a culture of ethics and compliance as we perform our day-to-day job functions.
- Strive for ethical professionalism.
- Consider ethics and compliance an integral part of all of our business decisions.

You can find the complete BlueCare Tennessee Code of Contact at:  
<http://bluecare.bcbst.com/forms/vshpcodeofconduct.pdf>.

# Protection Under the False Claims Act

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- **Whistleblower Provision**
  - Individuals with original information regarding fraud involving government health care programs may file a lawsuit.
  - Whistleblower — An employee who discloses suspected fraud or abuse by their employer to a government or law enforcement agency
- **Successful Whistleblower Lawsuit**
  - Must meet specific legal requirements
  - Possibly awarded 15 to 30% of total recovered
  - Employee protected from retaliation

# Whistleblower Protection

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**The False Claims Act provides whistleblower protection from retaliation.**

- An employee must reasonably believe they're reporting a violation of the law.
- An employer cannot discharge, demote, suspend, harass or in any manner discriminate against the employee for whistleblowing.

# How Can You Report Suspected Fraud?

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- Call our Fraud and Abuse Hotline at 1-888-343-4221.
- Visit our [Report Fraud webpage](#).
- Call the Division of TennCare<sup>SM</sup> from anywhere in Tennessee at 1-800-433-3982.
- Log on to <https://www.tn.gov/finance/fa-oig/fa-oig-report-fraud.html> to complete an online form or to download a form to mail or fax to the State of Tennessee.

# Thank You



BlueCare Tennessee is an Independent Licensee of the BlueCross BlueShield Association.