

## **DRA NOTICE TO CONTRACTORS, AGENTS AND VENDORS**

### **FALSE CLAIMS LAWS & WHISTLEBLOWER PROTECTIONS**

All officers, directors, employees, contractors, subcontractors, and agents of the MaineGeneral Health system (“MGH”) shall be aware of its commitment to detecting and preventing health care fraud, waste, and abuse. In this regard, such individuals should be aware of certain laws.

#### **Federal Law:**

The *Federal False Claims Act*, (31 U.S.C. §§ 3729-3733) imposes liability on persons, companies, facilities, or institutions (including subcontractors) who...:

- knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- conspires to commit a violation of the Act;
- Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government.

The Act applies to Medicare, Medicaid and other federally funded programs. A violation of the Federal False Claims Act currently may result in civil penalties ranging from \$5,500 to \$11,000 for each false claim plus three times the amount of damages the government sustains, and exclusion from the Medicare, Medicaid and other federal health care programs. There are also criminal consequences under federal law for intentional participation in the submission of a false claim.

The Federal False Claims Act permits a person with actual knowledge of false claims activity to file a lawsuit on behalf of the federal government. These so-called *qui tam* or whistleblower provisions of the Federal False Claims Act contain detailed procedures for how to file one of these lawsuits. In certain circumstances, the person who files the lawsuit, known as a *qui tam* relator, may be entitled to share a percentage of any recovery received by the federal government resulting from the lawsuit. The Federal False Claims Act whistleblower provisions also protect employees, contractors or agents from retaliation or discrimination in the terms and conditions of their employment based on lawful acts of the employee done to stop a violation of the Act or in furtherance of an action under the False Claims Act. The complete text of the Federal False Claims Act is located at 31 U.S.C. § 3729 *et seq.*

#### **State Law:**

In addition to the federal law noted above, Maine has enacted several state laws and regulations designed to prevent and detect health care fraud, waste, and abuse within the state and federally funded Medicaid (“MaineCare”) health care program. In Maine, MaineCare may, among other administrative actions, impose sanctions and recoup identified overpayments against a provider, individual, or entity that has engaged in waste, fraud, or abuse. *See MaineCare Benefits Manual, 10-144 C.M.R. Chapter 101, Chapter I, §§ 1.18, 1.19, and 1.20.*

Further, under Maine's *Civil Liability of Persons Making False Claims* statute, any person or entity who, among other things, makes or causes a false or fraudulent claim for payment or approval to be submitted to the Maine Department of Health and Human Services knowing such claim to be false, fictitious or fraudulent, or who makes any false written statement or submits any false document in connection with such a claim, may be subject to civil suit by the State of Maine and required to pay (i) restitution for excess benefits or payments made, (ii) interest on restitution amounts awarded, (iii) civil penalties of up to three times the amount of the excess benefits or payments, but not less than \$2,000 for each false claim or false document submitted in support of such false claim, (iv) the State's litigation costs, (v) the State's investigation costs, and (vi) and the State's attorney's fees. *See Title 22 M.R.S.A. §15.*

The *Maine Human Rights Act* also contains whistleblower protection provisions to protect employees from retaliation or discrimination. *See Title 5 M.R.S.A. § 4653.*

Finally, Maine has numerous criminal provisions of general application in the Maine Criminal Code that prohibit fraud, theft, and false statements to government agencies that may be applicable in addressing health care fraud, waste, and abuse. *See Title 17-A M.R.S.A. § 1 et seq.*

### **MaineGeneral Health's Corporate Compliance Program:**

MGH is committed to detecting and preventing fraud, waste, and abuse in all of its interactions with Medicare, Medicaid, and other federal and state health care programs. In Compliance with DRA Section 6032, MGH maintains an effective Corporate Compliance Program, with a Corporate Compliance Officer, Corporate Compliance Plan, Code of Ethical Conduct and various policies and procedures. Compliance documents, policies, and procedures are available to Contractors, Agents, and Vendors upon request from the MGH Corporate Compliance Department at: (207) 624-4222. These documents are posted on the MGH's Corporate Compliance public website at <http://www.mainegeneral.org/body.cfm?id=1345>.

### **Reporting Suspected Fraud and Abuse:**

If at any time you or someone who works with or for your company should have a concern or question regarding fraud, waste, or abuse while conducting business with, or on behalf of, MGH system, you are encouraged to raise your concern or question with the MGH Supervisor for the group with whom you are working. However, if you feel uncomfortable speaking with the MGH Supervisor, or you do not feel your concern or question has been addressed properly; you should contact the **MGH Chief Corporate Compliance Officer at (207) 624-4222** or the MGH Corporate Compliance **Helpline at (207) 621-9350**.

The MGH Helpline permits anonymous reporting. MGH is committed to protecting those who, in good faith, ask questions about, or report suspected instances of, fraud, waste, and abuse.

\*This Notice is not intended to outline every law that concerns health care providers. You are encouraged to be aware of the laws, rules, and regulations that may apply to your activities and to ensure compliance with such laws.