



Fraud and Abuse



**How the Deficit Reduction Act of 2005 Impacts BlueCare Tennessee
and Our Network Providers | Updated June 2024**

Who Needs This Training?

All BlueCare Tennessee providers and provider/vendor subcontractors must complete this Deficit Reduction Act/Fraud, Waste and Abuse training.

Providers and provider/vendor subcontractors must also follow these steps to make sure they're compliant with the law:

- › Please maintain records to substantiate that your team completed the training. Record-keeping should be consistent with the Information Retention requirements in the Contractor Risk Agreement.
- › Provider/vendor subcontractors must verify that their employees aren't listed on the [Office of the Inspector General List of Excluded Individuals and Entities](#) or the [System for Award Management](#) databases before hiring and every month during employment.

Who Needs This Training?

All BlueCare Tennessee providers and provider/vendor subcontractors must complete this Deficit Reduction Act/Fraud, Waste and Abuse training.

Providers and provider/vendor subcontractors must also follow these steps to make sure they're in compliance with the law:

- › Once you and your team have completed the training, please complete and return the [Deficit Reduction Act Attestation form](#).

For more information about subcontracting requirements, please see the [BlueCare Tennessee Provider Administration Manual](#).

Background

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 took effect on Jan. 1, 2007.
- › As a BlueCare Tennessee provider or provider/vendor subcontractor, this information impacts you and your staff.

A photograph of a doctor in a white lab coat with a stethoscope around her neck, talking to a patient in a hospital hallway. The image is overlaid with a blue-to-teal gradient. The text 'The False Claims Act' is centered in white.

The False Claims Act

The False Claims Act

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

- › **A:** Knowingly presents, or causes to be presented, to an officer, employee or agent of the U.S. Government or member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;
- › **B:** 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;
- › **C:** Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- › **D:** Has possession, custody, or control of property or money used (or to be used) by the government and knowingly delivers (or causes to be delivered) less than all of that money or property;

The False Claims Act, cont.

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

- › **E:** Is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- › **F:** Knowingly buys, or receives as 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 property; or
- › **G:** 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.

Penalties for False Claims Under the False Claims Act



Civil penalty of no less than \$13,946 and no more than \$27,894 PLUS three times the amount of damages the Government sustains because of the act of the person

Exceptions

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

- › The person committing the violation furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the person (the defendant) first obtained the information;
- › The person fully cooperated with any Government investigation of the violation; and
- › At the time the person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under Title 31 of the United States Code with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.



The Tennessee Medicaid False Claims Act

The Tennessee Medicaid False Claims Act

The Tennessee Medicaid False Claims Act allows civil and/or administrative actions to be brought against any person who:

- › **A:** Knowingly presents, or causes to be presented, to the State a false or fraudulent claim for payment or approval under the Medicaid program;
- › **B:** 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 State under the Medicaid program;
- › **C:** Conspires to defraud the State by getting a claim allowed or paid under the Medicaid program knowing the claim is false or fraudulent; or
- › **D:** 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 State relative to the Medicaid program.

Penalties for False Claims Under the Tennessee Medicaid False Claims Act



- › Civil penalty of no less than \$5,000 and no more than \$25,000 for each claim that violates the Tennessee Medicaid False Claims Act, or
- › Administrative action of no less than \$1,000 and no more than \$5,000, for each claim that violates the Tennessee Medicaid False Claims Act

Additionally, the person must pay damages of three times the amount of damages the State sustains because of their actions (damages are limited to \$10,000 in administrative proceedings and unlimited court proceedings).

Review T.C.A. § 71-5-182 for more information.

Exceptions

The court may assess two times the amount of damages that the State sustains because of a person's actions if the court finds that:

- › The person committing the violation furnished officials of the State responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the person (the defendant) first obtained the information;
- › The person fully cooperated with any State investigation of the violation; and
- › At the time the person furnished the State with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under the Tennessee Medicaid False Claims Act with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.



Quick Quiz



Quick Quiz

Question 1

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

Question 2

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

Question 3

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 \$27,894 plus three times the amount of the damages the Government sustained.

QUICK QUIZ

Question 4

Question: If a person knowingly presents a false claim under the Tennessee Medicaid False Claims Act, the maximum civil penalty is \$25,000 plus three times the amount of damages the state sustained. True or false?

- > A: True
- > B: False

Correct Answer: A. The maximum penalty is \$25,000 plus three times the amount of the damages the Government sustained.

Fraud, Waste and Abuse Reporting Requirements

Reporting Suspected Fraud and Abuse

Providers, managed care organizations and others, including vendor sub-contractors, who have knowledge of fraud or abuse **must** report it.

- › If there's knowledge of TennCare recipient, enrollee or applicant fraud, call the Office of TennCare Inspector General immediately at **1-800-433-3982** or report it online at tn.gov/finance/fa-oig/fa-oig-report-fraud.html.
- › When there's knowledge of provider fraud, please call **1-800-433-5454** to report it immediately to the Medicaid Fraud Control Unit.

We've included additional information about reporting suspected fraud, waste and abuse later in this presentation.

Please note: The TennCare Inspector General may assess a civil penalty of up to \$10,000 for each finding in which a person willfully fails to report fraud.

Protections Under the False Claims Act

Whistleblower Provisions

Whistleblower Provisions

- › 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 15-30% of total recovered
- › Employee protected from retaliation

Whistleblower Protection

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.
- › If retaliation occurs, the employee may be entitled to reinstatement with the same seniority status had the retaliation not occurred, litigation costs and reasonable attorneys' fees, and two times their back pay plus interest.

Protection Under the Tennessee Medicaid False Claims Act

In this section, “whistleblower” refers to the person bringing a civil action under the Tennessee Medicaid False Claims Act.

- › A whistleblower’s successful lawsuit must meet specific legal requirements, with a possible award of 15-30% of the total recovered.
- › An employer cannot discharge, demote, suspend, harass or in any manner discriminate against the employee for whistleblowing.
- › If retaliation occurs, the employee may be entitled to reinstatement with the same seniority status had the retaliation not occurred, litigation costs and reasonable attorneys’ fees, two times their back pay plus interest, and any other special damages sustained by the whistleblower.

BlueCare Tennessee Code of Conduct and Reporting Fraud, Waste and Abuse

BlueCare Tennessee Code of Conduct

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.

BlueCare Tennessee Code of Conduct



Review our complete Code of
Contact at:

<http://bluecare.bcbst.com/forms/vshpcodeofconduct.pdf>

How Can You Report Suspected Fraud?

Report suspected TennCare administration fraud, waste and abuse to:

- › The State of Tennessee Comptroller Hotline at **1-800-232-5454**.
- › Call or email the Director of Audit & Investigations at **(615) 532-9758** or Kathryn.v.rogers@tn.gov.

Report suspected provider, waste and abuse to:

- › TennCare's Office of Program Integrity
 - Hotline: **1-833-687-9611**
 - Email: ProgramIntegrity.TennCare@tn.gov
- › The State of Tennessee Bureau of Investigation Medicaid Fraud Control Division:
 - Hotline: **1-800-433-5454**
 - Report TennCare Fraud webpage: <https://www.tn.gov/finance/fa-oig/fa-oig-report-fraud.html>

How Can You Report Suspected Fraud?

Report suspected member fraud, waste and abuse to:

- › The Tennessee Department of Finance and Administration's Office of Inspector General:
 - **Hotline:** 1-800-433-3982
 - Report TennCare Fraud webpage: <https://www.tn.gov/finance/fa-oig/fa-oig-report-fraud.html>

To report suspected fraud, waste and abuse to BlueCare Tennessee:

- › Call our Fraud and Abuse Hotline at **1-888-343-4221**.
- › Visit our [Report Fraud webpage](#).

Thank You



BlueCare Tennessee, an Independent Licensee of BlueCross BlueShield Association