



AbleLight Policy

Medicaid Fraud & Whistleblower Protections

Policy Category	Corporate Compliance	
Policy Owner	Legal & Compliance	
Key Departments Impacted by the Policy	All Departments	
Effective Date	2/10/2011	
Latest Revision Date	10/30/2023	All prior versions are obsolete.
Review Date(s) & Reviewer Name(s)	5/14/2019 – Jeff Kaczmariski, CLO	

1. Scope

The Medicaid Fraud & Whistleblower Protection Policy (“Policy”) applies to all employees and contractors of AbleLight Inc (“AbleLight”).

2. Policy Statement

AbleLight will provide Medicaid-funded services and make claims for payment for such services in accordance with applicable Federal and State law. All employees and contractors of AbleLight are obligated to provide Medicaid services in accordance with all State and Federal law governing the Medicaid program, and to act with honesty and integrity.

Any person who believes that AbleLight has acted contrary to Federal or State law regarding Medicaid-funded services (or any other government-funded services) is encouraged to immediately report any concerns. AbleLight prohibits retaliation of any kind against persons for making a report or complaint of a concern related to Medicaid or other government-funded services or a claim for payment for such services.

3. Definitions

- **Fraud:** An intentional or deliberate act to deprive another of property or money by deception or other unfair means.
- **Waste:** Practices that, directly or indirectly, result in unnecessary costs, such as overusing services.
- **Abuse:** Actions that may, directly or indirectly, result in unnecessary costs.
- **FCA:** The Federal False Claims Act (FCA) is an American federal law that imposes liability on persons and companies who defraud governmental programs.
- **False Claim:** A demand for money or property that is based on a material falsehood or a fraud.
- **Qui Tam:** Translates into “in the name of the king.” The False Claims Act Qui Tam provision permits individuals with evidence of fraud to file a lawsuit on behalf of the US government.
- **Whistleblower:** Someone who reports waste, fraud, abuse, corruption, or dangers to public health and safety.

- **PFCRA:** the Program Fraud Civil Remedies Act (PFCRA) is an American law that give agencies the ability to initiate administrative proceedings on claims of \$150,000 or less, when the U.S. Department of Justice elects not to pursue False Claims Act (FCA) remedies for the claims.
- **Open Talk:** AbleLight's Whistleblower or concern reporting system, which is operated by a third party, Navex.

4. Policy

AbleLight provides and bills for care and services to beneficiaries of state and federal healthcare benefit programs, most significantly Medicaid-funded programs that provide supports for persons with intellectual and developmental disabilities. It is essential that all billing claims are complete and accurate. AbleLight and several state and federal healthcare benefit programs provide protections for individuals who report known or suspected fictitious or fraudulent claims.

A. Federal False Claims Act

The Federal False Claims Act (FCA) was enacted during the Civil War to fight fraud in supplying goods to the Union Army. The law has undergone many changes and now applies to any federally funded contract or program, other than tax fraud, including Medicaid and Medicare. The FCA imposes liability on any person or entity who:

- 1) Knowingly files a false or fraudulent claim for payment to Medicaid, Medicare or any other federally funded health care program;
- 2) Knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicaid, Medicare or any other federally funded health care program;
- 3) Conspires to defraud Medicaid, Medicare or any other federally funded health care program by attempting to have a false or fraudulent claim paid; or
- 4) Knowingly uses (or causes to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Federal Government.

"Knowingly" means:

- 1) Having actual knowledge that the information on the claim is false;
- 2) Acting in deliberate ignorance of whether the claim is true or false; or
- 3) Acting in reckless disregard of whether the claim is true or false.

In the case of healthcare services, a false claim may include overbilling for a product or service, delivering less than the promised type of goods or services, underpaying money owed to the government and charging for services not provided. The FCA imposes civil penalties but is not a criminal statute. Therefore, no proof of specific intent as required for violation of a criminal statute is necessary. Under the FCA, any person or entity who knowingly presents a false or fraudulent claim for payment to the government is liable for damages of up to three times the amount of damages sustained by the federal government in addition to civil penalties ranging between \$5,500 and \$11,000. Each false claim is a separate violation of the law and generates liability for a separate penalty.

B. Qui Tam Whistleblower Provisions

Anyone may bring an action under the False Claims Act (FCA) in federal court. The case is initiated by causing a copy of the complaint and all available relevant evidence to be served on the federal government. Any case must be brought within six years of the filing of the false claim. The case will remain sealed for at least 60 days and will not be served on the defendant so the government can

investigate the complaint. The government may obtain additional time for good cause. The government may also initiate its own investigation under the FCA. After the 60 day investigation period, plus any extension periods, the government will either choose to join the complaint or decline to proceed. If the government declines to proceed, the person bringing the complaint has the right to conduct the action on their own in federal court. If the government proceeds with the case, the qui tam relator bringing the action will receive between 15 and 25 percent of any proceeds, depending upon the contributions of the individual to the success of the case. If the government declines to pursue the case, the qui tam relator will be entitled to between 25 and 30 percent of the proceeds of the case, plus reasonable expenses and attorney's fees and costs awarded against the defendant. Note that many of the state false claims act laws contain similar whistleblower provisions.

C. Non-Retribution and No Retaliation

Anyone initiating a qui tam case may not be discriminated or retaliated against in any manner by their employer. An employee is authorized under the FCA to initiate court proceedings to make themselves whole from any job related losses resulting from any such discrimination or retaliation. The AbleLight Compliance Program and state and federal whistleblower statutes and protections for individuals encourage the reporting of fraud, waste and abuse in good faith.

D. Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act (PFCRA) creates administrative remedies for making false claims separate from and in addition to, the judicial or court remedy for false claims provided by the False Claims Act. The PFCRA is quite similar to the FCA but is somewhat broader and more detailed, with differing penalties. The PFCRA deals with submission of improper claims or written statements to a federal agency. A violation of the PFCRA has occurred when an individual knows or should have known that a submitted claim is (i) false, fictitious or fraudulent, or (ii) includes or is supported by written statements that are false, fictitious or fraudulent, or (iii) includes or is supported by a written statement that omits a material fact; the statement is false, fictitious or fraudulent as a result of the omission; and the person submitting the statement has a duty to include the omitted facts, or (iv) for payment of property or services not provided as claimed. A violation of the PFCRA carries a penalty of \$5,000 per claim or statement and may also be assessed up to double the amount falsely claimed.

E. State False Claims Acts

Many states have laws similar to the Federal False Claims Act and the Program Fraud Civil Remedies Act. These laws provide federal and state funded healthcare beneficiary programs with a method to control fraud, waste and abuse by giving appropriate government agencies the authority to seek out, investigate and prosecute violations. Enforcement activities are pursued in three ways: criminal, civil and administrative.

F. Organization Efforts to Prevent and Detect Fraud, Waste and Abuse

AbleLight provides compliance training and has procedures in place to prevent and detect fraud, waste and abuse. An individual who becomes aware of or suspects any type of fraud, waste or abuse may report this information to Open Talk, Ablelight's anonymous whistleblower reporting system by calling 1-855-350-9397 or submitting a web report at

<https://secure.ethicspoint.com/domain/media/en/gui/27074/index.html>.

Alternatively, you may write the Corporate Compliance and Privacy Officer at: AbleLight Inc, 600 Hoffmann Dr., Watertown, WI, 53094. All reporters may remain anonymous. Anonymous calls and

communications will be investigated and acted upon in the same manner as calls where the caller or writer identifies their identity. Efforts will not be made to determine the identity of an individual making an anonymous report unless the individual admits to engaging in improper conduct. Individuals are encouraged to describe the conduct or incident in sufficient detail to enable the organization to investigate the matter.

G. Investigation of Reports

Investigation of reported known or suspected violations will be prompt, appropriate, and confidential. The findings of the investigation and recommended corrective and/or disciplinary actions will be coordinated by the Corporate Compliance Officer or designee.

H. Corrective Action

Once a reported violation is substantiated through an investigation, corrective action will be initiated. When appropriate, AbleLight will return any overpayment amounts, notifying the correct governmental agency of the overpayment situation. Corrective action will be taken promptly to prevent similar occurrences.

5. References

Instruction: List all citations and references to other documents/tools. If none, include “None” herein.

Related Policies and Regulations

Policies/Regulations	Location
N/A	

Other Reference Documents

Document Name	Location
N/A	

6. Approval

This policy must be electronically signed and dated by the person listed below before it is considered approved.

Approved:

Candace Murray
Candace Murray, Compliance Director

10/30/23
Date Approved

END OF DOCUMENT