Policy:	HH.5004
Title:	**False Claims Act Education**
Department:	Office of Compliance
Section:	Fraud, Waste, and Abuse – Special Investigations Unit
CEO Approval:	*/s/ Michael Hunn 11/20/2024*
Effective Date:	08/02/2018
Revised Date:	11/07/2024
Applicable to:	☒ Medi-Cal ☒ OneCare ☒ PACE ☐ Administrative

I. PURPOSE

This policy establishes CalOptima Health's process to inform CalOptima Health employees, members of the Governing Body and First Tier, Downstream, and Related Entities (FDRs) of CalOptima Health's obligations for sharing information regarding compliance with the False Claims Act.

II. POLICY

A. CalOptima Health is responsible for establishing policies and communicating information regarding Federal and California False Claims Acts and related whistleblower protection laws to all CalOptima Health employees, members of the Governing Body, and FDRs.

B. This Policy addresses federal and state False Claims Act education requirements under section 1902 of the Deficit Reduction Act (DRA) and the CalOptima Health's Medi-Cal Contract with the Department of Health Care Services (DHCS) and D-SNP (OneCare) Contract with DHCS, and the D-SNP Contract with the Centers for Medicare & Medicaid Services (CMS).

C. The Federal False Claims Act, 31 U.S.C. Sections 3729 through 3731, addresses penalties for the submission of False Claims to the federal government and relator whistleblower protections as discussed in Addendum A.

D. The Federal Administrative Remedies Act, 31, U.S.C., Sections 3801 through 3812, addresses civil remedies and penalties for certain False Claims that are lower in dollar amount, as discussed in Addendum A.

E. The California False Claims Act, California Government Code, Section 12650 *et seq.*, addresses penalties for the submission of False Claims to the state government and relator or whistleblower protections, as discussed in Addendum A.

F. False Claims for health care providers can include, but are not limited to:

1. Billing for services not medically necessary;

2. Billing for a higher level of service and reimbursement than supported by the medical records;

3. Billing for items and services furnished by providers excluded from participation in federal health care programs (*e.g.*, Medicare, Medi-Cal);

4. Double billing;

5. Billing for medical items and/or services not provided and/or drugs not administered;

6. Billing for brand name drugs when generic drugs are provided;

7. The offer, payment, solicitation or receipt of monetary or non-monetary remuneration in exchange for the referral of patients, items or services paid for by Federal and State health care programs that violates the Anti-Kickback Statute;

8. The submission of false certifications related to risk adjustment data;

9. The submission of false certifications of data and document submissions required by Medicaid managed care regulations;

10. The failure to refund known Medicare and/or Medi-Cal overpayments; and

11. Submitting multiple billing codes instead of one billing code to increase reimbursement (i.e., unbundling).

G. CalOptima Health shall detect, correct, and prevent suspected Fraud, Waste, or Abuse in a CalOptima Health Program by a Member, Provider, Practitioner, a CalOptima Health employee, FDR, Billing Intermediary, and CalOptima Health's Health Networks, in accordance with CalOptima Health Policy HH.1105: Fraud, Waste, and Abuse Detection.

H. CalOptima Health is committed to compliance with applicable laws, regulations, and policies and its policy against intimidation, harassment, discrimination, or any other retaliatory action against individuals who report, or seek guidance related to, suspected or actual non-compliance with such laws and regulations, or unethical conduct in accordance with CalOptima Health Policy HH.3012: Non-Retaliation for Reporting Violations.

I. CalOptima Health Special Investigations Unit shall report to CMS and DHCS all cases of suspected Fraud and/or Abuse including potential violations of the False Claims Act in accordance with CalOptima Health Policy HH.1107: Fraud, Waste, and Abuse Reporting and Investigation.

J. CalOptima Health shall ensure CalOptima Health employees, members of the Governing Body, and FDRs comply with Fraud, Waste, and Abuse (FWA) education and training requirements, including the False Claims Act, in accordance with CalOptima Health Policy HH.2023: Compliance Training.

III. PROCEDURE

Not Applicable

IV. ATTACHMENT(S)

A. Addendum A: Deficit Reduction Act

V. REFERENCE(S)

A. California Government Code §12650 *et seq.* (California False Claims Act)

B. CalOptima Health Contract with the Centers for Medicare & Medicaid Services (CMS) for Medicare Advantage
C. CalOptima Health Contract with the Department of Health Care Services (DHCS) for Medi-Cal
D. CalOptima Health PACE Program Agreement
E. CalOptima Health Policy HH.1105: Fraud, Waste, and Abuse Detection
F. CalOptima Health Policy HH.1107: Fraud, Waste, and Abuse Reporting and Investigation
G. CalOptima Health Policy HH.2023: Compliance Training
H. Federal False Claims Act, Title 31 United States Code (U.S.C.), §§ 3729-3733
I. Medicare Advantage and Part D Fraud Handbook, Version 2.0 May 2015 and January 2021
J. Patient Protection and Affordable Care Act of 2010, 42 U.S.C. § 1320a-7k(d)
K. Section 1902 (a) (68) of the Social Security Act (42 U.S.C. §1396a(a)(68))
L. Title 31, United States Code, Ch. 38

VI. REGULATORY AGENCY APPROVAL(S)

None to Date

VII. BOARD ACTION(S)

Date	Meeting
08/02/2018	Regular Meeting of the CalOptima Board of Directors
12/06/2018	Regular Meeting of the CalOptima Board of Directors
12/03/2020	Regular Meeting of the CalOptima Board of Directors
12/20/2021	Special Meeting of the CalOptima Board of Directors
11/07/2024	Regular Meeting of the CalOptima Health Board of Directors

VIII. REVISION HISTORY

Action	Date	Policy	Policy Title	Program(s)
Effective	08/02/2018	HH.5004	False Claims Act Education	Medi-Cal OneCare OneCare Connect PACE
Revised	12/06/2018	HH.5004	False Claims Act Education	Medi-Cal OneCare OneCare Connect PACE
Revised	12/05/2019	HH.5004	False Claims Act Education	Medi-Cal OneCare OneCare Connect PACE
Revised	12/03/2020	HH.5004	False Claims Act Education	Medi-Cal OneCare OneCare Connect PACE
Revised	12/20/2021	HH.5004	False Claims Act Education	Medi-Cal OneCare OneCare Connect PACE
Revised	12/31/2022	HH.5004	False Claims Act Education	Medi-Cal OneCare PACE

Action	Date	Policy	Policy Title	Program(s)
Revised	09/01/2023	HH.5004	False Claims Act Education	Medi-Cal OneCare PACE
Revised	11/07/2024	HH.5004	False Claims Act Education	Medi-Cal OneCare PACE

IX. GLOSSARY

Term	Definition
Abuse	Medi-Cal: Practices that are inconsistent with sound fiscal and business practices or medical standards, and result in an unnecessary cost to the Medi-Cal program, or in reimbursement for services that are not Medically Necessary or that fail to meet professionally recognized standards for health care. It also includes Member practices that result in unnecessary cost to the Medi-Cal program. OneCare: A Provider practice that is inconsistent with sound fiscal, business, or medical practice, and results in an unnecessary cost to CalOptima Health and the OneCare program, or in reimbursement for services that are not Medically Necessary or that fail to meet professionally recognized standards for health care. It also includes Member practices that result in unnecessary cost to CalOptima Health and the OneCare program.
CalOptima Health Program	A managed care program operated by CalOptima Health that contracts directly with physicians and hospitals and requires a Primary Care Provider (PCP) to manage the care of the Members.
Centers for Medicaid & Medicare Services (CMS)	The federal agency under the United States Department of Health and Human Services responsible for administering the Medicare and Medicaid programs.
Department of Health Care Services (DHCS)	Medi-Cal: The single State department responsible for the administration of the Medi-Cal Program, California Children's Services (CCS), Genetically Handicapped Persons Program (GHPP), and other health related programs as provided by statute and/or regulation. OneCare: The single State Department responsible for administration of the Medi-Cal program, California Children's Services (CCS), Genetically Handicapped Persons Program (GHPP), Child Health and Disabilities Prevention (CHDP), and other health related programs. PACE: The single State Department responsible for administration of the federal Medicaid (referred to as Medi-Cal in California) Program.
Downstream Entity	Any party that enters into an acceptable written arrangement below the level of the arrangement between a Medicare Advantage (MA) organization (and contract applicant) and a First Tier Entity. These written arrangements continue down to the level of the ultimate provider of health and/or administrative services.
False Claim	Any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States government provides any portion of the money or property which is requested or demanded, or if the government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.
False Claims Act (FCA)	A federal law that makes it a crime for any person or organization to knowingly make a false record or file a False Claim regarding any federal health care program, which includes any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government or any state healthcare system.

Term	Definition
First Tier Entity	Medi-Cal: Any party that enters into a written arrangement, acceptable to DHCS and/or CMS, with CalOptima Health to provide administrative services or health care services to a Member under a CalOptima Health program. OneCare: Any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program.
First Tier, Downstream, and Related Entities (FDR)	Means First Tier, Downstream or Related Entity, as separately defined herein.
Fraud	An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law, in accordance with Title 42 Code of Federal Regulations section 455.2, Welfare and Institutions Code section 14043.1(i).
Governing Body	The Board of Directors of CalOptima Health.
Health Network	A Physician Hospital Consortium (PHC), Physician Medical Group (PMG) under a shared risk contract, or health care service plan, such as a Health Maintenance Organization (HMO) that contracts with CalOptima Health to provide Covered Services to Members assigned to that Health Network. Health Network Eligible Member: A member who is eligible to choose a CalOptima Health, Health Network.
Member	A beneficiary enrolled in a CalOptima Health program.
Practitioner	A licensed independent practitioner including, but not limited to, a Doctor of Medicine (MD), Doctor of Osteopathy (DO), Doctor of Podiatric Medicine (DPM), Doctor of Chiropractic Medicine (DC), Doctor of Dental Surgery (DDS), Doctor of Psychology (PhD or PsyD), Licensed Clinical Social Worker (LCSW), Licensed Midwife (LM) Marriage and Family Therapist (MFT or MFCC), Nurse Practitioner (NP), Nurse Midwife, Physician Assistant (PA), Optometrist (OD), Registered Physical Therapist (RPT), Occupational Therapist (OT), or Speech and Language Therapist, furnishing Covered Services.
Provider	Medi-Cal: Any individual or entity that is engaged in the delivery of services, or ordering or referring for those services, and is licensed or certified to do so. OneCare: Any Medicare provider (e.g., hospital, skilled nursing facility, home health agency, outpatient physical therapy, comprehensive outpatient rehabilitation facility, end-stage renal disease facility, hospice, physician, non-physician provider, laboratory, supplier) providing Covered Services under Medicare Part B. Any organization, institution, or individual that provides Covered Services to Medicare members. Physicians, ambulatory surgical centers, and outpatient clinics are some of the providers of Covered Services under Medicare Part B.

Term	Definition
Related Entity	Any entity that is related to the Medicare Advantage organization by common ownership or control and: 1. Performs some of the Medicare Advantage organization's management functions under contract or delegation; 2. Furnishes services to Medicare enrollees under an oral or written agreement; or 3. Leases real property or sells materials to the Medicare Advantage organization at a cost of more than two thousand five hundred dollars ($2,500) during a contract period.
Waste	Medi-Cal: The overutilization or inappropriate utilization of services and misuse of resources. OneCare: The overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to a CalOptima Health Program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.