

2024 mandatory *False Claims Act*, background check, and compliance reviews

We are conducting our annual compliance review of providers contracted with Wellpoint. This review is twofold and concerns providers' obligations to:

- Educate their employees and contractors on the provisions of the federal *False Claims Act* and whistleblower protections, and the Tennessee Medicaid *False Claims Act* and whistleblower protections in accordance with the *Deficit Reduction Act of 2005*.
- Perform background checks in accordance with *Tennessee Code Annotated 63-1-149* and TennCare contractual requirement §A.2.29.2.2.
- Perform monthly employee exclusion screenings against the Department of Health and Human Services Office of the Inspector General's List of Excluded Individuals/Entities database and the System for Award Management database.

We ask that your organization provide us with the following information to satisfy the documentation requirements for both compliance reviews:

- ***False Claims Act:***
 - Copies of any training materials shared with staff — Examples include documentation of your employee handbook, training presentations, online training modules, and/or policies and procedures being communicated to your employees regarding the federal *False Claims Act* and whistleblower protections and the Tennessee Medicaid *False Claims Act* and whistleblower protections.
 - Proof that the respective training materials were shared with staff — Examples include training logs, online training completion information, emails, and such.
 - Completed *Certification of Mandatory False Claims Act Education Compliance* form — The document should be signed by a member of your organization's management team.

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Medicaid coverage provided by Wellpoint Tennessee, Inc.

We comply with the applicable federal and state civil rights laws, rules, and regulations and do not discriminate against members or participants in the provision of services on the basis of race, color, national origin, religion, sex, age, or disability. If a member or a participant needs language, communication, or disability assistance or to report a discrimination complaint, call **833-731-2154**. Information about the civil rights laws can be found at tn.gov/tenncare/members-applicants/civil-rights-compliance.html.

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- **Background check and exclusion screening:**
 - Provide all documentation of your policies and procedures related to the completion of required prehire background checks and monthly exclusion screenings for all employees.

This is a very important matter. Failure to produce and return this documentation to us will result in corrective action.

Please send the requested documentation to our compliance department through any of the following channels:

- Fax: **866-796-4532**
- Email: tnprovideraudit@wellpoint.com
- Mail:
Compliance Department
Wellpoint
22 Century Blvd., Suite 310
Nashville, TN 37214

If you have questions or need assistance, contact your provider relationship management representative. Thank you for your cooperation.

Sincerely,

Lucy Mondale
Plan Compliance Officer
Wellpoint

Enclosures: *Certification of Mandatory False Claims Act Education Compliance*
False Claims Act

Certification of Mandatory False Claims Act Education Compliance

Wellpoint has a legal duty pursuant to section 6032 of the *Deficit Reduction Act* of 2005 (*DRA*) to provide its employees, contractors, and agents with detailed information about four major topics:

1. The federal *False Claims Act* and Tennessee Medicaid *False Claims Act*
2. Administrative remedies for false claims and statements
3. Any civil or criminal penalties under state false claims laws
4. Whistleblower protections under federal and state law

By signing below, the contractor and/or agent certifies that:

- Wellpoint made materials relating to compliance with the *DRA* via *False Claims Act* education for its contractors and agents available.
- The contractor and/or agent read and provided the information (or substantially similar information) to its employees, contractors, and agents.
- The contractor and/or agent adopted policies and procedures to comply with the requirements of the *DRA*.

Please return the attestation via fax to: **866-796-4532**.

Contractor and/or agent certification

By: _____

Print name: _____

Title: _____

Provider name/group: _____

Date: _____

Tax ID: _____

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False Claims Act

Wellpoint requires its providers and affiliates to abide by federal and state law and regulations governing the administration/operations of MCOs within the healthcare program.

This includes compliance with the federal *False Claims Act* (*Deficit Reduction Act* section 6032) that establishes liability for the following activities:

- Knowingly presenting or causing the presentation of a false/fraudulent claim for payment or approval to an officer/employee of the United States and/or applicable state government
- Knowingly making, using or causing the making/use of a false record/statement to receive payment or government approval of a false/fraudulent claim
- Conspiring to submit a false claim or to defraud the government by getting a false/fraudulent claim allowed or paid
- Possessing, having custody of, or controlling property/money used or with intended use by the government — intending to defraud the government or willfully concealing property by delivering (or causing the delivery of) less property than the amount the person receives on the certificate or receipt
- Making/delivering the receipt (with intention to defraud the government after authorization to make/deliver a document certifying receipt) of property used or with intended use by the government without completely knowing the information on the receipt is true
- Knowingly buying/receiving public property as a pledge, obligation, or debt from an officer/employee of the government or any person who lawfully may not sell or pledge the property
- Knowingly making, using, or causing the make/use of a false record/statement to conceal, avoid, or decrease an obligation to pay or transmit money/property to the government
- Knowingly making, using, or causing the make/use of any false or fraudulent conduct, representation or practice in order to procure anything of value directly or indirectly from the government

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If there is a violation of the *False Claims Act*, the federal government may impose penalties of not less than \$13,946 and not more than \$27,849 plus three times the amount of damages sustained by the government. The government may reduce the damages if the person committing the violation reports it within 30 days of discovering the violation; the person cooperates fully with the federal government's investigation; and there are no criminal prosecutions, civil actions, or administrative actions commenced at the time of the report — The person reporting cannot have any knowledge of such investigations.

The penalties for *False Claims Act* violations are adjusted annually. You can view the current amounts at: [eCFR:28 CFR 85.5](#) — adjustments to penalties for violations occurring after November 2, 2015.

The federal government via the Department of Health and Human Services Office of the Inspector General (OIG) may also utilize administrative remedies for the submission of false statements and/or claims, which include administrative penalties of not more than \$5,000 per false claim — The government may determine whether suspension or debarment from the healthcare program is warranted.

The government or an individual may bring a civil action for a violation of the applicable *False Claims Act*. If a person brings an action on behalf of the government, then that person may be entitled to a portion of any recovery under the applicable *False Claims Act*. The recovery is governed by the person's involvement in the claim and/or litigation as well as whether the government intervened in the litigation.

Whistleblower protections

Protections against retaliation exist under federal and state law for anyone providing a good faith report, including filing and/or participating in litigation or other investigations under the various *False Claims Acts*. Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts (on behalf of the employee or others in furtherance of an action under *Tennessee Code Annotated (TCA) §71-5-183*) shall be entitled to all relief necessary to make the employee whole, including investigation for, initiation of, testimony for or assistance in an action filed or to be filed under *TCA §71-5-183*. Such relief shall include reinstatement with the same seniority status the employee would have despite the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney fees. An employee may bring an action in the appropriate court for the relief provided in subsection (g) of *TCA §71-5-183*.

Tennessee Medicaid *False Claims Act*

In addition, Wellpoint also requires its providers and affiliates to abide by state law and regulation governing the administration/operation of MCOs within the healthcare program. This includes compliance with the Tennessee Medicaid *False Claims Act* TCA §71-5-181 and what follows, establishing liability for:

- Presenting or causing presentation of a claim for payment to the state under the Medicaid program knowing that such claim is false or fraudulent.
- Presenting or causing presentation of a claim for payment to the state under the Medicaid program knowing that the person receiving the Medicaid benefit/payment is not authorized or is ineligible for a benefit under the Medicaid program.
- Making, using, or causing the making/use of a record or statement to obtain a false/fraudulent claim under the Medicaid program and paid or approved by the state (while knowing that such a record or statement is false).
- Conspiring to defraud the state by getting a claim allowed or paid under the Medicaid program while knowing that such claim is false/fraudulent.
- Making, using, or causing the make/use of a record or statement to conceal, avoid, or decrease an obligation to pay/transmit money or property to the state (relative to the Medicaid program) knowing that such record/statement is false.
- Knowingly applying for and receiving a benefit/payment on behalf of another person and converting that benefit/payment to his or her own personal use — except pursuant to the lawful assignment of benefits under the Medicaid program.
- Knowingly making a false statement or misrepresentation of material fact concerning the conditions or operation of a healthcare facility so the facility may qualify for certification/recertification required by the Medicaid program.
- Knowingly making a claim under the Medicaid program for a service/product that was not provided.

The state may impose three times the amount of damages sustained by the government if there is a violation of the Medicaid *False Claims Act*. In Tennessee, the state may impose a civil penalty between \$5,000 and \$25,000. Any suspected fraud and/or abuse may be reported to the following:

- Wellpoint's Compliance Hotline phone: **877-725-2702**
- OIG phone: **800-433-3982** (for member fraud)
- OIG website: tn.gov/finance/topic/fa-oig
- Tennessee Bureau of Investigation (TBI) phone: **800-433-5454** (for provider fraud)
- TBI Medicaid Fraud Control Unit email: TBI.MFCU@tn.gov
- Office of Program Integrity email: ProgramIntegrity.TennCare@tn.gov