

**Deficit Reduction Act (DRA)**  
Public Law 109-171  
Eliminating Fraud, Waste and Abuse in Medicaid

The Deficit Reduction Act (DRA) applies to any entity that receives or makes annual Medicaid payments, under the state plan of at least \$5 million.

**FCA Requirements for Organizations**

An entity is required to establish written information, including but not limited to policies, procedures and training materials (collectively "written information") that are distributed to its employees, management, contractors and agents regarding the False Claims Act (FCA). The written information that is provided shall include:

- a) A reference to the United States Code Title 31 § 3729-3733;
- b) A statement that the FCA, also known as the "Lincoln Law," dates back to the Civil War and that the original law included "qui tam" provisions which allowed private persons to sue those who defrauded the Government and receive a percentage of any recovery from the defendant.
- c) A list of activities to which the FCA applies\* (see below):
  - (i) Knowingly presenting (or causing to be presented) to the Federal Government a false or fraudulent claim for payment;
  - (ii) Knowingly using (or causing to be used) a false record or statement to get a claim paid by the Federal Government;
  - (iii) Conspiring with others to get a false or fraudulent claim paid by the Federal Government; and
  - (iv) Knowingly using (or causing 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.
- d) Policies and procedures for detecting fraud, waste and abuse;
- e) The rights of employees to be protected as whistle-blowers; and
- f) Mechanism for detecting fraud, waste and abuse.

\*In general, the FCA covers fraud involving any federally funded contract or program, with the exception of tax fraud.

**Liability for violating the FCA**

- Three times the dollar amount that the Government is defrauded (i.e., treble damages) and civil penalties of \$5,500 to \$11,000 for each false claim

**How and When an Individual Can Receive an Award for Blowing the Whistle under the FCA**

- Any individual must file a *qui tam* lawsuit. Merely informing the Government about the FCA violation is not enough.
- The whistleblower that files an FCA suit receives an award only *if, and after*, the Government recovers money from the defendant as a result of the lawsuit.

**How Much Money Can An Individual Receive for Filing a Qui Tam Lawsuit?**

- Generally, the court may award between 15 and 30 percent of the total recovery from the defendant, whether through a favorable judgment or settlement.
- The amount of the award depends, in part, upon (i) if the government participates in the suit and (ii) the extent to which the person substantially contributed to the prosecution of the action

**Is A Whistle Blower Protected Under the FCA?**

- Under Section 3730(h) of the FCA, any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the FCA is entitled to any relief necessary to make the employee whole.

**Arizona laws relating to civil or criminal penalties for false claims and statements**

- Arizona Revised Statutes (ARS) 13-1802 (Theft), 13-2002 (Forgery), 13-2310 (Fraudulent schemes and artifices), 13-2311 (Fraudulent schemes and practices; willful concealment) and 36-2918 (Prohibited acts).

**Access to Additional Information**

- [www.azleg.state.az.us/ArizonaRevisedStatutes.asp](http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp) (Arizona Revised Statutes)
- [www.gpoaccess.gov/plaws/index.html](http://www.gpoaccess.gov/plaws/index.html) (Deficit Reduction Act – Public Law 109-171 - insert public law 109-171 in the quick search box)