

Orion ISO, Inc.

The Deficit Reduction Act of 2005 Policy

Effective: January 1, 2007

Introduction: The Deficit Reduction Act (DRA) of 2005 became law, effective January 1, 2007. The DRA of 2005 contains many provisions reforming Medicare and Medicaid that are designed to reduce program spending.

Applicability: Orion ISO, Inc. is a participant in federal health care programs and receives reimbursement from Medicaid agencies. As an entity that receives payments from Medicaid, which meet the requirements under Section 6032 of the Deficit Reduction Act of 2005, Orion ISO, Inc. is required to comply with certain provisions of the DRA of 2005. Orion ISO, Inc. is committed to fully comply with all laws and regulations.

Under the Deficit Reduction Act of 2005, Orion ISO, Inc. is required by law to establish certain policies and provide all employees with information regarding, first, the federal False Claims Act and similar state laws, second, an employee's right to be protected as a whistleblower, and third, Orion ISO, Inc.'s policies and procedures for detecting and preventing fraud, waste, and abuse in state and federal health care programs. Furthermore, contractors, subcontractors, agents, and other persons which or who, on behalf of Orion ISO, Inc., furnish or otherwise authorize the furnishing of Medicaid health care items or services, perform billing or coding functions, or are involved in monitoring of health care provided by Orion ISO, Inc. are required to adopt these policies and procedures to continue to do business with Orion ISO, Inc.. The following sets forth our policies and contains information required by law under the DRA of 2005.

False Claims Acts: One of the primary purposes of false claims laws is to combat fraud and abuse in government health care programs. False claims laws do this by making it possible for the government to bring civil actions to recover damages and penalties when healthcare providers submit false claims. These laws often permit *qui tam* suits as well. These are lawsuits brought by lay people, typically employees or former employees of healthcare providers that submit false claims. There is a federal False Claims Act and many states also have a state version of the False Claims Act.

Federal False Claims Act: The federal False Claims Act (FCA) forbids knowing and willful false statements or representations made in connection with a claim submitted for reimbursement to a federal health care program, including Medicare or Medicaid.

The federal FCA imposes liability on any person or entity who knowingly files a false or fraudulent claim for payments to Medicare or Medicaid or other federally funded health care programs, or who knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid or other federally funded health care program, or who conspires to defraud Medicare or Medicaid or other federally

funded health care program by attempting to have a false or fraudulent claim. In this context, “knowingly” means having actual knowledge that the information on the claim is false, acting in deliberate ignorance of whether the claim is true or false, or acting in reckless disregard of whether the claim is true or false. Examples of a false claim include submitting a claim for a service that was not rendered or billing multiple payers for the same service. Penalties include fines from \$5,500.00 to \$11,000.00 per false claim, payment of treble damages, and exclusion from participation in federal healthcare programs.

Whistleblower Statute: An employer may not discharge, discipline or discriminate against an employee because the employee or a person acting on behalf of an employee reported in good faith a violation or suspected violation of any federal or state law to an employer or to any governmental body or law enforcement official. An employer may also not discipline, discharge or discriminate against an employee for refusing to participate in any activity that the employee believes violated any state or federal law, rule or regulation.

Whistleblower Provision: The federal FCA includes a whistleblower provision, which allows someone with actual knowledge of alleged FCA violations to file suit on the federal government’s behalf. Anyone may bring a *qui tam* action under the False Claims Act in the name of the United States. The case is initiated by filing the complaint and all available material evidence under seal with the federal court. After the whistleblower files suit, the case is kept confidential while the government conducts an investigation to determine whether it has merit. The government may decide to take over the case, but, if it declines to do so, the whistleblower still may pursue the suit. A whistleblower who prevails may qualify for fifteen (15) to thirty (30) percent of the amount recovered on the government’s behalf as well as attorney’s fees and costs. The FCA prohibits employers from retaliating against employees who file or participate in the prosecution of a whistleblower suit. An employee who suffers retaliation may, for example, qualify for back pay or reinstatement.

Employee’s Right to Be Protected as a Whistleblower: All employees, management, contractors, subcontractors, and agents of Orion ISO, Inc. should be aware of the laws regarding fraud and abuse and false claims and to report any issues immediately in accordance with Orion ISO, Inc.’s policy. The federal False Claims Act protects employees from retaliation if they, in good faith, report fraud. Employees are protected against retaliation such as being fired, demoted, threatened or harassed as a result of filing a False Claims Act lawsuit. An employee who suffers retaliation can sue, and may receive up to twice his or her back pay, plus interest, reinstatement at the seniority level he or she would have had if not for the retaliation, and compensation for his or her costs or damages. This does not insulate the reporter from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

State False Claims Laws: Certain states have enacted laws similar to the federal False Claims Act designed to combat fraud and recover losses stemming from fraud. Some of these state laws contain broad provisions that apply to any fraudulent dealings with the state. Others are limited to claims made in connection with Medicaid or other state sponsored health care. Many contain *qui tam* provisions allowing private individuals

with unique knowledge of wrongdoing to bring lawsuits on behalf of the state and share in any recovery. These state laws also typically prohibit retaliation against a person who files a whistleblower suit. Other state laws simply prohibit the submission of false claims to the government without *qui tam* or whistleblower provisions like those found in the federal False Claims Act. Orion ISO, Inc. is subject to Minnesota law as it is a Minnesota health care and/or human services program organization that received and/or makes annual Medicaid payments of five million dollars (\$5,000,000.00) or more, from Medical Assistance, a Home and Community Based Waiver (including the MR/RC, CADI, CAC, TBI, Elderly and Alternative Care waivers), or MinnesotaCare program, among others.

Program Fraud Civil Remedies Act: The Program Fraud Civil Remedies Act (PFCRA) creates administrative remedies for making false claims and false statements. These penalties are separate from and in addition to any liability that may be imposed under the False Claims Act. The PFCRA imposes liability on people or entities that file a claim that they know or have reason to know is false, fictitious, or fraudulent, includes or is supported by any written statement that contains false, fictitious, or fraudulent information, includes or is supported by a written statement that omits a material fact, which causes the statement to be false, fictitious, or fraudulent, and the person or entity submitting the statement has a duty to include the omitted fact, or is for payment for property or services not provided as claimed. A violation of this section of the PFCRA is punishable by a \$5,000.00 civil penalty for each wrongly filed claim, plus an assessment of twice the amount of any unlawful claim that has been paid. In addition, a person or entity violates the PFCRA if they submit a written statement that they know or should know asserts a material fact that is false, fictitious or fraudulent, or omits a material fact that they had a duty to include, the omission causes the statement to be false, fictitious, or fraudulent, and the statement contained a certification of accuracy. A violation of this section of the PFCRA carries a civil penalty of up to \$5,000.00 in addition to any other remedy allowed under the law.

Orion ISO, Inc. Policies and Procedures: Orion ISO, Inc. is committed to fully comply with all laws and regulations. Orion ISO, Inc. establishes written policies and procedures for all employees, managers, agents, and contractors that provides detailed information about false claims laws, including their whistleblower protections, and explains the penalties available under such laws, as well as provides details regarding the company's own policies and procedures for protecting against fraud, waste and abuse. These policies also describe how the false claims laws help prevent and detect fraud, waste and abuse in federal healthcare programs.

Orion ISO, Inc. Policies and Procedures: Orion ISO, Inc. establishes policies and procedures for detecting and preventing fraud, waste, and abuse in state and federal health care programs. These policies will include the company's Compliance Plan. In discussion of policies and procedures, the summary should include reference to the Compliance Plan, explain how it can be accessed and identify appropriate parties who are available to answer questions.