

The False Claims Acts

What you need to know

Why have this training?

- Required by Federal Law
- Agency employees have a duty to identify fraud, waste and abuse
- By safeguarding Medi-Cal and Medicare funding, we are better able to serve our clients and patients

When you have completed this training...

- You will have a basic knowledge of the federal and State False Claims Acts
- You will increase your understanding of your role in safeguarding Medi-Cal and Medicare funding
- You will be able to identify Agency and other resources available to assist you in this role

Why does every employee
need to know and understand
the federal and State False
Claims Acts?

Rising Health Care Costs

- Reported \$85 billion in health care fraud nationwide in 2003
- 5% of total U.S. health care spending is lost to fraud
- Every dollar lost to fraud, waste or abuse is one less dollar available for client and patient services

Under federal and State law and County and Agency policy:

- All employees have a duty to prevent fraud, waste and abuse of taxpayer dollars
- All employees are responsible for reporting suspected instances of fraud, waste and abuse

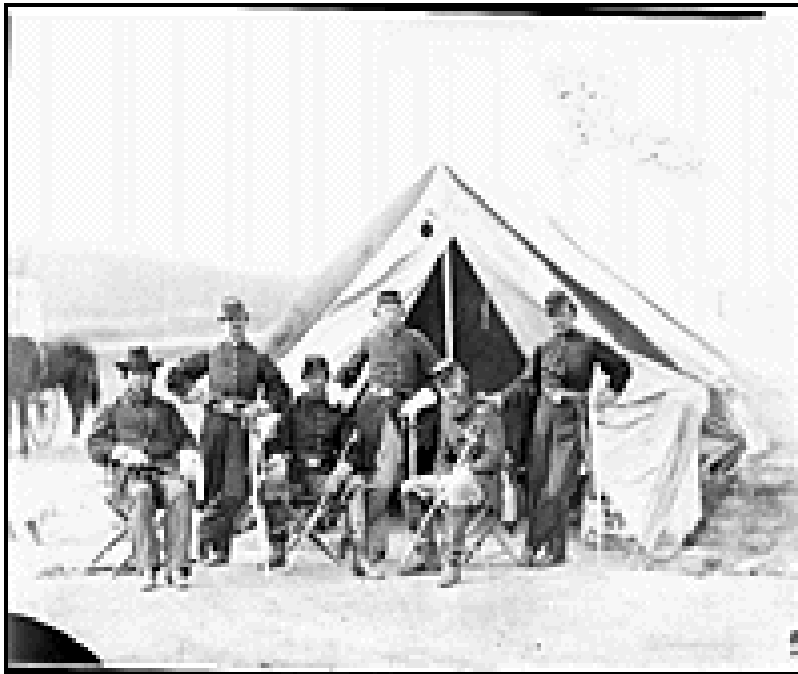
Causing or allowing the misuse of Medi-Cal funds could expose both you and the County to:

- Federal criminal prosecution
- State criminal prosecution
- Federal civil prosecution
- State civil prosecution

What are the False Claims Acts?

- The federal and State False Claims Acts are laws that were enacted to combat fraud committed by contractors against the U.S. Government and the State of California
- The County of San Diego and the Health and Human Services Agency are ***contractors*** for the purposes of federal and State funding rules

Legislative History



- **Federal False Claims Act**

(USC Title 31 Sec 3729-3732)

- Enacted During the Civil War to combat contractor fraud against the Union Army

- **State False Claims Act**

(Cal Gov't Code 12650-12655)

- Enacted in 1992 to combat contractor fraud against the State of California

False Claims Act

The Law

The Basics

A “person” is liable under the False Claims Act if they “knowingly”:

- **Present a false or fraudulent claim**
- **Make, use or cause to be used a false record or statement to obtain payment from the government**
- **Conspire to defraud the government by getting a false claim paid**

The Basics (cont.)

- **Shortchange on delivery**
- **Give a receipt “without completely knowing” the accuracy of the receipt**
- **Buy government property from an unauthorized person**
- **Make a false record to avoid or reduce a government obligation**

Under the Acts...

- “Person” means both the County as an entity ***and*** individual employees
- And since you have to “***knowingly***” present a false or fraudulent claim for payment in order to violate the Acts...

IF ANYONE EVER ASKS
US ABOUT IT, WE'LL
JUST PLEAD
IGNORANCE!

THAT
ALWAYS
SEEMS TO
WORK
FOR US!



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So all we have to say is we didn't know and there's no problem, right?

Uh, no....

Under the Acts, the terms “knowing” and “knowingly” mean that a person, regarding the information on a claim —

(1) has actual knowledge the information is false;

(2) acts in deliberate ignorance of whether the information is true or false;

(3) acts in reckless disregard of whether the information is true or false.

And there doesn't have to be proof
of a specific intent to defraud

So if we violate the Acts...

Civil Penalties Under the False Claims Act

- Treble (3X) damages plus
- \$5500 to \$11,000 per claim plus
- Potential exclusion (can't receive any government funding) and
- *The amount of the false claim doesn't matter!*

What is a Reckless Disregard for the Truth?



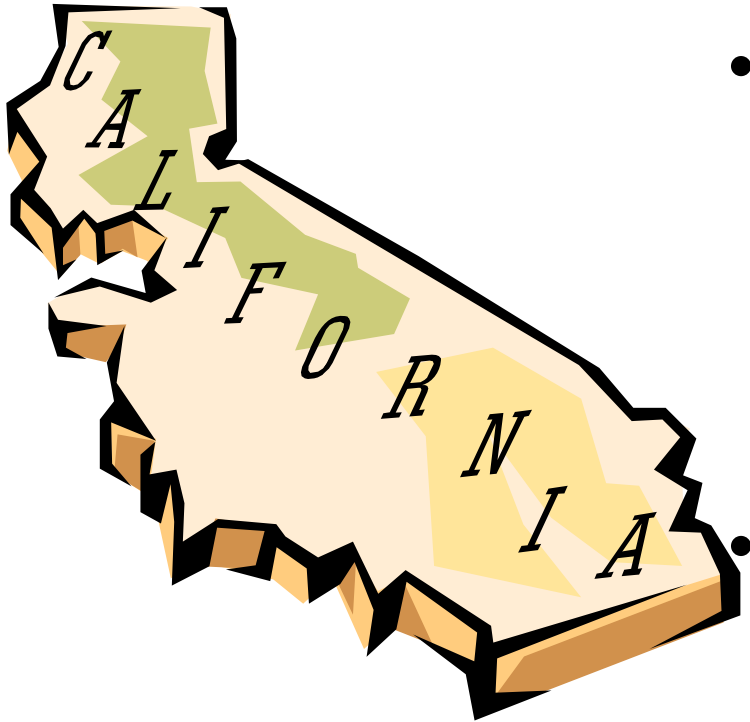
- Completing claims with little or no factual basis
- Failing to document **actual** time spent on the project
- Poor record keeping
- Approving claims without determining their accuracy

Reduction of Liability

If a False Claim occurs, the Court may assess “not less than” double damages and costs **IF** within 30 days of the County discovering the False Claim:

- **We self-report;**
- **We fully cooperate with any investigation; and**
- **The federal or State government not yet started its own investigation**

But Wait, There's Also the California False Claims Act....



- California Government Code Section 12650 *et seq.*
- Similar to the federal False Claims Act
 - Applies to state and political subdivisions
 - Same definition of “knowing”
 - Treble damages and penalties up to \$10,000 per false claim
- California Attorney General has the option to prosecute the claim as a criminal act

**What is HHSA doing to
prevent false claims?**

The Agency takes allegations of funding fraud, waste and abuse very seriously

The Compliance Office was established to give employees a place to raise these kinds of concerns if they weren't comfortable discussing them with their manager or supervisor

If you need to file a complaint about fraud, waste or abuse of program funds, or if you just want to talk about a concern, please call:

- Bob Borntrager, CHC, Compliance Officer, at 619.515.4246
- Jonathan Galloway, Compliance Analyst, at 619.515.4244

Or e-mail us at:

Compliance.HHSA@sdcounty.ca.gov

You can also call

VOICE YOUR CONCERNS

County of San Diego
Compliance Office

Toll-Free Hotline
(866) 549-0004

*An ethical workplace is your right...
and your responsibility.*



All complaints regarding potential fraud, waste and abuse of program funding are taken seriously and employees who report these issues can remain anonymous if they wish

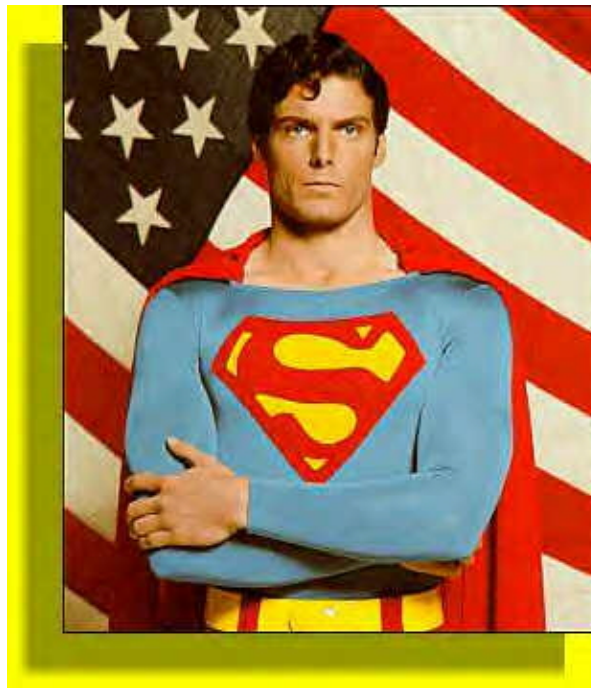
Won't I get in trouble if I call?

Agency Policy M-3.3 prohibits retaliation against any employee who reports a compliance issue in good faith

REMEMBER

- *You* know the programs better than anyone else
- *You* know when there is a problem or concern
- The best prevention against false claims is *your* awareness and diligence

You are the County's first line of defense against inappropriately spent funds





COMPLIANCE OFFICE

QUALITY ■ EFFICIENCY ■ INTEGRITY