

Bridgeway Policy and Procedures			
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Policy:	Federal Deficit Reduction Act of 2005, Section 6032 on Fraud, Waste, and Abuse	Author:	Linda A. Rauh
Policy Covers:	All employees, contractors, and agents of Bridgeway.	Approved: Date:	Cory Storch 04/29/2013
Revised By:	Linda Rauh	Date Revised:	01/03/2015

POLICY:

It is the policy of Bridgeway Rehabilitation Services, Inc. to obey all federal and state laws and to implement and enforce procedures to detect and prevent fraudulent or misleading claims to any government agency or payer source (Medicaid, Medicare, etc.).

Bridgeway Rehabilitation Services, Inc. and its affiliated entities (“the organization”) are committed to complying with the requirements of Section 6032 of the Federal Deficit Reduction Act of 2005 and all other federal and state laws prohibiting fraud, waste and abuse in seeking reimbursement under the Medicaid and Medicare programs, and to preventing and detecting any fraud, waste, or abuse in the organization. To this end, the organization maintains a compliance program and strives to educate its work force on fraud and abuse laws, including the importance of submitting accurate claims and reports to the Federal and State governments. The organizations compliance policies and procedures are set forth in detail and are provided to each employee.

The organization prohibits the submission, including any deemed knowing submission of a false claim for payment from a federally or state-funded health care program or insurer. Such a submission is a violation of Federal and State law and can result in significant administrative and civil penalties under the Federal False Claims Act, a Federal statute that allows private persons to help reduce fraud against the United States government. The organization also prohibits the submission, including any deemed knowing submission of a false claim for payment from a private person or payor.

Purpose:

To satisfy the requirements of Section 6032 of the Deficit Reduction Act of 2005 as well as various state regulations by setting forth required information concerning: (1) the federal False Claims Act and other laws pertaining to civil and criminal penalties for false claims; (2) protections against reprisal or retaliation for those who report wrongdoing; and (3) Bridgeway’s procedures to detect and prevent fraud, waste and abuse.

Procedures:

To assist Bridgeway in meeting its legal and ethical obligations, any employee who reasonably suspects or is aware of the preparation or submission of a false claim or report or any other potential fraud, waste, or abuse related to a Federally or State funded health care program is required to report such information to Bridgeway’s Director of Compliance & Privacy, and during their absence to the Director of Operations who will initiate an investigation of the reported action within two working days. Any employee of the organization who reports such information will have the right and opportunity to do so anonymously and will be protected against retaliation for coming forward with such information under the Bridgeway’s internal compliance policies and procedures and Federal and State law. However, Bridgeway retains the right to take appropriate action against an employee who has participated in a violation of Federal or State law or organizational policy. All reported actions

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will be investigated and corrected, and documented using Bridgeway's Unusual Incident Reporting Form (P#5030-A).

Bridgeway commits itself to investigate any suspicions of fraud, waste, or abuse swiftly and thoroughly and requires all employees to assist in such investigations. If an employee believes that the organization is not responding to his or her report within a reasonable period of time, the employee shall bring these concerns about the organization's perceived inaction to the organization's Director of Compliance and Privacy. Failure to report and disclose or assist in an investigation of fraud and abuse is a breach of the employee's obligations to the Director of Compliance and may result in disciplinary action.

CONTACT INFORMATION FOR REPORTING SUSPECTED COMPLIANCE VIOLATION(S)

Director of Compliance & Privacy	Linda A. Rauh	P: (908) 249-4100 Ext. 1003 F: (908) 662-7947 Email: Linda.Rauh@Bridgewayrehab.org
Chief Operations Officer (COO)	Buddy Garfinkle	P: (908) 355-7886 Ext. 104 F: (908) 355-6668 Buddy.Garfinkle@Bridgewayrehab.org
Anonymous Phone Line:		(732)317-5098

Distribution:

This policy shall be distributed to all current Board members, employees, contractors, and agents of Bridgeway Rehabilitation Services. All contractors and agents of Bridgeway must adhere to Bridgeway's policies and procedures. Additionally, contractors and agents must disseminate these policies to its employees. . This policy is made accessible to contractors and agents via Bridgeway's web site www.bridgewayrehab.org.

Explanation of Laws:

Set forth below are is a summary of certain statutes that provide liability for false claims and statements. These summaries are not intended to identify all applicable laws but rather to outline some of the major statutory provisions as required by the Deficit Reduction Act of 2005.

Definitions:

For the purpose of this Policy and Procedure, the following terms shall have the meaning defined herein:

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1. The term “officer” shall mean each of the officers duly appointed pursuant to the corporate by-laws of Bridgeway Rehabilitation Services, Inc. and it affiliated entities.
2. The term “employee” shall mean employees, students, trainees, volunteers, officers, contractors, agents, and members of Bridgeway’s teams.
3. The term “contractor” or “agent” shall mean any contractor, subcontractor, or agent, or other person which or who, on behalf of the Bridgeway, furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing of coding functions, or is involved in monitoring of health care provided by the organization.
4. The term “claim” shall mean any request or demand, whether under a contract or otherwise, for money, property, or services that is made to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient if the State provides any portion of the money, property, or services requested or demanded, or if the State will reimburse the contractor, grantee, or other recipient for any portion of the money, property, or services requested or demanded.
5. The term “False claim” shall mean any claim which, either whole or in part is false or fraudulent.
6. The term “Knowing and knowingly” shall mean that a person with respect to information has actual knowledge of information; or acts in deliberate ignorance of the truth or falsity of the information; or acts in reckless disregard of the truth or falsity of the information.
7. The term “obligation” shall mean an established duty, whether or not fixed, arising from an expressed or implied contractual, grantor-grantee, or license-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

Federal False Claims Act, 31 U.S.C. 3729-3733:

The Act establishes liability when any person or entity improperly receives from or avoids payments to Federal Government--tax fraud excepted. In summary, the Act Prohibits:

- a. Knowingly presenting, or causing to be presented to the Government a false or fraudulent claim for payment or approval;
- b. Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government;

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- c. Conspiring to defraud the Government by getting a false or fraudulent claim paid or approved by the government;
- d. Falsely certifying the type or amount of property to be used by the Government;
- e. Certifying receipt of property on a document without completely knowing that the information is true;
- f. Knowingly buying Government property from an unauthorized officer of the Government, and;
- g. Knowingly making, using, or causing to be made or used a false record to avoid, or decrease an obligation to pay or transmit property to the Government.

Any individual or entity engaging in any of the seven categories of prohibited actions listed in 31 U.S.C. 3729(a), including the submission of false claims to federally-funded health care programs, shall be liable for a civil penalty which currently is not less than \$5,500 and not more than \$11,000 per false claim, plus three times the amount of damages sustained by the federal formula.

The U.S. Attorney General may bring an action under this law. In addition, the law provides that any “whistleblower” may bring an action under this act on his own behalf and for the United States Government. These actions, which must be filed in U.S. District Court, are known as “qui tam” actions. The Government, after reviewing complaint and supporting evidence, may decide either to take over the action, or decline to do so, in which case the whistleblower may conduct the action. If either the Government or the whistleblower is successful, the whistleblower is entitled to receive a percentage of the recovery. If prosecuted by the federal government, these qui tam actions are generally handled by the various U.S. Attorney’s Offices, or by the U.S. Justice Department.

Whistleblower Protections:

31 U.S.C. 3730(h) provides that any employee who is subject to retaliation or discrimination by an employer in the terms and conditions of employment because the employee lawfully sought to take action or assist in taking action under this act “shall be entitled to all relief necessary to make the employee whole.” This includes reinstatement with seniority restored to what it would have been without retaliation or discrimination, double the amount of back pay, interest on back pay, and compensation for any special damages sustained as a result of the employer’s actions, including litigation costs and reasonable attorney’s fees.

2. Federal Program Fraud Civil Remedies Act, 31 U.S.C. 3801-3812:

Provides federal administrative remedies for false claims and statements, including those made to federally funded health care programs. Current civil penalties are \$5,500 for each false claim or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment. The amount

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of the false claims penalty is to be adjusted periodically for inflation in accordance with a federal formula.

3. New Jersey Medical Assistance and Health Services Act

Criminal Penalties, N.J.S. 30:4D-17(a)-(d):

Provides criminal penalties for individuals and entities engaging in fraud, or other criminal violations relating to Title XIX-funded programs. They include: (a) fraudulent receipt to payments or benefits: fine of up to \$10,000, imprisonment for up to 3 years, or both; (b) false claims, statements or omissions, or conversion of benefits or payments: fine of up to \$10,000, imprisonment for up to 3 years, or both; (c) kickbacks, rebates and bribes: fine of up to \$10,000, imprisonment for up to 3 years, or both; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to \$3,000, or imprisonment for up to 1 year, or both. Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice.

Civil Remedies, N.J.S. 30:4D-7.h., N.J.S. 30:4D-17(e)-(i); N.J.S. 30:4D-17.1.a:

In addition to the criminal sanctions discussed in section 3 above, violations of N.J.S. 30:4D-17(a)-(d) can also result in the following civil sanctions: (a) unintentional violations: recovery of overpayments and interest; (b) intentional violation: recovery of overpayments, interest, up to triple damages, and, as indicated in section 8, below (New Jersey False Claims Act, N.J.S.A. 2A:32C-1 et seq.) a penalty (which was increase from \$2,000 to \$5,500 to \$11,000) for each false claim as a result of the NJ False Claims Act. Recovery actions are generally pursued administratively by the Division of Medical Assistance and Health Services, with the assistance of the Division of Law in the N.J. Attorney General's Office, and can be obtained against any individual or entity responsible for or receiving the benefit or possession of the incorrect payments.

In addition to recovery actions, violations can result in the exclusion of individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services. Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justice.

4. Health Care Claims Fraud Act, N.J.S. 2C:21-4.2 & 4.3; N.J.S. 2C:51-5:

Provides the following criminal penalties for health care claims fraud, including the submission of false claims to programs funded in whole or in part with state funds:

- a. A practitioner who knowingly commits health care claims fraud in the course of providing professional services is guilty of a crime of the second degree, and is subject to a fine of up to 5 times the monetary benefits obtained or sought to be obtained and to permanent forfeiture of his license;
- b. A practitioner who recklessly commits health care claims fraud in the course of providing professional services is guilty of a crime of the third degree, and is subject to a fine of up

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to 5 times the pecuniary benefit obtained or sought to be obtained and the suspension of his license for up to 1 year;

- c. A person who is not a practitioner subject to paragraph a, or b above (for example, someone who is not licensed, registered or certified by an appropriate State agency as a health care professional) is guilty of a crime of the third degree if that person knowingly commits 5 or more acts of health care claims fraud, and the aggregate monetary benefit obtained or sought to be obtained is at least \$1,000. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained.
- d. A person who is not a practitioner subject to paragraph a. or b. above is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained.

5. The Uniform Enforcement Act, N.J.S. 45:1-21.b and 0:

Provides that a licensure board within the N.J. Division of Consumer Affairs “may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board” who has engaged in “dishonest, fraud, deception, misrepresentation, false promise or false pretense:, or has “advertised fraudulently in any manner.”

6. N.J. Consumer Fraud Act, N.J.S. 56:8-2, 56:8-3.1, 56:8-13, 56:8-14, and 56:8-15:

Makes unlawful the use of “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact”, with the intent that others rely upon it, in connection with the sale, rental or distribution of any items or services by a person, or with the subsequent performance of that person.

7. Conscientious Employee Protection Act, “Whistleblower Act”, N.J.S.A. 34:19-4:

New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in

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- the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
- c. Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
 - d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
 - e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
 - i. is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
 - ii. is fraudulent or criminal; or
 - iii. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. N.J.S.A. 34:19-3.

The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergent in nature.

8. New Jersey False Claims Act, N.J.S.A. 2A:32C-1 et seq.:

The New Jersey False Claims Act (NJFCA) was enacted in January, 2008 and became effective in March 2008. It has similar provisions to the federal False Claims Act. For example, The Attorney General may bring an action against an individual or entity that makes a false claim. In addition, the NJFCA also allows for individuals to bring a private right of action in the name of the State against wrongdoers and be able to collect a penalty from those wrongdoers. Under the NJFCA, the civil penalties were increased from to \$2,000 per false or fraudulent claim to the federal level which is currently \$5,500 to \$11,000 per false or fraudulent claim under the NJ Medical Assistance and Health Services Act.

The NJFCA provides that a person will be liable for the same penalties as under the federal False Claims Act but to the State of NJ if that person:

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- a. Knowingly presents or causes to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;
- b. Knowingly makes, uses, or causes to be made or used a false record or statement to get false or fraudulent claim paid or approved by the state;
- c. Conspires to defraud the State by getting a false or fraudulent claim allowed or paid by the State;
- d. Has possession custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
- e. Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and, intending to defraud the entity makes or delivers a receipt without completely knowing that the information on the receipt is true;
- f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property; or
- g. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

In addition to the above, the NJ False Claims Act has whistleblower protections within it similar to the ones under the federal False Claims Act.