

Minnesota

Compliance Program: Code of Conduct

This is a supplement to Kindred's Employee Handbook for employees who work in Minnesota. As stated in our Employee Handbook, the federal False Claims Act and similar state laws assist the federal and state governments in combating fraud and recovering losses resulting from fraud in government programs, purchases and/or contracts. These laws are some of the most important laws that govern our business. Like the federal False Claims Act, the Minnesota Medical Assistance Fraud law imposes liability on persons or companies that make or present false or fraudulent claims or demands to the government for payment, or who knowingly make, present or use a false record or statement to get a false or fraudulent claim paid by the government. These Minnesota laws apply to Medicaid reimbursement and prohibit, among other things:

- Presenting a claim for reimbursement, a cost report or a rate application to Minnesota's Medicaid Program that is false in whole or in part
- Billing Minnesota's Medicaid Program more than once for the same services or items
- Billing Minnesota's Medicaid Program for services or items not provided
- Using inaccurate, improper or false entries in medical records or any other records in order to fraudulently secure or support reimbursement by the Minnesota Medicaid Program
- Characterizing non-covered services or costs in a way to fraudulently secure reimbursement from Minnesota's Medicaid program
- Failing to seek payment from Medicaid beneficiaries who may have other primary payment sources or failing to report or perform offsetting adjustments on Medicaid claims to reflect payment by other payers
- Participating in kickbacks

Civil and Criminal Penalties for False Claims or Statements

A violation of these Minnesota laws may result in restitution for any improper payments and also may lead to suspension or termination from the Medicaid program. Furthermore, a violation may result in a civil action by the state of Minnesota for civil damages in the amount of three times the payments which result from the false representation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. In addition, a person who violates these laws commits a crime punishable by imprisonment from one to twenty (20) years and a fine from \$3,000 to \$100,000, depending on the amount of the false claim.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Minnesota law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

No Retaliation

Similar to federal law and Kindred policy, Minnesota law prohibits employers from engaging in retaliation, discrimination or harassment of employees because of their lawful participation in a false claims disclosure or their refusal to assist an employer in violating a law, such as the Minnesota Medical Assistance Fraud law. Employees must inform their employer when their refusal to perform an action is due to a belief that the employer's requested action would violate the law. Minnesota law also protects employees who make a good faith report or disclosure concerning the quality of healthcare services that violate applicable clinical or ethical standards and that pose a potential risk of harm.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported a potential violation of Kindred's Code of Conduct or government law or regulation, or (2) refused to violate Kindred's Code of Conduct or a government law or regulation, will be subject to disciplinary action up to and including separation of employment. See Kindred's Concern Resolution Procedure in the Employee Handbook for information on reporting concerns.

Copies of Minnesota Laws

The Minnesota laws summarized above include: (1) Fraud and Abuse in the Medicaid Program, Minn. Stat. §§ 256B.0641, 256B.121, 609.465-.466, 609.52; and (2) Retaliation Protection, Minn. Stat. § 181.932. If you have questions about any of these requirements, you may contact Kindred's Compliance Hotline at 1-800-359-7412. This summary and others are also posted on Kindred's external web site, www.kindredhealthcare.com, and Kindred's intranet site (KNECT) under the Compliance home page.