

<b>ResCare</b> Accounting Policies & Procedures Manual	<b>Policy &amp; Procedure Number: 00-13</b>	<b>Page Number: 1 of 7</b>
<b>Subject: <a href="#">Fraud Prevention</a></b>		
<b>Applies to:</b>		
<input checked="" type="checkbox"/> Resource Center	<input checked="" type="checkbox"/> Residential Services	<input checked="" type="checkbox"/> ResCare HomeCare
<input checked="" type="checkbox"/> Education & Training Services	<input checked="" type="checkbox"/> Workforce Services	<input checked="" type="checkbox"/> Pharmacy Services
<b>Current Review/Revision Date:</b> 5/31/2017	<b>Last Revision Date:</b> 11/30/2016	<b>Original Issue Date:</b> 12/31/2006
<b>Process Owner:</b> <i>Senior Director of Compliance</i> TBD		

**PURPOSE:**

The Fraud Prevention policy is established to promote the detection and prevention of fraud, waste or abuse of resources belonging to Res-Care, Inc. or its subsidiaries (ResCare) and the individuals we support. It is the intent of ResCare to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and the conduct of investigations.

**SCOPE OF POLICY:**

This policy applies to any actual or suspected fraud, waste or abuse of resources involving ResCare employees, agents, consultants, vendors, contractors, and/or any other parties with a business relationship with ResCare. Any investigative activity will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to ResCare.

**POLICY:**

Fraud is the deliberate use of misrepresentation or other deceitful means to obtain something to which a person is not otherwise entitled. When dealing with government contracts or funding, a person need not have actually known that the information provided to the Government was false. Fraud may also occur when a person acts in "deliberate ignorance" or "reckless disregard" of the truth or falsity of such information.

Management is responsible for the detection and prevention of fraud, misappropriations, and other inappropriate or unethical conduct. Each member of management will be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indication of irregularity.

Any fraud that is detected or suspected must be reported immediately to a supervisor or the Compliance Department (see *REPORTING PROCEDURES* section below).

**ACTIONS CONSTITUTING FRAUD:**

The terms fraud, defalcation, misappropriation, and other fiscal wrongdoings refer to, but are not limited to the following:

- A dishonest or fraudulent act;
- Forgery or alteration of any document or account belonging to ResCare;
- Forgery or alteration of a check, bank draft, or any other financial document;
- Misappropriation of funds, securities, supplies, or other assets;
- Theft, misappropriation or misuse of the identity, personal funds or property of the individuals we support;

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- Impropriety in the handling or reporting of money or financial transactions;
  - Profiteering as a result of insider knowledge of company activities;
  - Disclosing confidential and proprietary information to outside parties;
  - Providing false information to governmental entities or other funding sources;
  - Improperly billing for services that were provided (upcoding and/or unbundling services);
  - Accepting or seeking anything of material value from contractor, vendors or persons providing services/materials to ResCare;
  - Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment; and/or
  - Any similar or related inappropriate conduct.

**OTHER INAPPROPRIATE CONDUCT:**

Suspected improprieties concerning any moral, ethical, or behavioral conduct that does not involve an act of fraud should be resolved by departmental or regional management in consultation with the Human Resources Department, Compliance Department or Legal Department. If there is any question as to whether an action constitutes an act of fraud, the Compliance Department or Legal Department should be contacted for guidance.

**INVESTIGATION RESPONSIBILITIES:**

Either the Compliance Department or Legal Department has the primary responsibility for the investigation of any suspected fraudulent acts as defined in this policy. If the investigation substantiates that fraudulent activities have occurred, reports will be issued to senior management, including the Chief Legal Officer, and to the Audit Committee and the Ethics and Compliance Committee of the Board of Directors. Decisions to prosecute or refer any investigation results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

**CONFIDENTIALITY:**

The Compliance Department treats all information received confidentially. Any individual who suspects dishonest or fraudulent activity should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act (see *REPORTING PROCEDURES* section below).

Caution must be exercised during the investigation of suspected improprieties or wrongdoings. This will protect the reputations of persons suspected but subsequently found innocent of wrongful conduct and to protect ResCare from potential civil liability.

**AUTHORIZATION FOR INVESTIGATING SUSPECTED FRAUD:**

Employees appointed to conduct fraud investigations will have:

- Free and unrestricted access to all ResCare records and premises, whether owned or rented; and
- The authority to examine, copy, and/or remove all or any portion of the contents of ResCare files, computers, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

Any questions pertaining to an employee's authority under this section should immediately be directed to the Legal Department.

**REPORTING PROCEDURES:**

Any individual who discovers or suspects fraudulent activity should contact a supervisor or the Compliance Department immediately. Allegations reported to the Compliance Department may be made by directly contacting a Compliance Officer or by using ResCare's toll-free Compliance Action Line at 1-866-293-3863. The complainant has the option of remaining anonymous. Any inquiries from the suspected individual, his or her attorney or representative, or any other inquirer related to the activity under investigation should be directed to the Compliance Department or the Legal Department. Any individual reporting suspected fraudulent activity should be informed of the following:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Legal Department or Compliance Department.
- Any form of retaliation or retribution against individuals who make good faith reports of known or suspected instances of inappropriate business conduct or activity will not be tolerated.
- Any person using the Compliance Action Line to purposely report false information or allegations will be subject to corrective action in accordance with ResCare's Progressive Corrective Action policy (7.3).

**MANDATORY DISCLOSURE:**

ResCare's management shall timely disclose, in writing, to the appropriate federal or state oversight agency in connection with the award, performance, or closeout of any government contract or subcontract, when it has credible evidence of a violation of federal or state law involving fraud, conflict of interest, bribery or gratuity violations. In those situations where a government contract or subcontract is involved, a copy of the written notice shall be provided to the appropriate Contracting Officer.

**FEDERAL AND STATE FALSE CLAIMS ACTS:**

The Federal False Claims Act (**UNITED STATES CODE SECTIONS 3729 – 3733**) is federal law which authorizes private individuals to file lawsuits on behalf of the federal government against other individuals or entities who make false claims for financial payment or reimbursement from the federal government. Such lawsuits are called "whistleblower" or "*qui tam*" suits. The purpose of the law is to prevent fraud, waste and abuse. The law applies to corporate entities and individuals. Under the law, any corporate entity or person who makes a request or demand for money, property or reimbursement from the federal government, knowing the request is false or fraudulent, can be prosecuted. Additionally, any corporate entity or individual who makes, uses or facilitates the use of a false record or statement to obtain payment or reimbursement from the federal government can be prosecuted. The law provides for compensatory as well as punitive damages against a corporate entity or individual found guilty of illegal activity.

In addition to the Federal False Claims Act, the Deficit Reduction Act of 2005 contains additional provisions aimed at reducing Medicaid fraud and abuse. Among these provisions are financial incentives for individual states to develop their own false claims acts with provisions that meet or exceed those of federal law. A list of states which currently have their own false claims act or general statutes related to false claims is set forth in *Attachment A*.

The Fraud Enforcement and Recovery Act of 2009 further strengthens the False Claims Act by expanding liability to indirect recipients of federal funds, expanding liability for the retention of overpayments (even where there is no false claim), adding a materiality requirement and defining it broadly, expanding protections for whistleblowers, expanding the statute of limitations, and providing relators with access to documents obtained by the government.

Both the Federal and State False Claims Acts provide protection from retaliation by employers against employees who file whistle blower suits (See Compliance Policy C04 – Non-Retaliation and Non-Retribution for Reporting Compliance Concerns). The federal act, and some state acts, also provide for sanctions against anyone who files a whistleblower suit that is found to be frivolous, vexatious or filed primarily for the purposes of harassment.

#### **THE PROGRAM FRAUD CIVIL REMEDIES ACT**

The Program Fraud Civil Remedies Act of 1986 (**UNITED STATES CODE TITLE 31 SECTIONS 3801-3812**) provides federal agencies the ability to obtain administrative remedies, separate from and in addition to, compensatory and punitive damages available under the Federal False Claims Act. The act applies to corporate entities and individuals. The statute authorizes a federal agency to seek administrative remedies in the event a corporation or individual knowingly submits false claims or statements to the agency. Available remedies include civil penalties of up to \$5,000 for each false claim or statement and assessments of up to twice the amount of each false claim or statement. Agencies may also pursue actions to suspend or debar any corporate entity or individual from entering into contracts with the federal government.

#### **FRAUD PREVENTION & DETECTION CONTROLS:**

ResCare's management has acted upon their responsibility of designing and implementing systems and internal controls for the prevention and detection of fraud. This is demonstrated by creating an environment that promotes both honest and ethical behavior from not only the company's Leadership Team but also the various levels of employees at the Resource Center and within our subsidiaries.

In order to prevent fraud at ResCare, the following fraud prevention controls are in place:

- **Code of Conduct**
- **Supplemental Code of Ethics**
- **Audit Committee Oversight**
- **Written Policies and Procedures**
- **Fraud Prevention Training**
- **Compliance Training**

In order to detect fraud at ResCare, the following fraud detection controls are in place:

- **Compliance Action Line**
- **Internal Audit Function**
- **Analysis of Budget-To-Actual Results**
- **Management's Internal Control Environment**

#### **TERMINATION:**

If an investigation results in a recommendation to terminate an individual, the recommendation will be reviewed and approved by regional or departmental management, the People Services Department and/or the Legal Department before any such action is taken.

#### **ADMINISTRATION:**

The Chief Compliance & Privacy Officer or designee is responsible for the administration, revision, interpretation, and application of this policy. The policy will be reviewed semi-annually and revised as needed.



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*Questions regarding this policy should be directed to the Process Owner, Chief Compliance Officer, or the Chief Financial Officer.*

Approved by:

/s/ TBD  
*Senior Director of Compliance and Process Owner*

May 31, 2017  
Date

/s/ Deena G. Ombres  
*Chief Compliance & Privacy Officer*

May 31, 2017  
Date

/s/ Ralph G. Gronefeld, Jr.  
*Chief Financial Officer*

May 31, 2017  
Date

## Attachment A

**STATE FALSE CLAIMS ACTS & GENERAL STATUTES**

STATE	REGULATION	OIG certification of State FCA
Alabama	No State FCA - Ala. Admin. Code Rule 560- X0.01 to 560-X-26.01.	
Alaska	No State FCA - Alaska Admin. Code tit. 7§ 105.400	
Arizona	No State FCA - Ariz. Rev. Stat. Ann. §§ 36-2918 and 36-2957; Ariz. Stat. Ann. § 13-2311; Ariz. Rev. Stat. Ann. §§ 38-531 to 38-532; Ariz. Rev. Stat. Ann. §§ 23-1501 to 23-1502; Ariz. Rev. Stat. Ann. § 12-2-510	
Arkansas *	<b>State FCA (MEDICAID ONLY)</b> - ARK. CODE ANN. § 20-77-901 et seq.	
California	<b>State FCA</b> - CA Govt. Code § 12650 – 12656 (2014)	<b>YES</b>
Colorado	<b>State FCA - (Medicaid Only)</b> COLO. REV. STAT. §§ 25.5-4-304-310	<b>YES</b>
Connecticut	<b>State FCA - (Medicaid Only)</b> Connecticut False Claims Act, 2014 Conn. Public Acts No. 217, §§ 1-18 and § 257	<b>YES</b>
Delaware	<b>State FCA</b> - 6 DEL. Title 6 §§ 1201-1211 (2014)	<b>YES</b>
Dist. of Columbia	<b>State FCA</b> - D.C. Law 19-317, 60 DCR 2064. Formerly codified as 2-308.13 to 2-308.21.	
Florida	<b>State FCA</b> - FLA. STAT. 68.081 – 68.09 (2014)	<b>NO</b>
Georgia	<b>State FCA - (Medicaid Only)</b> O.C.G.A. § 49-4-168.1 – 168.6(2103)	<b>YES</b>
Hawaii	<b>State FCA</b> - HRS §§ 661-21 – 661-31 (2013)	<b>YES</b>
Idaho	No State FCA - Idaho Code Ann. §56-227 – 227A-(2014) Senate Bill # 1332 has been introduced to establish a State False Claims Act	
Illinois	<b>State FCA</b> - Illinois False Claims Act, Pub. Act. 0970978 (amending 740 ILCS 175/4)	<b>YES</b>
Indiana	<b>State FCA</b> - BURNS IND. CODE ANN § Ind. Code §§ 5-11-5.7-1 through 5-11-5 -7-18	<b>YES</b>
Iowa	<b>State FCA</b> - Iowa Code § 685.1 685.7	<b>YES</b>
Kansas *	<b>State FCA</b> - K.S.A. § 75-7503 KSA §21-5925-5934	
Kentucky	No State FCA – (A new Section of KRS Chapter 15 has been created, but not passed) Ky. Rev. Stat. § 534.030; Ky. Rev. Stat. § 534.050; Ky. Rev. Stat. §§ Ky. Rev. Stat. 61.101 to 61.103	

Louisiana	<b>State FCA - (Medicaid Only)</b> LA. REV. STAT. ANN. § 46:437 – 46:440.3 (2013)	<b>NO</b>
Maine	No State FCA - Sec. 2. 22 MRSA §15-A Bill introduced to recover health Care funds	
Maryland	<b>State FCA - (Medicaid Only)</b> Md. HEALTH-GENERAL Code Ann. Title 2 § 2-601 (2014)	
Massachusetts	<b>State FCA - MASS Gen. LAWS CH. 12, §§ 5A-(5O) (2014)</b>	<b>YES</b>
Michigan	<b>State FCA - (Medicaid Only)</b> MCLS § 400.601 - 400.615 (2014)	<b>NO</b>
Minnesota	<b>State FCA - Minnesota False Claims Act, Minn. Stat. §§ 15C.01 through 15C.16</b>	<b>YES</b>
Mississippi *	<b>State FCA (Medicaid Only) - Miss. Code Ann. §§ 43-13-201-233(2014)</b>	
Missouri *	<b>State FCA (Medicaid Only) - MO. Rev. Stat. §§ 191-900 et seq.</b>	
Montana	<b>State FCA - MONT. CODE ANN. § 17-8-401 - through 17-8-413et seq.</b>	<b>YES</b>
Nebraska *	<b>State FCA (Medicaid Only) - Neb Revised Statute § 68-936 et seq. (2014)</b>	
Nevada	<b>State FCA - NEV. REV. STAT. ANN. §§ 357.010 (2014) -357.250</b>	<b>YES</b>
New Hampshire	<b>State FCA - (Medicaid Only)</b> N.H. REV. STAT. ANN. § 167.58 to 167.61-e	<b>NO</b>
New Jersey	<b>State FCA - N.J. S.T.A.T. 2A:32C-1-3</b>	<b>NO</b>
New Mexico	<b>State FCA - N.M. STAT. ANN. § 27-14-1 – 27-14-15</b>	<b>NO</b>
New York	<b>State FCA - N.Y. Fin. Law §§ 187 through 194</b>	<b>YES</b>
North Carolina	<b>State FCA - N.C. GEN. STAT. § 1-605-618; N.C. GEN. STAT. § 108A-70.10 to 70.16</b>	<b>NO</b>
North Dakota	No State FCA - N.D. Stat. Ann. §§ 75-02-05-05; 75-02-05-08	
Ohio	No State FCA - ORC §5162.15ORC § 2913.40; ORC § 2913.74; ORC §§ 4113.51 et. seq.; 5111.03; ORC § 2921.13; ORC §4113.52	
Oklahoma	<b>State FCA - (Medicaid Only)</b> 63 OKLA. STAT §§ 5053.1 – 5053.7 (2013)	<b>NO</b>
Oregon *	<b>State FCA - ORS § 180.750-785</b>	
Pennsylvania	No State FCA - 62 P.S. §§ 1407 and 1408; P.S. 1421 to 1428	

Rhode Island	<b>State FCA</b> - R.I. Gen. Laws §§ 9 -1.1-1through 9 – 1. 1-9(2015)	<b>YES</b>
South Carolina	No State FCA - S.C. Code Ann. § 43-7-60; S.C. Code Ann.§§ 8-27-10 to 8-27-50	
South Dakota	No State FCA - S.D. Codified Laws §§ 22-45-2-11; S.D. Codified Laws 22-6-1	
Tennessee	<b>State FCA</b> - Tenn. Code Ann. §§ 71-5-181 through 71-5-185,	<b>YES</b>
Texas	<b>State FCA - (Medicaid Only)</b> TEX. HUM. RES. CODE ANN. § 36.001 through 36.132	<b>YES</b>
Utah *	<b>State FCA</b> - UTAH CODE ANN. § 26-20-1 (2013)	
Vermont	<b>State FCA</b> - VT Stat. Ann. Tit. 33, §§ 141 to 144; Vt. Stat. Ann. Tit. §§ 507 to 509	<b>YES</b>
Virginia	<b>State FCA</b> - VA. CODE ANN. § 8.01-216.1 et seq.	<b>YES</b>
Washington	<b>State FCA – (Medicaid Only)</b> WASH SESS LAWS, LAWS of 2012, ch 241 §§ 201-218	<b>YES</b>
West Virginia	No State FCA - 2011 WV ALS 119; 2011 WVALS Acts 119; 2011 WV Ch. 119; 2011 WV S.B. 532	
Wisconsin	<b>State FCA - (Medicaid Only)</b> WIS. Stat. § 20.931	<b>NO</b>
Wyoming *	<b>State FCA (Medicaid Only)</b> WYO. STAT. § 42-4-303 through 42-4-306	

**Note:** This list is believed to be up-to-date and complete, but as a result of the incentives contained in the Federal Deficit Reduction Act of 2005, additional states are considering legislation. (Updated 11/2016)

\* Without a Qui Tam Provision