WHAT IS THE DEFICIT REDUCTION ACT?

The Deficit Reduction Act (DRA) is one of the most pressing compliance laws of 2006.
Medicaid compliance has traditionally played a backseat role to Medicare compliance—but times have changed dramatically.
The DRA expands the government's oversight of Medicaid compliance and boosts the number of federal Medicaid inspectors from eight to more than 100.
New government focus in relationship to Home Health Care agencies are to strictly enforce that agencies conduct business in an ethical, moral and legal manner.

WHAT IS THE FALSE CLAIMS ACT?

The Federal False Claims Act is a law that prohibits a person, or entity, such as a Hospital, from "knowingly" presenting, or causing to be presented a false or fraudulent claim for payment or approval to the Federal Government, and from "knowingly" making, using or causing to be made a false record or statement to get a false or fraudulent claim paid or approved by the Federal Government. These prohibitions extend to claims submitted to federal health care programs, such as Medicare or Medicaid. The Federal False Claims Act broadly defines the terms "knowing" and "knowingly." Specifically, knowledge will have been proven for purposes of the Federal False Claims Act if the person or entity: (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information. The law specifically provides that a specific intent to defraud is not required in order to prove that the law has been violated.

A person or entity found guilty of violating this law is obligated to repay all of the mistakenly obtained reimbursement and will be liable for a civil penalty of up to $11,000, plus three times the amount of actual damages sustained by the Government as a result of the prohibited conduct for each violation of the Act. In addition to being liable for damages and civil penalties, violating the Federal False Claims Acts can subject a person or entity to exclusion from participation in federal health care programs, such as Medicare and Medicaid. Intentionally making a false statement or intentionally submitting a single false claim to the Government can also subject the person or entity violating the law to criminal prosecution under a separate criminal false claims law for a felony punishable by up to five years imprisonment and a fine to the federal Government of up to $25,000.

Private persons are permitted to bring civil actions for violations of the Federal False Claims Act on behalf of the United States (also known as "qui tam" actions) and are entitled to receive percentages of monies obtained through settlements, penalties and/or fines collected. Persons bringing these claims (also known as "relaters" or "whistleblowers") are granted protection under the law. Specifically, any whistleblower who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by his or her employer because of reporting violations of the federal False Claims Act will be entitled to reinstatement with seniority, double back pay, interest, special damages sustained as a result of discriminatory treatment, and attorneys' fees and costs.

New York State law makes it unlawful to knowingly make a false statement or representation (or by deliberate concealment of any material fact or other fraudulent scheme or device) to attempt to obtain, or to obtain, Medicaid payments for services or supplies furnished under the New York State Medical Assistance Program. A violation of this Act can subject the Hospital or individual to civil damages equal to three times the amount falsely overstated (or in the case of non-monetary false statements or representations, three times the amount of damages which the state, political subdivision of the state, or entity performing services under contract to the state or political subdivision of the state sustain as a result of the violation) or $5,000, whichever is greater. In addition, the Hospital or individual may be required to pay a civil monetary penalty as restitution to the Medical Assistance Program if the Hospital or individual knew, or had reason to know that:

a. the payment involved the providing or ordering of care, services, or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished;
b. the care, services, or supplies were not provided as claimed;
c. the person who ordered or prescribed care, services, or supplies which were medically improper, unnecessary, or in excess of the documented medical need of the person to whom they were furnished was suspended or excluded from the medical assistance program at the time the care, services, or supplies were furnished; or
d. the services or supplies for which payment was received were not, in fact, provided.

New York State law further imposes the threat of criminal prosecution against any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining greater compensation than otherwise permitted, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under the New York State Medical Assistance Program. Such person may be guilty of a Class A misdemeanor, unless that act constitutes a violation of a provision of the Penal Law, in which case he or she must be punished in accordance with the penalties fixed by such law.

WHAT IS ATTENTIVE CARE'S ORGANIZATIONAL EXPERIENCE? Locally Owned and operated, Attentive Care was established in 1977. As a Licensed Home Care Agency through the NYS Department of Health, we have a long-standing track record of compliance through the Office of the Medicaid Inspector General's office. Our agency receives federal, state and local funding from contracts including, but not limited to, Medicaid, Department of Social Services and Managed Long Term Care Organizations.

REQUIRMENTS OF OUR AGENCY: The DRA requires our agency to:

- Develop open lines of communication between Affected Individuals and our office.
- Perform internal monitoring and auditing
- Enforce disciplinary action
- Develop Policies and Procedures
- Provide Annual Trainings and Education
- Respond to detected deficiencies
- Designate a Corporate "Compliance Officer"
- Designate a Corporate "Compliance Committee"

WHO ARE THE AFFECTED INDIVIDUALS? Affected Individuals are all persons who may be affected by the agency's "risk areas". Examples may include our employees, clients, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors and governing body and corporate offices

HOW DOES THIS RELATE TO YOU AS AN AFFECTED INDIVIDUAL? Attentive Care has a large volume of patients whose services are paid for by the New York State Department of Medicaid. Any unethical behavior (listed below) including errors in billing or false signature may be found in an audit. Activity Records, Timeslips and Electronically Verified Visits generate our billing. Precise, accurate documentation is crucial. Any false statement or documentation on an Activity Record, Timeslip or Electronically Verified Visit is considered fraud.

WHAT ARE ATTENTIVE CARE'S IDENTIFIED RISK AREAS? Through our organizational experience, Attentive Care identified risk areas include, but are not limited to, the following:

****Billings**
****Payments**
****Ordered Services**
****Medical Necessity**
****Quality of Care**
****Governance**
****Mandatory Reporting**
****Credentialing**
****Contract Oversight**
****HIPPA Breeches**

WHO IS ATTENTIVE CARE'S CORPORATE COMPLIANCE OFFICER? Kelly Ottinger is Attentive Care's Compliance Officer. Kelly is the Agency Manager of Attentive Care and has been working with the company for over 17 years. You can reach her at 518-482-2273.

WHEN SHOULD I CALL THE CORPORATE COMPLIANCE OFFICER? The following items are areas that the DRA focuses on. If you become aware of these actions that relate to any affected individual, it is required that you call immediately. Attentive Care practices a Non-Retaliation/Non Retribution policy for all reporting's done in good faith.

****Breeches of confidentiality**
****Unethical staff behavior**
****Bribes or kickbacks**
****Unethical relationships**
****Fraudulent or false actions**
**** Improper billing practices**
****Unethical/Improper care**

WHAT ARE ATTENTIVE CARE'S DISCIPLINARY STANDARDS? Disciplinary action may be taken against any affected individual that results in a violation of a standard, or whom is aware of actions which violate a standard but fails to take appropriate corrective action. Disciplinary action will be taken on a fair, equitable and consistent basis. Disciplinary action will be appropriate to the affected individual's culpable conduct, that is, the more serious the level of culpable conduct (i.e.: intentional conduct or reckless non-compliance) will result in more significant disciplinary action.
Disciplinary action may include, but are not limited to, the following:

****Verbal and Written Warnings**
****Probation**
****Suspension**
****Demotion**
****Compliance Retraining**
****Termination of Contract**
****Termination of privileges**
****Termination of Employment**
****Termination of Services**

For more information detailing the laws, regulations and penalties enforced by the Office of the Medicaid Inspector General, please visit the following link: https://omig.ny.gov/information-resources/laws-and-regulations

The Corporate Compliance Officer and Compliance Committee are responsible for the following:

- Develop, initiate, maintain, and revises policies and procedures for the general operation of the compliance program and its related activities to prevent illegal, unethical, or improper conduct. Manages day-to-day operation of the Program.
- Develops and periodically reviews and updates Standards of Conduct to ensure continuing accuracy and relevance in providing guidance to management and employees.
- Collaborates with other departments.
- Consults with General Council as needed to resolve difficult legal compliance issues.
- Responds to alleged violations of rules, regulations, policies, procedures, and Standards of Conduct by evaluating or recommending the initiation of investigative procedures.
- Develops and oversees a system for uniform handling of such violations.
  Acts as an independent review and evaluation body to ensure that compliance issues and concerns within the organization are being appropriately evaluated, investigated, and resolved.
- Monitors, and as necessary, coordinates compliance activities of other departments to remain abreast of the status of all compliance activities and identifying trends.
- Identifies potential areas of compliance vulnerability and risk, develops and implements corrective action plans for resolution of problematic issues and provides general guidance on how to avoid or deal with similar situations in the future.
- Ensures proper reporting of violations or potential violations to duly authorized enforcement agencies as appropriate or required. required.
- Works with the Human Resources Department and others as appropriate to develop an effective compliance training program, including appropriate introductory and ongoing training for all affected individuals.
- Monitors the performance of the Compliance Program and relates activities on a continuing basis, taking appropriate steps to improve its effectiveness.

Additional Resources and updates regarding Medicaid Compliance Programs may be found on the Office of Medicaid Inspector General's compliance website: https://omig.ny.gov/compliance/compliance

Additional details regarding NYS Labor laws and standards may be found on the NYS Department of Labor website: https://dol.ny.gov/labor-standards-0

For more information on Attentive Care's full written compliance policies, please visit our website: www.attentivecareservices.com

If you have any questions regarding the above items or any questions about this program contact the Compliance Officer for clarification at our Corporate Compliance Hotline 518-482-2273.