PROVIDER Bulletin

December 1, 2016

This Provider Bulletin applies to the lines of business and provider types checked below:

☒ **PHP (Medicare)** ☒ **Primary Care Physicians** ☒ **Specialists**
☒ **PHC (Medicaid)** ☒ **Ancillary** ☒ **Hospitals**

False Claims Act

AIDS Healthcare Foundation ("AHF") is committed to fully comply with all laws and standards regarding ethical health care practices. As a healthcare services provider, we know you share that same commitment. By law, AHF must implement certain policies and procedures regarding fraud and abuse, including the federal and state False Claims Act, and apply them to contractors and agents, including yourself. As a contracted provider with AHF's affiliated managed care plan(s), Positive Healthcare and/or Positive Healthcare Partners, you are required to fully comply with all laws and regulations that apply to health care such as the False Claims Act.

Enclosed you will find our policy providing you with information about the False Claims Act, their penalties and whistleblower protections, and about the way you and (as applicable, your employees, subcontractors or agents) can report suspected false claims to AHF's Compliance Officer. Please review this policy and (as applicable) make it available to your employees, subcontractors and agents.

AHF Compliance Hotline: **(800) 243-7448 (AIDSHIV)**

Thank you for your continued participation and commitment to ethical conduct. Should you have any questions, please do not hesitate to contact our Provider Relations Department at (888) 726-5411.

Policy and Procedure No: CO10.0	
Division: Managed Care Division	
Department: Compliance (Fraud and Abuse)	
Title: False Claims Act - Provider	
Applies to: ☒ PHP ☒ PHC California ☒ PHC Florida ☐ LAC MSSRP ☐ SSHP Disease Mgmt. ☐ RW MCM ☐ LA Care PPG ☐ Other: _____	
Effective Date: January 2006	
Supercedes Policy No: 970010	
Reviewed/Revised by: **Melissa LeBlanc**	**Review/Revision Date:** **August 5, 2016**
Approved by: Managed Care Compliance Committee	**Date: August 22, 2016**

Purpose:

AIDS Healthcare Foundation and its affiliates (collectively "AHF") are required by law to establish certain policies and provide employees, agents, and contractors with information regarding (1) the federal False Claims Act and similar state laws, (2) an employee's right to be protected as a whistleblower, and (3) AHF's policies and procedures for detecting and preventing fraud, waste, and abuse. This document establishes AHF's policy and contains information required by law under section 6032 of the Deficit Reduction Act of 2005 (42 USC § 1396a(a)).

Definitions:

1. Federal False Claims Act: The Federal False Claims Act is found at Title 31 of the United States Code (U.S.C.) in sections 3729 through 3733. The Act helps the federal government combat fraud and recover losses resulting from fraud in federal programs such as Medicare and Medicaid. Violations of the False Claims Act can include "knowingly": (1) submitting a false claim for payment; (2) making or using a false record or statement to obtain payment for a false claim; (3) conspiring to make a false claim or get one paid, or (4) making or using a false record to void payments owed to the U.S. Government. "Knowingly" means that a person (1) has actual knowledge that the information is false; (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.

2. California False Claims Act: The California False Claims Act (Cal. Government Code, §§ 12650 et seq.) prohibits similar conduct as the federal False Claims Act as it relates to claims made to California agencies involving government healthcare programs.

3. Florida False Claims Act: The Florida False Claims Act and related fraud statutes are found in the Florida Statutes, sections 68.081 et seq, 112.3187, 409.9201, 409.913, 414.39, 812.035, 817.155, 837.06 and Florida Administrative Code Annotated 59G-9.070 and prohibit similar conduct as the federal False Claims Act as it relates to claims made to Florida agencies involving government healthcare programs.

Policy

1. AHF is committed to fully comply with all laws and regulations that apply to health care. It has created a compliance program as an expression of its commitment to ethical behavior. That program includes AHF's Compliance Plan, Anti-Fraud Plan, policies and procedures including this one, a Code of Conduct, a Compliance hotline, training, education, auditing and monitoring, and opportunities for individuals to raise issues and concerns without fear of retaliation.

2. AHF participates in federal health care programs including Medicaid ("Medi-Cal" in California) and Medicare. AHF receives payments from the federal health care programs and is required to provide its employees, contractors, and agents with information regarding the federal False Claims Acts and state False Claims Acts which prohibit the filing of false claims involving government healthcare programs (which includes the making of false records to support the false claims). It is the strict policy of AHF to prohibit its employees, contractors, and agents from submitting false claims or participating in the submission of false claims relating to reimbursement from any federal or state health care program.

3. Whether you are an employee, volunteer, intern, contractor, agent, or other business associate of AHF, you are reminded to:
    - Exercise good faith and honesty in all dealings and transactions;
    - Observe all laws and regulations that govern what we do, including requirements of Medicare, Medicaid and other federal health care programs. These requirements generally include maintaining complete and accurate medical records and submitting only complete and accurate claims for services provided;
    - Provide accurate and truthful information in all transactions;
    - Contact one of the following resources available within AHF if you have any knowledge or concern regarding a potential false claim:
        - Speak with your supervisor or another manager.
        - If the manager is not available, or you are not comfortable speaking with him or her, or you believe that the matter has not been adequately resolved, contact the Compliance Officer at (323) 436-5023.
        - If you want to report a concern anonymously, call AHF's Compliance Hotline. The hotline is confidential and available 24 hours a day, seven days a week. The number is (800) 243-7448 (AIDSHIV).
        - In Florida, suspected fraud may also be reported directly to AHCA's Bureau of Medicaid Program Integrity (MPI) at 1-888-419-3456, or on-line through: http://ahca.myflorida.com/Executive/Inspector_General/medicaid.shtml.

4. AHF has a strict policy against retaliating against anyone who, in good faith, makes a report, complaint, or inquiry regarding a compliance issue. Retaliation is subject to discipline up to including dismissal from employment or termination of the business relationship with AHF.

5. Any AHF employee, contractor, or agent who knowingly submits a false claim or knowingly participates in any scheme to submit a false claim will be subject to discipline up to and including immediate termination of employment with AHF or termination of the business relationship with AHF. Examples of false claims include the following:
    - Billing twice for the same service.
    - Billing a higher level of service when a lower level was provided.
    - Billing for services that were never rendered or billing for equipment or supplies that were never provided.
    - Unbundling of services (e.g. billing for each individual lab test when the law requires that the tests be bundled as a panel for billing purposes).

6. Penalties for violating the False Claims Acts are significant. For example, violators could face fines from $5,500 to $11,000 for each false claim. Also, treble damages can be awarded based on the actual loss sustained by the government healthcare program affected as a result of the false claim. Administratively, a violation could ultimately result in AHF, its contractor, or agent losing their ability to provide services under all of the federal health care programs, including Medicaid and Medicare.

7. All employees are required to attend mandatory fraud and abuse training, which includes training regarding the False Claims Act and education regarding criminal and administrative penalties for fraud and abuse. All contractors and agents are required to be educated and trained in fraud and abuse prevention or, if they are a business entity, to provide training to their employees, agents and contractors. AHF may also require its contractors and agents to participate in AHF trainings.

8. The False Claims Acts contain provisions that allow individuals with original information concerning fraud involving government programs to file a lawsuit on behalf of the government. If the lawsuit is successful, the individual may be eligible to receive a portion of the recoveries received by the government. Whistleblowers who file such suits in good faith are protected by law from retaliation by AHF.