

DEFICIT REDUCTION ACT OF 2005 MEDICAID COMPLIANCE PROVISIONS

The Deficit Reduction Act of 2005 (DRA), not only involves nearly an \$11 billion cut in spending from Medicare and Medicaid over the next five years, but also addresses fraud, waste and abuse in the Medicaid reimbursement system. Section 6032 of the DRA requires certain health care providers to establish written policies and procedures to inform employees and others about certain federal and state false claims and whistleblower laws. The deadline for enacting such policies is January 1, 2007.

Application of Section 6032

DRA Section 6032 applies to all health care organizations that receive \$5 million or more in annual Medicaid reimbursement. Although there is no specific directive from CMS, this threshold may be measured based upon the aggregate Medicaid payments received by an organization, even if that organization has multiple provider numbers. For example, a provider that includes a skilled nursing facility and home health program, which collectively receive over \$5 million in Medicaid reimbursement, will likely be subject to Section 6032.

The requirements of Section 6032 are noted on the following page. For complete access to the Deficit Reduction Act of 2005 along with False Claims Act, please use the following link:

<http://www.govtrack.us/congress/billtext.xpd?bill=s109-1932>

Below you will also find the link to the Virginia Fraud Against Taxpayer Act, Code of Virginia Title 8.01 Title 8.01, Chapter 3 applicable sections 8.01-216.1 through 801-216.19. This will detail Virginia's laws applicable to the False Claims Act and related anti-fraud provisions.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC080010000030000000000000>

SEC. 6032. EMPLOYEE EDUCATION ABOUT FALSE CLAIMS RECOVERY.

(a) In General- Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended--

(1) in paragraph (66), by striking 'and' at the end;

(2) in paragraph (67) by striking the period at the end and inserting '; and'; and

(3) by inserting after paragraph (67) the following:

(68) provide that any entity that receives or makes annual payments under the State plan of at least \$5,000,000, as a condition of receiving such payments, shall--

(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and

(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.'.

(b) EFFECTIVE DATE- Except as provided in section 6034(e), the amendments made by subsection (a) take effect on January 1, 2007.