

<b>UnitedHealthcare Community Plan – New Jersey</b>	<b>POLICY AND PROCEDURE</b>
<b>Deficit Reduction Act/False Claims – NJ Specific Policy</b>	<b>LINE OF BUSINESS:</b> NJFamilyCare/ Medicaid/ Medicare Dual Complete DSNP
	<b>NUMBER:</b> CO - 42721
<b>EFFECTIVE DATE:</b> April 27, 2021	<b>PAGE:</b> Page 1 of 7
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**SCOPE:** This Policy requires Employees (and Employees of applicable contractors and agents of the Company) to comply with the federal False Claims Act, state false claims acts, and similar state and local laws and applicable agency policy. Accordingly, UnitedHealth Group and its Employees shall not knowingly submit, or cause to be submitted, any false or fraudulent claims in connection with federal and state health care programs, including Medicare, Medicaid, TRICARE, other state based health care programs and government business. Payments made by, through or in connection with an Exchange are also subject to the FCA if the payments include any federal funds. Further, Employees shall not knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the Government including an identified overpayment. For more information on the federal False Claims Act Compliancy Policy POL 560666 click [here also attached below](#). Please direct any questions regarding this Policy to an attorney or compliance officer assigned to your business unit, or to the Ethics & Integrity Office at (800-455-4521) or [uhghelpcenter.ethicspoint.com](http://uhghelpcenter.ethicspoint.com).

**PURPOSE:**

To establish a consistent policy to satisfy the requirements of Section 6032 of the Deficit Reduction Act of 2005 by setting forth required information concerning: (1) the federal False Claims Act and pertaining to civil and criminal penalties for false claims. This policy applies to members, providers, vendors, consultants and all employees. This Policy requires Employees (and Employees of applicable contractors and agents of the Company) to comply with the federal False Claims Act and NJ state false claims acts detailed below.

- New Jersey Medical Assistance and Health Services Act – Criminal/ Civil Penalties, N.J.S. 30:4D-17(a) – (d); N.J.S. 30:4D-7.h.; N.J.S. 30:4D-17(e) – (i); N.J.S. 30:4D-17.1.a., including potential loss of Medicaid Billing Privileges
- New Jersey Health Care Claims Fraud Act, N.J.S. 2C:21-4.2 and 4.3; N.J.S. 2C:51-5, including potential loss of healthcare professional license.
- New Jersey Conscientious Employee Protection Act, N.J.S. 34:19-1 et seq., including whistleblower protections.
- New Jersey False Claims Act, N.J.S. 2A:32C-1 et seq., including whistleblower protections.
- New Jersey Insurance Fraud Prevention Act, N.J.S.A 17:33A-1 et seq.
- New Jersey Medicaid Fraud Division Hotline: 888-937-2835 or <https://www.nj.gov/comptroller/divisions/medicaid/complaint.html> and NJ Insurance Fraud Prosecutor Hotline: 877-55-FRAUD or <https://njinsurancefraud2.org/#report>.

**POLICY:**

The purpose of this policy is to outline key information about the NJ state false claims act(s) and state and local laws and agency policy pertaining to civil or criminal penalties for false claims and statements, whistleblower

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protections provided by such laws, and the role of these laws in preventing and detecting fraud, waste, and abuse in federal or NJ State healthcare programs.

It is the policy of UHCCPNJ and its parent company, UnitedHealth Group (UHG), to conduct business in an honest and ethical manner. UHCCPNJ does not tolerate fraud, waste or abuse, be it external or internal and whether perpetrated by providers, vendors, consultants, members or employees.

UHCCPNJ conducts programs and activities to deter, detect and address fraud, waste and abuse in all aspects of UHCCPNJ's operations.

#### **DEFINITIONS:**

##### *Fraud, Waste and Abuse (“FWA”)*

**Fraud** is an intentional deception or misrepresentation made by an individual or entity that the person or entity knows to be false or does not believe to be true, knowing that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under the applicable federal or State law.

**Waste and Abuse** in the context of health care claims are generally broader concepts than fraud. They include over-utilization of services and provider and member practices inconsistent with sound fiscal, business, or medical practices that cause unnecessary costs or fail to meet professionally recognized health care standards.

**Knowingly** – A person acting “knowingly” either has actual knowledge, acts in deliberate ignorance of truth or falsity, or acts in reckless disregard of truth or falsity. Proof of specific intent to defraud is not required to fall within the definition of knowledge

**Overpayment** – Any funds that a person or entity receives and retains from the government to which the person or entity is not entitled after applicable reconciliation.

**Overview of Federal Laws** – see UnitedHealthcare False Claims Act Compliance Policy – Policy ID-5448

#### **Overview of NJ Specific Laws**

##### **New Jersey Medical Assistance and Health Services Act, Criminal Sanctions**

The provisions of this statute (“MAHA”) provides **criminal penalties** for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs. They include: (a) fraudulent receipt of payments or benefits: fine of up to

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\$10,000, imprisonment for up to 3 years, or both; (b) false claims, statements or omissions, or conversion of benefits or payments: fine of up to \$10,000, imprisonment for up to 3 years, or both; (c) kickbacks, rebates, and bribes: fine of up to \$10,000, imprisonment for up to 3 years, or both; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to \$3,000, or imprisonment for up to 1 year, or both. Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice for up to 1 year, or both.

The provision under this act also provides for **civil penalties** for any person, firm, corporation, partnership, or other legal entity who violates the provisions of any of the foregoing subsections of this section or any provisions of section 3 of P.L.2007, c.265 (C.2A:32C-3), shall, in addition to any other penalties provided by law, be liable to civil penalties of (1) payment of interest on the amount of the excess benefits or payments at the maximum legal rate in effect on the date the payment was made to said person, firm, corporation, partnership or other legal entity for the period from the date upon which payment was made to the date upon which repayment is made to the State, (2) payment of an amount not to exceed three-fold the amount of such excess benefits or payments, and (3) payment in the sum of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C. s.3729 et seq.), as it may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub.L.101-410 for each excessive claim for assistance, benefits or payments.

In addition to recovery actions, violations can result in the suspension or exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services. Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justice.

#### **New Jersey Health Care Claims Fraud Act N.J.S. 2C:21-4.2 & 4.3; N.J.S. 2C:51-5**

Provides the following criminal penalties for health care claims fraud, including the submission of false claims to programs funded in whole or in part with state funds:

- a. A practitioner who knowingly commits health care claims fraud in the course of providing professional services is guilty of a crime of the second degree, and is subject to a fine of up to 5 times the monetary benefits obtained or sought to be obtained and to permanent forfeiture of his license;
- b. A practitioner who recklessly commits health care claims fraud in the course of providing professional services is guilty of a crime of the third degree, and is subject to a fine of up to 5 times the pecuniary benefit obtained or sought to be obtained and the suspension of his license for up to 1 year;
- c. A person who is not a practitioner subject to paragraph a. or b. above (for example, someone who is not licensed, registered or certified by an appropriate State agency as a health care

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professional) is guilty of a crime of the third degree if that person knowingly commits health care claims fraud. Such a person is guilty of a crime of the second degree if that person knowingly commits 5 or more acts of health care claims fraud, and the aggregate monetary benefit obtained or sought to be obtained is at least \$1,000. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained;

d. A person who is not a practitioner subject to paragraph a. or b. above is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained.

**New Jersey False Claims Act, N.J.S.A. 2A:32C-1 et seq.**

The New Jersey False Claims Act (NJFCA) was enacted in January, 2008 and became effective in March 2008. It has similar provisions to the federal False Claims Act. For example, The Attorney General may bring an action against an individual or entity that makes a false claim. In addition, the NJFCA also allows for individuals to bring a private right of action in the name of the State against wrongdoers and be able to collect a penalty from those wrongdoers. Penalties under the NJFCA align with the Federal False Claims Act. The NJFCA provides that a person will be liable for the same penalties as under the federal False Claims Act but to the State of NJ if that person:

- a. Knowingly presents or causes to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;
- b. Knowingly makes, uses, or causes to be made or used a false record or statement to get a false or fraudulent claim paid or approved by the State;
- c. Conspires to defraud the State by getting a false or fraudulent claim allowed or paid by the State;
- d. Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
- e. Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and, intending to defraud the entity, makes or delivers a receipt without completely knowing that the information on the receipt is true;
- f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property; or
- g. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

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In addition to the above, the NJ False Claims Act has whistleblower protections within it similar to the ones under the federal False Claims

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**New Jersey Conscientious Employee Protection Act, “Whistleblower Act”, N.J.S.A. 34:19-4**

New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:

- a. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;
- b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or
- c. Provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
- d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.
- e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes:
  - (1) is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
  - (2) is fraudulent or criminal; or
  - (3) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment. N.J.S.A. 34:19-3.

**New Jersey Insurance Fraud Prevention Act: N.J.S.A 17:33A-1 et seq**

The purpose of this act is to confront aggressively the problem of insurance fraud in New Jersey by facilitating the detection of insurance fraud, eliminating the occurrence of such fraud through the development of fraud prevention programs, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay fraudulent claims.

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a. A person or a practitioner violates this act if he:

(1) Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(2) Prepares or makes any written or oral statement that is intended to be presented to any insurance company, the Unsatisfied Claim and Judgment Fund or any claimant thereof in connection with, or in support of or opposition to any claim for payment or other benefit pursuant to an insurance policy or the "Unsatisfied Claim and Judgment Fund Law," P.L.1952, c.174 (C.39:6-61 et seq.), knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim; or

(3) Conceals or knowingly fails to disclose the occurrence of an event which affects any person's initial or continued right or entitlement to (a) any insurance benefit or payment or (b) the amount of any benefit or payment to which the person is entitled;

(4) Prepares or makes any written or oral statement, intended to be presented to any insurance company or producer for the purpose of obtaining:  
(a) a motor vehicle insurance policy, that the person to be insured maintains a principal residence in this State when, in fact, that person's principal residence is in a state other than this State; or  
(b) an insurance policy, knowing that the statement contains any false or misleading information concerning any fact or thing material to an insurance application or contract; or

(5) Conceals or knowingly fails to disclose any evidence, written or oral, which may be relevant to a finding that a violation of the provisions of paragraph (4) of this subsection

a. has or has not occurred.

b. A person or practitioner violates this act if he knowingly assists, conspires with, or urges any person or practitioner to violate any of the provisions of this act.

c. A person or practitioner violates this act if, due to the assistance, conspiracy or urging of any person or practitioner, he knowingly benefits, directly or indirectly, from the proceeds

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derived from a violation of this act.

d. A person or practitioner who is the owner, administrator or employee of any hospital violates this act if he knowingly allows the use of the facilities of the hospital by any person in furtherance of a scheme or conspiracy to violate any of the provisions of this act.

e. A person or practitioner violates this act if, for pecuniary gain, for himself or another, he directly or indirectly solicits any person or practitioner to engage, employ or retain either himself or any other person to manage, adjust or prosecute any claim or cause of action, against any person, for damages for negligence, or, for pecuniary gain, for himself or another, directly or indirectly solicits other persons to bring causes of action to recover damages for personal injuries or death, or for pecuniary gain, for himself or another, directly or indirectly solicits other persons to make a claim for personal injury protection benefits pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.); provided, however, that this subsection shall not apply to any conduct otherwise permitted by law or by rule of the Supreme Court.

All employees are expected to promptly report any perceived or alleged instances of fraud, waste or abuse. Reporting may be made directly to the Fraud, Waste and Abuse Hotline at (877) 401-9430, or to the Compliance Helpline at 1-800-455-4521. Staff may also direct cases of alleged instances of fraud, waste or abuse to the Manager of the SIU, SIU Staff or the Compliance Office of UHCCPNJ.

- UHCCP staff may also report NJ Medicaid Fraud Division Hotline: 888-937-2835 or <https://www.nj.gov/comptroller/divisions/medicaid/complaint.html> and
- NJ Insurance Fraud Prosecutor Hotline: 877-55-FRAUD or <https://njinsurancefraud2.org/#report>.

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- New Jersey Health Care Claims Fraud Act, N.J.S. 2C:21-4.2 and 4.3; N.J.S. 2C:51-5, including potential loss of healthcare professional license.
- New Jersey Conscientious Employee Protection Act, N.J.S. 34:19-1 et seq., including whistleblower protections.
- New Jersey False Claims Act, N.J.S. 2A:32C-1 et seq., including whistleblower protections
- New Jersey Insurance Fraud Prevention Act, N.J.S.A 17:33A-1 et seq.
- UHCCP Fraud, Waste and Abuse Prevention and Detection Plan



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False Claims Act  
Compliance Policy.d

- UHC False Claims Act Compliance

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**APPROVED:**



7/29/2021

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Terence Christopher, Compliance Officer

\_\_\_\_\_  
Date



\_\_\_\_\_  
Charles Wayland, Chief Operating Officer

07/29/2021

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Date