

2018

Dear Vendor/Contractor/Customer,

This letter is to inform you of the recent update(s) to the PharMerica Compliance Program and Code of Conduct. PharMerica annually reviews our Compliance Program and the Board of Directors annually reviews and updates the Code of Conduct to ensure compliance with federal and state laws and regulations. Our Code of Conduct, amended September 26, 2017, can be found [at PharMerica.com in the “Who we are” section.](#)

The PharMerica Code of Conduct provides valuable information related to how state and federal rules impact our processes. The Code of Conduct also provides necessary information related to PharMerica processes, reporting requirements and policies.

PharMerica also expects all vendors, contractors and other affected individuals and entities to complete annual fraud, waste and abuse training. The Centers for Medicaid and Medicare Services (CMS) provides a web-based training course that is updated annually that covers all the basic concepts required for all relevant and downstream entities to be involved in all federal programs (including Medicare Part D and all Medicaid programs). In addition to this training, please review the N.Y. state specific information also posted on the website below if you deal with any of our NY locations.

www.chemrx.net (Compliance Corner)

Lastly, PharMerica wants to provide all those affiliated with PharMerica processes, the opportunity to be engaged with compliance efforts. Please find a copy of our current Compliance Program description available at the website link below.

www.chemrx.net (Compliance Corner)

We appreciate your cooperation and partnership in these efforts to meet or exceed federal and state regulatory expectations. If you have any questions please advise your PharMerica representative or contact the PharMerica Chief Compliance Officer at (502) 627-7404. Thank you for your consideration.

Sincerely,

Stephen A. Lariviere

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Chief Compliance Officer

2018

The Corporate Compliance Program and its related policies and procedures apply to “all affected individuals” (employees, board members, executive team, contractors, agents and vendors) of Pharmerica who are involved in the provision of healthcare services or the furnishing of health care items or services, claimed or billed to Medicaid. The compliance corner on the www.chemrx.net website (more specifically to our New York Pharmerica subsidiaries), contains detailed information to inform and educate all affected individuals about our policies, Corporate Compliance Plan, Code of Conduct, detailed laws, trainings, contacts and anonymous Hotline information. Pharmerica wants to make sure you understand your obligation to report fraud, waste and abuse and that information is available and disseminated to all our partners. Any “affected individual” who has reason to believe that anyone is engaging in fraud, false billing practices or false documentation of services is expected to report this on a good faith basis. Reporting can be done anonymously and confidentially on our Hotline 1-800-793-7741 or if you have a question you can call our NY Compliance Coordinator at 516-536-0800 ext 887799 or our Corporate Chief Compliance Officer at 502-627-7404.

Healthcare providers are mandated to comply with section 6032 of the Federal Deficit Reduction Act of 2005 (“DRA”). Providers are required to educate their contractors about the False Claims Act as well as the provider’s policies and procedures for detecting and preventing fraud, waste and abuse. This letter serves as an attestation to meet Pharmerica’s (PMC) obligation under DRA.

As part of our Corporate Compliance Plan, periodic notification of its compliance policies as well as changes and additions are provided to “all affected individuals” through –email and on our website. www.Pharmerica.com under “Who we are” or at www.chemrx.net “Compliance Corner”

We appreciate your cooperation and partnership in these efforts to meet or exceed federal and state regulatory expectations. If you have any questions please advise your PharMerica representative or contact the PharMerica Chief Compliance Officer at (502) 627-7404. Thank you for your consideration.

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New York Region Addendum:

Corporate Compliance, False Claims Act and Whistleblower
Provisions and NY Laws and Regulations

All New York subsidiaries of PharMerica Inc., are committed to prompt, complete and accurate billing of all services provided to individuals. **All New York subsidiaries of PharMerica Inc.** and its employees, executives, board members, contractors and agents/vendors shall not make or submit any false or misleading entries on any claims. No employee, contractor or agent shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor or manager that results in the submission of false or misleading entry on claims or documentation of services that result in the submission of a false claim.

It is the policy of **All New York subsidiaries of PharMerica Inc.** to detect and prevent fraud, waste and abuse in federal healthcare programs. This Policy explains the Federal False Claims Act (31 U.S.C. §§ 3729- 3733), the Administrative Remedies for False Claims (31 USC Chapter 38 §§3801-3812), the New York State False Claims Act (State Finance Law §§187-194) and other New York State laws concerning false statements or claims and employee protection against retaliation. This policy also sets forth the procedures All New York subsidiaries of PharMerica Inc. have put into place to prevent any violations of federal or New York State laws regarding fraud or abuse in its health care programs. This policy applies to all employees, including management, contractors and other affected individuals. Other affected individuals includes persons required to be subject to the compliance program; all affected employees, all affected appointees and persons associated with the provider, all executives and all governing body members. For the purposes of this policy a contractor or agent is defined as:

Any contractor, subcontractor, agent, or other person which or who, on behalf of All New York subsidiaries of PharMerica Inc., furnishes, or otherwise assists in the furnishing of Medicaid health care items or services, or who may perform billing or coding functions.

OVERVIEW OF RELEVANT LAWS: The set of laws and code citations discussed below are meant to provide a summary of the most impactful federal and New York state laws and code citations impacting All New York subsidiaries of PharMerica Inc. The citations listed below are meant to be studied and followed by all affected individuals to this Compliance Program. Several Policies and procedures as well as all educational and training references made to applicable laws and regulations include all of the citations below by reference.

I. the False Claims Act (31 U.S.C. §§ 3729-3733): The False Claims Act is a federal law designed to prevent and detect fraud, waste and abuse in federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act,

anyone who "knowingly" submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of \$5,000 to \$10,000 for each false claim submitted. The law was revised in 1986 to expand the definition of "knowingly" to include a person who:

1. Has actual knowledge of falsity of information in the claim;
2. Acts in deliberate ignorance of the truth or falsity of the information in the claim; or Acts in reckless disregard of the truth or falsity of the information in a claim

False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the Government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim including but not limited to:

1. Knowingly making false statements;
2. Falsifying records
2. Submitting claims for services never performed or items never furnished;
3. Double-billing for items or services;
4. Using false records or statements to avoid paying the Government;
5. Falsifying time records used to bill Medicaid; or
6. Otherwise causing a false claim to be submitted.

Whistleblower or "Qui Tam" Provisions:

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a "Qui Tam" or whistleblower provision. The Government, or an individual citizen acting on behalf of the Government, can bring actions under the False Claims Act. An individual citizen, referred to as a whistleblower or "Relator," who has actual knowledge of allegedly false claims may file a lawsuit on behalf of the U.S. Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15%-30% of the amount recovered.

Employee Protections: The False Claims Act prohibits discrimination by All New York subsidiaries of PharMerica Inc., against any employee for taking lawful actions under the False Claims Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in False Claims actions is entitled to all relief necessary to make the employee whole. Such relief may include reinstatement, double back pay, and compensation for any special damages, including litigation costs and reasonable attorney fees.

Administrative Remedies for False Claims (31 USC Chapter 38. §§3801-3812): This federal statute allows for administrative recoveries by federal agencies including the Department of Health and Human Services, which operates the Medicare and Medicaid Programs. The law prohibits the submission of a claim or written statement that the person knows or has reason to know is false, contains false information or omits material information. The agency receiving the claim may impose a monetary penalty of up to \$5,500 per claim and damages of twice the amount of the original claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and imposition of fines and penalties is made by the administrative agency and not by prosecution in the federal court system.

II. New York State Laws:

Civil and Administrative Laws

New York State False Claims Act (State Finance Law §§187-194). The New York State False Claims Act closely tracks the Federal False Claims Act. It imposes fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may be responsible for the government's legal fees.

The Government, or an individual citizen acting on behalf of the Government (a "Relator"), can bring actions under the New York State False Claims Act. If the suit eventually concludes with payments back to the government, the party who initiated the case can recover 15% - 30% of the proceeds, depending upon whether the government participated in the suit. The New York State False Claims Act prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee whole.

Social Service Law §145-b False Statements

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of

a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may recover up to three times the amount of the incorrectly paid claim. In the case of non-monetary false statements, the local Social Service district or State may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$2,000 per violation. If repeat violations occur within five years, a penalty up to \$7,500 may be imposed if they involve more serious violations of the Medicaid rules, billing for services not rendered, or providing excessive services.

Social Service Law §145 Penalties

Any person, who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor. Social

Service Law § 366-b, Penalties for Fraudulent Practices

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 Medicaid compensation greater than that to which he/she is legally entitled to, or knowingly submits false information in order to obtain authorization to provide items or services shall be guilty of a Class A misdemeanor. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation, or other fraudulent means is guilty of a Class A misdemeanor.

Penal Law Article 155, Larceny

The crime of larceny applies to a person who, with intent to deprive another of property, obtains, takes or withholds the property by means of a trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. This law has been applied to Medicaid fraud cases.

Penal Law Article 175, Written False Statements

There are four crimes in this Article that relate to filing false information or claims. Actions include falsifying business records, entering false information, omitting material information, altering the company's business records, or providing a written instrument (including a claim for payment) knowing that it contains false information. Depending upon the action and the intent, a person may be guilty of a Class A misdemeanor or a Class E felony.

Penal Law Article 176, Insurance Fraud

This Article applies to claims for insurance payment, including Medicaid or other health insurance. The six crimes in this Article involve intentionally filing a false insurance claim. Under this article, a person may be guilty of a felony for false claims in excess of \$1,000

Penal Law Article 177, Health Care Fraud

This Article establishes the crime of Health Care Fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), he/she knowingly provides false information or omits material information for the purpose of requesting payment for a health care item or service and, as a result of the false information or omission, receives such a payment in an amount to which he/she is not entitled. Health Care Fraud is punished with fines and jail time based

on the amount of payment inappropriately received due to the commission of the crime.

New York Labor Law §740

An employer may not take any retaliatory personnel action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official.

This law offers protection to an employee who:

1. discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions);
2. provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by the employer; or
3. objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. The law allows employees who are the subject of a retaliatory action to bring a suit in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health care provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

New York Labor Law §741

Under this law, a health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If the employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health care provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

Systems for Reporting

All affected individuals of All New York subsidiaries of PharMerica Inc., employees, board members and executives and contractors/agents/vendors have an affirmative obligation to report any ethical misconduct or compliance concerns. Anyone who suspects noncompliance with any laws, rules or regulations must report their concerns to any of the following:

- 1-Their supervisor
- 2-Local Compliance Officer
- 3-Corporate Chief Compliance Officer 502-627-7404
- 4-Contact the PMC “Hotline” 1-800-793-7714

OR

HHS Office of Inspector General:

- Phone: 1-800-HHS-TIPS (1-800-447-8477) or TTY 1-800-377-4950
- Fax: 1-800-223-8164
- Email: HHSTips@oig.hhs.gov
- Online: <https://forms.oig.hhs.gov/hotlineoperations/index.aspx>

For Medicare Parts C and D:

- National Benefit Integrity Medicare Drug Integrity Contractor (NBI MEDIC) at 1-877-7SafeRx (1-877-772-3379)

For all other Federal health care programs:

- CMS Hotline at 1-800-MEDICARE (1-800-633-4227) or TTY 1-877-486-2048

HHS and U.S. Department of Justice (DOJ): <https://www.stopmedicarefraud.gov>

OR

NYS OMIG-1-877-87 FRAUD (1-877-873-7283)

NYS Department of Health
Corning Tower
Empire State Plaza,
Albany, NY 12237

It shall be stressed that there is a non-intimidation/non-retaliation policy in place that protects all “good faith participation” in the compliance program. This includes but is not limited to; reporting of actual or potential issues or concerns, including but not limited to;

any action or suspected action taken by or with Pharmerica that is illegal, fraudulent or in violation of an adopted policy.

Cooperating with or participating in the investigation of such matters;

Assisting with or participating in self evaluation, audits, and/or implementation of remedial actions; or reporting to appropriate regulatory officials as provided in New York State Labor Law 740 & 741

No violation reported by an employee in good faith will be the sole reason for subjecting an employee to discipline

All New York subsidiaries of PharMerica Inc. Policies:

1. All New York subsidiaries of PharMerica Inc. will provide training and re-training yearly to all its employees, and make trainings available to “all affected individuals”. Training will be provided to all new employees as part of the new employee orientation.
2. All New York subsidiaries of PharMerica Inc. will perform billing activities in a manner consistent with the regulations and requirements of third party payers, including Medicaid and Medicare.
3. All New York subsidiaries of PharMerica Inc. will conduct regular auditing and monitoring procedures as-part of its efforts to assure compliance with applicable regulations.
4. Any employee, contractor, agent/vendor, or “affected individual” who has any reason to believe that anyone is engaging in false billing practices or false documentation of services is expected to report such practice. Any person may report directly to PharMerica's, Chief Compliance Officer or local FWA Compliance officer at our anonymous “hotline” 1-800-793-7741 or directly to NYS DOH at 1-877-87FRAUD.
5. All New York subsidiaries of PharMerica Inc. will report and the Corporate Chief Compliance Officer will respond to reports or reasonable indications of suspected non-compliance by commencing a prompt and thorough investigation of the allegations to determine whether a violation has occurred.
6. Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited.
7. Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including, termination.

Procedures:

1. The Chief Compliance Officer will ensure that all employees and “all affected individuals” receive training related to the contents of this policy and the False Claims Act. The Chief Compliance Officer will ensure that records are maintained to document the receipt of trainings.
2. The Chief Compliance Officer will assure that this policy and procedure is attached to any contract with outside contractors or agents/vendor doing business in NY.