FAMILY RESIDENCES & ESSENTIAL ENTERPRISES, INC.
POLICY & PROCEDURE

SUBJECT: False Claims Act and Whistleblower Policy

REVISION HISTORY:

Date	Description of Change
1/26/2022	Effective Start Date
6/2/2023	Reviewed and re-formatted
5/24/2024	Reviewed annually as per OMIG regulations
5/19/2025	Reformatted and reviewed annually as per OMIG regulations

SCOPE:

This policy applies to all team members, former team members, contractors and agents of Family Residences and Essential Enterprises, Inc. (FREE, Inc.).

PURPOSE:

FREE, Inc. is committed to contemporaneous, complete and accurate billing of all agency services provided to any service recipient. The agency and its team members, contractors and agents shall not make or submit any false or misleading entries on any claim forms. No team member, contractor or agent shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor or manager, which results in the submission of a false or misleading entry on claim forms or documentation of services that result in the submission of a false claim.

POLICY:

FREE, Inc. will take all reasonable steps to detect and prevent fraud, waste and abuse in federal healthcare programs in accordance with the New York False Claims Act. In accordance with the guidance issued by the NYS Office of the Medicaid Inspector General (OMIG), the following laws apply to making govermnent claims:

A. Civil & Administrative Laws

1. Overview of the False Federal Claims Act:

a. The Federal False Claims Act, 31 U.S.C. § 3729 et seq., 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 for erroneous payment, plus penalties.

b. "Knowingly" includes a person who:

i. Has actual knowledge of falsity of information in the claim; and
ii. Acts in deliberate ignorance of the truth or falsity of the information in the claim; and
iii. Acts in reckless disregard of the truth or falsity of the information in a claim.

c. False Claims suits can be brought against individuals and entities. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim. Some examples include: knowingly making false statements, falsifying records, submitting claims for services never performed or items never furnished, double-billing for items or services, using false records or statements to avoid paying the Govermnent, or otherwise causing a false claim to be submitted.

2. Overview of the New York State False Claims Act:

a. (New York State Finance Law, §§187 - 194). The New York False Claims Act closely tracks the Federal False Claims Act. It imposes penalties and 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.

b. Like the Federal False Claims Act, under the New York False Claims Act, anyone who "knowingly" submits false claims to the Government is liable for damages for erroneous payment, plus penalties.

c. New York False Claims suits can be brought against individuals and entities. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim. Some examples include knowingly making false statements, falsifying records, submitting claims for services never performed or items never furnished, double-billing for items or services, using false records or statements to avoid paying the Government, or otherwise causing a false claim to be submitted.

3. New York Social Services Law §145-b False Statements

a. It is a violation of law for any person or agency 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 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 5 years, a penalty of up to $7,500 per violation may be imposed if they involve more serious violations of Medicaid rules, billing for services not rendered or providing excessive services.

4. **New York Social Services Law §145-c Sanctions**
    a. If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person is subject to severe fines and penalties.

B. <u>Criminal Laws</u>

1. **New York Social Services Law §145 Penalties**
    a. Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

    b. New York Social Services Law §366-b, Penalties for Fraudulent Practices:
        i. 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.
        ii. Any person who, with intent to defraud, presents for payment, any false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

2. **New York Penal Law Article 155, Larceny**
    a. The crime of larceny applies to a person who, with intent to deprive another of their property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. It has been applied to Medicaid fraud cases.
        i. Grand larceny in the 4th degree involves property valued over $1,000. It is a Class E felony.
        ii. Grand larceny in the 3rd degree involves property valued over $3,000. It is a Class D felony.
        iii. Grand larceny in the 2nd degree involves property valued over $50,000. It is a Class C felony.
        iv. Grand larceny in the 1st degree involves property valued over $1 million. It is a Class B felony.

3. **New York Penal Law Article 175, False Written Statements**
    a. Four (4) crimes in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:
        i. §175.05, Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a Class A misdemeanor.

ii. §175.10, Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its commission. It is a Class E felony.
iii. §175.30, Offering a false instrument for filing in the second degree involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information. It is a Class A misdemeanor.
iv. §175.35, Offering a false instrument for filing in the first degree includes the elements of the second-degree offense and shall include an intent to defraud the state or a political subdivision. It is a Class E felony.

4. New York Penal Law Article 176, Insurance Fraud

a. Applies to claims for insurance payment, including Medicaid or other health insurance and contains six (6) crimes:
   i. Insurance fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
   ii. Insurance fraud in the 4th degree is filing a false insurance claim for over $1,000. It is a Class E felony.
   iii. Insurance fraud in the 3rd degree is filing a false insurance claim for over $3,000. It is a Class D felony.
   iv. Insurance fraud in the 2nd degree is filing a false insurance claim for over $50,000. It is a Class C felony.
   v. Insurance fraud in the 1st degree is filing a false insurance claim for over $1 million. It is a Class B felony.
   vi. Aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

5. New York Penal Law Article 177, Health Care Fraud

a. Applies to claims for health insurance payment, including Medicaid, and contains five (5) crimes:
   i. Health care fraud in the 5th degree is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions. It is a Class A misdemeanor.
   ii. Health care fraud in the 4th degree is filing false claims and annually receiving over $3,000 in the aggregate. It is a Class E felony.
   iii. Health care fraud in the 3rd degree is filing false claims and annually receiving over $10,000 in the aggregate. It is a Class D felony.
   iv. Health care fraud in the 2nd degree is filing false claims and annually receiving over $50,000 in the aggregate. It is a Class C felony.
   v. Health care fraud in the 1st degree is filing false claims and annually receiving over $1 million in the aggregate. It is a Class B felony.

C. Whistleblower Protections

a. Whistleblower or "Oui Tam" provisions individuals to come forward and report misconduct involving false claims. The New York False Claims Act contains a "Qui Tam" or whistleblower provision.

b. The State of New York or a government agent can bring actions under the New York False Claims Act. Such agent is referred to as a whistleblower and has actual notice of an allegedly false claim. If facts are proved and an agency has knowingly submitted a false claim to the govermnent, the whistleblower may participate in the recovery.

c. The New York Labor Law §740 & 741 prohibits discrimination and retaliation by the agency against any team member, former team member or independent contractor for taking lawful actions under the New York False Claims Act. Any team member, former team member or independent contractor who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the team member is entitled to relief in New York False Claims actions. Such relief may include reinstatement, back pay, and attorney fees and a possible civil penalty against the employer.

d. FREE, Inc. abides by all aspects depicted in The New York Labor Law §740.

D. Adherence

a. FREE, Inc. will provide training on this policy and procedure to all its team members, contractors and agents. This training will be provided to all new team members as part of the new hire orientation and shall include all required disclosures in the Employee Handbook.

b. The agency shall perform billing activities in a manner consistent with the regulations and requirements of third-party payors, including Medicaid and Medicare.

c. FREE, Inc. will conduct regular auditing and monitoring procedures as part of its efforts to assure compliance with applicable regulations.

d. The Corporate Compliance Officer, or their designee, shall assure that the compliance policies and procedures are provided to any outside contractors or agents which or who, on behalf of FREE, Inc., furnish or otherwise authorize the furnishing of Medicaid health care items or services or are involved in monitoring of health care provided by FREE, Inc. Any such contractor or agent, who commits or condones any form of Medicaid fraud or retaliation for reporting such activity, shall be subject to sanctions up to, and including, termination.

e. Any form of retaliation against any team member, former team member, or independent contractor who reports a perceived problem or concern in good faith is

strictly prohibited.

f. Any team members, vendors performing billing and coding functions for team members, contractors or agents, who, on behalf of FREE, Inc., furnish or otherwise authorize the furnishing of Medicaid health care items or services or are involved in monitoring of health care provided by FREE, Inc. who commit or condone any form of Medicaid fraud or retaliation for reporting such activity shall be subject to sanctions up to and including, termination.

g. The Corporate Compliance Officer, or their designee, shall ensure that all team members and agents receive training related to the contents of this policy and the False Claims Act. The Compliance Officer, or their designee shall ensure that records are maintained to document the receipt of training.

Approved by:

Matt Collins — 5/30/25

Matthew Collins
Chief Quality, Risk and Compliance Officer — Reviewed/Revised Date

6/3/25

Dr. Christopher Long, Ed.D
Co-Chief Executive Officer & President — Reviewed/Revised Date

Reviewed/Submitted by:

J. Cooper-Mills — 6/3/25

Jacquelynn Cooper-Mills, LMSW
Director of Corporate Compliance — Reviewed/Revised Date