



Deficit Reduction Act of 2005 - DSS Compliance Checklist

August, 2007

Based upon our understanding auditors of the Connecticut Department of Social Services will use a checklist similar to that captioned below to test whether nursing facilities that receive at least \$5 million in Medicaid reimbursement are in compliance with the DRA of 2005 and Provider Bulletin 2007-41. It is our understanding that the tests will be conducted beginning with new audits initiated this month.

- o *Do the Facility's internal policies include references from the Federal False Claims Act including the following:*
 - o *Specific definition of a False Claim*
 - o *Specific description of the penalties of filing a False Claim*
 - o *Specific description of "qui tam relators" and the ability of an individual to bring an action on behalf of the Federal Government*
- o *Does the Facility have internal policies and procedures for detecting and preventing fraud, waste and abuse? If so obtain a copy of the policy and procedures.*
- o *Does the Facility require all contracted service providers (those who furnish Medicaid health care items and services) to comply with Section 6032 of the Deficit Reduction Act?*
- o *Does the Facility's Handbook/Policy include the following State statutory references?*
 - o *Criminal Citations*
 - *§ 53a-290 CGS (Vendor Fraud)*
 - *§ 53-440 CGS (Health Insurance Fraud)*
 - *§ 53a-118 CGS (Larceny)*
 - *§ 53a-155 CGS (Tampering With Or Fabricating Physical Evidence)*
 - *§ 53a-157b CGS (False Statement Intending to Mislead Public Servant)*
 - o *Fraud Citations*
 - *§ 17b-25a CGS (Toll Free Vendor Fraud Telephone Hotline)*
 - *§ 17b-99 CGS (Vendor Fraud)*

- § 17b-102 CGS (*Financial Incentive for Reporting Vendor Fraud*)
- § 17-83k-1 REGS (*Administrative Sanctions*)
- § 17b-102-01 REGS (*Financial Incentive for Reporting Vendor Fraud and Requirements for Payment for Reporting Vendor Fraud*)
- o *Whistleblower Citations*
 - § 4-61dd CGS (*Whistleblowing*)
 - § 31-51m CGS (*Protection of Employee Who Discloses Employer's Illegal Activities or Unethical Practices*)
 - § 31-51q CGS (*Liability of Employer for Discipline or Discharge of Employee on Account of Employee's Exercise of Certain Constitutional Rights*)
 - § 4-61dd-1 REGS (*Rules of Practice for Contested Case Proceedings under the Whistleblower Protection Act*)
- o *Does the Facility's Handbook/Policy include references to the Federal False Claims Act as noted above?*
- o *Does the Facility's Handbook/Policy include a description of or reference to the its policies and procedures for detecting and preventing fraud, waste and abuse?*

We understand that a finding of noncompliance will result in a comment in the auditor's report.

While the DRA suggests that compliance is required to maintain a valid provider agreement, the Department's reaction to an auditor's finding of noncompliance is unclear at this time.

Questions concerning the DRA of 2005 and Provider Bulletin 07-41 should be directed to qualified legal counsel.

IRS Circular 230 notice: To the extent that this information concerns tax matters, it is not intended to be used and cannot be used by a taxpayer for the purpose of avoiding penalties that may be imposed by law.