

Tenet, Our Contractors and the Deficit Reduction Act of 2005
Frequently Asked Questions
as of October 12, 2011

Q1. What is the Deficit Reduction Act of 2005?

A. The [Deficit Reduction Act of 2005](#) (DRA) is a law passed by Congress to reconcile the 2006 federal budget. The [DRA](#) includes specific provisions aimed at reducing Medicaid fraud and abuse. The [DRA](#) applies to all health care providers receiving at least \$5 million in annual Medicaid payments. Tenet and its affiliated entities are required to comply with the [DRA](#).

Q2. What does the DRA require Tenet to do?

A. The [DRA](#) provisions aimed at reducing Medicaid fraud and abuse require health care providers to do a number of things, including establish written policies for all employees, contractors and agents that provide detailed information about:

- the federal [False Claims Act](#) (31 U.S.C. 3729-3733)
- applicable state false claims laws
- administrative remedies for false claims
- any comparable state laws pertaining to penalties for false claims and statements
- whistleblower protections

Q3. What does the [DRA](#) include in the definition of “contractors”?

A. According to the [Frequently Asked Questions](#) provided by the Centers for Medicare and Medicaid (CMS) on its [website](#), the term “contractor” includes individuals and companies providing health care services or supplies for Medicaid patients.

CMS FAQ 23 states that “vendors performing billing and coding functions, ... furnish[ing] Medicaid health care items or services or are involved in monitoring of health care...” are considered contractors for purposes of the [DRA](#).

CMS FAQ 26 states that contractors who “perform functions not associated with the provision of Medicaid health care items or services, such as copy or shredding services, grounds maintenance, or hospital cafeteria or gift shop services” are not included in the [DRA](#) definition of “contractors.”

It is not necessary to have a written agreement in place for a Tenet vendor to be considered a contractor under the [DRA](#).

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Q4. What are Tenet's expectations of its contractors and agents?

A. Tenet expects its contractors and/or agents, as well as their employees, to comply with all applicable federal and state laws. Tenet expects its contractors and agents to read and abide by Tenet's [Standards of Conduct](#), its Compliance Program and all applicable policies and to distribute those documents to their employees. To the extent such policies provide for reviews or audits of claims or services, the contractor or agent are required to participate in those reviews or audits.

Q5. What is the federal [False Claims Act](#)?

A. The federal [False Claims Act](#) (FCA) protects government programs, such as Medicare, Medicaid and Tri-Care. The FCA addresses abuse of government programs by obtaining unearned compensation or by concealing, avoiding or decreasing compensation owed to the government. The [FCA](#) allows the government to assess penalties for fraudulent or abusive activity. The penalties include monetary damages and exclusion from participating in federal programs.

The [FCA](#) establishes the right of individuals, commonly referred to as **whistleblowers**, with first-hand knowledge of fraudulent activities to bring legal action against people and companies engaged in the illegal behavior. The process used is known as **qui tam/whistleblower** litigation. Individuals who bring a successful **qui tam/whistleblower** action are entitled to receive a percentage of the judgment. The [FCA](#) also provides **whistleblowers** with protection against retaliation

The [DRA](#) encourages states to adopt their own false claims laws and provides states with financial incentives to do so. Those states adopting false claims laws are required to include in the state laws provisions to protect employees who initiate lawful actions under state false claims law from retaliation.

Q6. Which states have adopted state false claims laws?

A. As of May 1, 2008, all of the states in which Tenet provides health care services have adopted false claims laws. These states are: [Alabama](#), [California](#), [Florida](#), [Georgia](#), [Louisiana](#), [Missouri](#), [Nebraska](#), [North Carolina](#), [Pennsylvania](#), [South Carolina](#), [Tennessee](#) and [Texas](#). (Click on each state for a summary of its false claims laws.)

Other states from which Tenet facilities receive qualifying Medicaid payments (see [Question 1](#)) also have adopted false claims laws. Click on each state for a summary of its false claims laws:

[Illinois](#) (applicable to Saint Louis University Hospital)
[Mississippi](#) (applicable to Saint Francis Hospital)

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Q7. What Tenet policies address the [FCA](#) and [DRA](#)?

A. Tenet is committed to compliance with all federal health care program requirements. Tenet has numerous policies addressing compliance with these requirements as well as other government regulations. Three of the policies and Tenet's [Standards of Conduct](#) are highlighted below.

The [Standards of Conduct](#), which are available on our intranet communication system, and externally on Tenet's website (www.tenethealth.com), include the following information on the [FCA](#) and [DRA](#):

We make every attempt to present claims for payment or approval that are accurate and truthful. We will not allow the submission of claims that are fraudulent, exaggerated or fictitious. We make every attempt to bill only for goods or services that were actually provided, as well as properly code every good or service. If personal knowledge is required to fill out a form, we fill it out only if we have that personal knowledge. If we see a claim, bill or code that contains a possible error, we have an obligation to investigate the potential error and, if possible, correct the error prior to the bill's or claim's submission. If we cannot resolve the problem, we report it, as appropriate, to our supervisors or the Ethics and Compliance Department or the Ethics Action Line (EAL) at 1-800-8-ETHICS.

The Federal False Claims law protects Government programs including Medicare, Medicaid and Tri-Care from fraud and abuse. The Federal Deficit Reduction Act of 2005 provides states with financial incentives for enacting State False Claims laws to protect the individual states' Medicaid Program from fraud and abuse. Individual states adopting false claims laws are required to include provisions to protect employees who initiate lawful actions under the provisions of the State False Claims law from retaliation. Tenet will implement policies and procedures that address the specifics of the false claim law as they are adopted/revised by the state in which you work.

We recognize that questions, concerns or disputes sometimes arise. Tenet believes that it is in the best interest of both its employees and the company to resolve those questions, concerns or disputes in a forum that provides the fastest and fairest method for resolving them. As a Tenet employee, you have an obligation to report concerns using the internal methods as listed above and to understand the options available should your concerns not be resolved.

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Tenet's Regulatory Compliance Policy [COMP-RCC 4.33 Compliance with Federal Health Care Claims and Cost Reports](#) affirms Tenet's commitment to compliance with all federal health care program requirements, including the [DRA](#) and [FCA](#).

Tenet's Regulatory Compliance Policy [COMP-RCC 4.21 Internal Reporting of Potential Compliance Issues](#) establishes and defines a detailed reporting process for any potential compliance issues, including violation of laws and regulations relating to federally funded health care programs. Tenet expects its contractors and/or agents (and their employees) to report any potential compliance issues to the appropriate Compliance Officer so that the issues may be investigated and resolved.

Tenet's Human Resources Policy [HR-116, No Retaliation](#), emphasizes Tenet's strong position against retaliation of any kind and provides steps to take in response to suspected retaliation. This policy includes measures on how the leadership must embrace and promote a no retaliation culture, including periodically reviewing and discussing this policy with their staff.

Q8. Where can I learn more about Tenet's compliance with federal health care requirements?

A. To learn more about Tenet's compliance program, visit Tenet's external website. The direct link is: <http://www.tenethealth.com/about/pages/ethicscompliance.aspx>

Q9. Where can I go if I have questions about Tenet's compliance program or have an issue or concern to report?

A. You have several options. You can call the Ethics Action Line, 1.800.8.ETHICS (1.800.838.4427), the local Facility or Hospital Compliance Officer, or Audrey Andrews, Chief Compliance Officer (1.469.893.6147). You can find our hospitals' information [here](#).

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STATE FALSE CLAIMS LAWS

Alabama:

In addition to the federal FCA, some states have enacted their own false claims statutes. There is no similar civil action currently authorized under Alabama law. However, under Alabama law, prosecutors may bring criminal actions against any person who knowingly makes or causes to be made or assists in the preparation of any false statement, representation or omission of a material fact in any claim or application for payment from the Medicaid Agency with the intent to defraud or deceive. Criminal penalties can include both fines and imprisonment.

Pursuant to the Alabama Medicaid regulations, when there has been fraud or abuse against the Medicaid program, in addition to the criminal penalties discussed above, administrative sanctions may also be imposed. These sanctions include, among other things, suspension of Medicaid payments, suspension of Medicaid participation, and termination of Medicaid participation. The Medicaid program defines fraud for these purposes as “an intentional deception or intentional misrepresentation made by a person with the knowledge that the deception could result in some unauthorized personal benefit or unauthorized benefit to some other person.” Examples of fraud include the following:

- charging recipients for services over and above that paid for by Medicaid;
- double billing or other illegal billing practices;
- submitting false medical diplomas or licenses in order to qualify as a Medicaid provider;
- ordering tests, prescriptions or procedures the patient does not need;
- rebating or accepting a fee or a portion of a fee for a Medicaid patient referral;
- failing to repay or make arrangements for the repayment of identified overpayments; and
- physical, mental, emotional or sexual abuse of a patient.

Furthermore, in relation, the Alabama Medical Licensure Commission may suspend, revoke, or restrict any license to practice medicine or osteopathy or place on probation or fine any licensee when the licensee files a false or fraudulent claim with the Medicaid Agency. [Return to FAQs](#)

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California:

California law prohibits conduct similar to that addressed under the federal FCA.

California Government Code Sections 12650-12656 (commonly known as the California False Claims Act or CFCA), prohibit any person from submitting a false or fraudulent claim over \$500 to the state or local government. The CFCA also makes it illegal for any person who benefits from a false claim, and later discovers the falsity of the claim, to fail to disclose the false claim to the applicable state or local government. The CFCA does not apply to workers' compensation claims, tax claims, or claims against public entities and employees. California officials may file a lawsuit against a suspected violator of the CFCA, or alternatively, a private individual, such as an employee, may file a qui tam lawsuit on behalf of the government. California officials may choose to participate in the qui tam lawsuit or allow the individual to proceed alone on the state or local government's behalf. If the case is successful, the individual is entitled to a portion of the government's monetary recovery. Employees who assist or participate in an action under the CFCA are protected from workplace retaliation. The CFCA imposes a civil penalty of up to \$10,000 for each separate violation of the law. Violators may also need to pay the applicable state or local government an amount equal to two to three times the value of the false claim.

California Welfare & Institutions Code Section 14107 prohibits fraud involving funds of the state's medical assistance programs, including Medi-Cal. This statute establishes grounds for both criminal and civil actions against any person who knowingly defrauds Medi-Cal or other state medical assistance programs by submitting false claims or making false representations. These actions, however, may only be brought by state officials; private individuals cannot file qui tam lawsuits under this provision. Penalties for a violation of this statute include imprisonment and/or a fine not exceeding three times the amount or value of the fraud.

Lastly, California Insurance Code Section 1871.7 prohibits a person from knowingly presenting a false claim for a health care benefit to a private insurer. Actions under this statute may be brought by the district attorney or California Insurance Commissioner or alternatively, a qui tam lawsuit may be filed on behalf of the state by a private individual, such as an employee. The state or district officials may choose to participate in the qui tam lawsuit or allow the individual to proceed alone on the state's behalf. If the case is successful, the individual is entitled to a portion of the state's monetary recovery. Employees who assist or participate in an action under this statute are protected from workplace retaliation. Penalties for a violation of this statute include a civil penalty between \$5,000 to \$10,000, plus an assessment not exceeding three times the amount of each fraudulent claim. In addition, there may be a separate criminal prosecution for violations of this statute. [Return to FAQs](#)

Florida:

Florida law prohibits conduct similar to that addressed under the federal FCA, but the Florida prohibitions apply to the submission of false or fraudulent claims that would be paid from state government funds. State officials may file a lawsuit directly against someone they believe submitted a false claim to a state program, or a private individual, such as an employee, may file a qui tam lawsuit on behalf of the state. State officials may choose to participate in the qui tam lawsuit or allow the individual to proceed alone on the state's behalf. If the case is successful, the

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individual is entitled to a portion of the state's monetary recovery. Employees who assist or participate in an action under Florida's False Claims law are protected from workplace retaliation. Additional false claims laws in Florida apply specifically to Medicaid provider fraud. These statutes establish grounds for criminal actions against any person who knowingly defrauds the state Medicaid program. A violation constitutes a third-degree felony. Private individuals cannot file qui tam lawsuits under these provisions; criminal actions may only be brought by state officials. [Return to FAQs](#)

Georgia:

Georgia false claims law prohibits conduct similar to that addressed under the federal FCA, but the Georgia prohibitions pertain to the submission of false or fraudulent claims when payment would be made specifically by the state's Medicaid program. The law allows state officials to seek criminal penalties for violations. A provider can also be liable for a civil penalty of three times the amount of any excess payment made by the state's Medicaid programs and significant monetary damages per false claim. However, if the person committing the violation meets certain requirements by reporting the violation and cooperating with any subsequent government investigation, damages will be limited to two times the amount of actual damages suffered by the state Medicaid program.

A civil false claims action may be brought by the state Attorney General or by a private person in the name of the State of Georgia to which the Attorney General may elect to intervene. The Georgia false claims law also includes whistleblower protection against workplace retaliation for civil actions brought by or assisted by an employee under the law. [Return to FAQs](#)

Illinois:

Illinois law prohibits conduct similar to that addressed under the federal FCA but the Illinois prohibitions apply to the submission of false or fraudulent claims that are paid or approved by the State. Under the Whistleblower Reward and Protection Act either a private person (as a qui tam plaintiff) or the Attorney General may file a civil action against a person violating the Act. The State may elect to intervene and proceed with the action. The qui tam plaintiff may receive a percentage of the proceeds of the action or settlement of the claim. The Act also provides protection for qui tam plaintiffs by making it a violation to discharge, demote, suspend, threaten, harass or in any other manner discriminate against an employee for disclosing information to a government or law enforcement agency or in a court, at an administrative hearing, before a legislative commission or committee or in another proceeding. These protections allow for several types of relief, including reinstatement, double back pay with interest and compensation for special damages, such as litigation costs and attorneys' fees.

Illinois has also enacted a Public Assistance Fraud Act. Under this statute, it is illegal for a person, firm, corporation, association, agency, institution or other legal entity to willfully make a false statement or representation or conceal a material fact to obtain medical assistance benefits. Persons violating these provisions may be ordered to pay monetary restitution, and may also be held criminally liable. This statute does not include any qui tam provisions. [Return to FAQs](#)

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Louisiana:

Louisiana law prohibits conduct similar to that addressed under the federal FCA, but the Louisiana prohibitions apply to the submission of false or fraudulent claims that would be paid from the state's medical assistance programs. State officials may file a lawsuit directly against a person or entity they believe submitted a false claim to the Medicaid program, or a private individual, such as an employee, may file a qui tam lawsuit on behalf of the state. The state officials may choose to participate in the qui tam lawsuit or allow the individual to proceed alone on the state's behalf. Notably, state officials in Louisiana may join the lawsuit at any time during the qui tam proceedings. If the case is successful, the individual is entitled to a portion of the state government's monetary recovery. In addition, Louisiana's False Claims law provides the individual protection from workplace retaliation. No employer of an individual who files a qui tam action or otherwise engages in any lawful act in furtherance with a false claims action may fire or discriminate against that individual due to his or her participation in the action unless the court finds that the qui tam lawsuit was frivolous or harassing. Additional state law allows state officials to seek criminal penalties against any person who knowingly defrauds the state Medicaid program. Private individuals cannot file qui tam lawsuits under these provisions; criminal actions may only be brought by state officials. [Return to FAQs](#)

Mississippi:

The State of Mississippi has not adopted any false claims acts or statutes that contain qui tam or whistleblower provisions that are similar to those found in the federal False Claims Act. It has, however, adopted a generally applicable Medicaid Fraud Control Act that makes it unlawful for a person to submit false and fraudulent claims to the Mississippi Medicaid program. Violations of the Act are both civil and criminal offenses and are punishable by imprisonment and significant monetary penalties. [Return to FAQs](#)

Missouri:

Missouri's fraud and abuse laws prohibit conduct similar to that addressed under the federal FCA and Anti-kickback Statute but the Missouri prohibitions apply to the submission of false or fraudulent claims when payment would be made specifically through a Missouri state funded medical assistance program ("MAP"), such as Medicaid. The state Attorney General may seek criminal penalties including imprisonment and a fine in addition to repayment of the funds unlawfully obtained, and investigative and prosecution costs. The state Attorney General may also bring a civil action against any person who receives a healthcare payment under a MAP as a result of a false statement, representation or concealment. Recovery may include civil penalties, plus up to three times the amount of the inappropriately received funds and costs. Only the state Attorney General can bring such actions; private individuals cannot file qui tam lawsuits under these provisions. Missouri fraud and abuse laws include whistleblower protections against workplace retaliation and allow for original source whistleblowers to share in the recovery unless the whistleblower participated in the act constituting the violation. [Return to FAQs](#)

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Nebraska:

Nebraska law prohibits the knowing submission of false or fraudulent claims for payment of funds specifically by the state's medical assistance programs ("MAP"). Nebraska's False Medicaid Claims Act further prohibits the failure to disclose a benefit received as the result of the submission of a false claim. Specifically, Nebraska law provides that a person who later discovers that he or she has benefited inappropriately from the submission of a false claim, but does not disclose the false claim to the state within sixty days of that discovery is in violation of Nebraska's False Medicaid Claims Act. Anyone who, acting on behalf of a provider, knowingly charges, solicits, accepts, or receives anything of value in addition to the amount legally payable under the MAP subjects themselves to civil liability under the False Medicaid Claims Act. A person also violates the False Medicaid Claims Act, and subjects themselves to civil liability and damages by knowingly failing to maintain or to disclose or by destroying records considered necessary. The state Attorney General may bring an action seeking substantial civil penalties as well as triple recovery of excessive payments by the state's MAP plus the state's costs and attorney's fees. Only the state Attorney General can bring such actions; private individuals cannot file qui tam lawsuits under these provisions. There are no express whistleblower protection statutes in Nebraska. [Return to FAQs](#)

North Carolina:

North Carolina law prohibits conduct similar to that addressed under the federal FCA, but the North Carolina prohibitions apply to the submission of false or fraudulent claims that would be paid from the state's medical assistance programs. In North Carolina, only the state Attorney General may file a lawsuit under these provisions; a private individual may not file a qui tam lawsuit on behalf of the state. Nevertheless, if an employee assists in an action brought by the Attorney General against the provider, North Carolina's Medical Assistance Provider False Claims law provides protection from workplace retaliation and the individual may pursue an individual action for any such retaliation. Additional state law allows North Carolina officials to seek criminal penalties against providers who defraud the state Medicaid program by submitting false claims or making false representations. [Return to FAQs](#)

Pennsylvania:

Pennsylvania law prohibits the knowing submission of false or fraudulent claims for payment of funds by or receipt of benefits from the state's medical assistance programs. More specifically, it prohibits the knowing presentation of a false claim, the knowing presentation of a claim for medically unnecessary services, the knowing submission of false information to obtain an excessive payment, and the knowing submission of false information to obtain authorization or certification to provide such services or merchandise under the state's medical assistance programs. Pennsylvania law also prohibits an individual from knowingly making a false statement, failing to disclose a material fact, or concealing an event regarding such person's eligibility for medical assistance benefits. State officials may seek criminal penalties for violations of these laws. In addition, upon conviction, the trial court must order repayment of the excessive payments or improperly obtained benefits. A provider convicted of submitting false claims must also pay an amount of up to three times the amount of excessive payments and is ineligible to participate in the state's medical assistance program for five years. A person

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improperly obtaining benefits is subject to termination or restriction of the individual's medical assistance benefits and a \$1,000 penalty for each violation. Only state officials can bring such actions; private individuals cannot file *qui tam* lawsuits under these provisions. Pennsylvania false claims laws do not include whistleblower protection against workplace retaliation; however a state whistleblower law generally prohibits an employer from discharging, threatening, or otherwise discriminating or retaliating against an employee who makes a good faith report about an instance of wrongdoing or waste, or an employee who participates in an investigation, hearing, or inquiry. The remedies/penalties for violating the whistleblower law may include: civil action for injunctive relief and/or damages; reinstatement of the employee; payment of back wages; full reinstatement of fringe benefits and seniority rights; actual damages; and payment of the whistleblower's attorney fees and witness fees. [Return to FAQs](#)

South Carolina:

South Carolina false claims law prohibits conduct similar to that addressed under the federal FCA, but the South Carolina prohibitions apply to the submission of false or fraudulent claims when payment would be made specifically by the state's Medicaid program. The law allows the state Attorney General to seek criminal penalties and to bring a civil action seeking triple recovery of the fraudulently received funds, as well as significant monetary damages per false claim. Only the state Attorney General can bring such actions; private individuals cannot file *qui tam* lawsuits under these provisions. South Carolina false claims law does not include whistleblower protection against workplace retaliation. [Return to FAQs](#)

Tennessee:

Tennessee has a state False Claims Act and a Medicaid False Claims Act. Both laws prohibit conduct similar to that addressed under the federal FCA. The Medicaid False Claims Act, however, prohibits the submission of false or fraudulent claims that would be paid specifically from state Medicaid funds. The Tennessee False Claims Act prohibits the submission of false or fraudulent claims that would be paid from state funds except to the extent such conduct is already prohibited under the Medicaid False Claims Act. Accordingly, the Medicaid False Claims Act is most applicable in this context. In any event, both laws allow state officials to file a lawsuit, or a private individual, such as an employee, to file a *qui tam* lawsuit on behalf of the state. State officials may choose to participate in the *qui tam* lawsuit or allow the individual to proceed alone on the state's behalf. If the case is successful, the individual is entitled to a portion of the state's monetary recovery. Employees who assist or participate in an action under Tennessee's False Claims Act or Medicaid False Claims Act are protected from workplace retaliation. Additional state law allows state officials to seek criminal penalties against any person who knowingly defrauds the state Medicaid program by submitting false claims or making false representations. Private individuals cannot file *qui tam* lawsuits under these provisions; criminal actions may only be brought by state officials. Tenn. Code Ann. Sec. 4-18-101, et. seq.; Tenn. Code Ann. Sec. 71-5-181, et. seq.; and Tenn. Code Ann. Sec. 71-5-2601. [Return to FAQs](#)

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Texas:

Texas law prohibits conduct similar to that addressed under the federal FCA, but the Texas prohibitions apply to the submission of false or fraudulent claims or statements that would be paid specifically by the state's medical assistance program or would qualify a provider to receive payment thereunder. A private individual, such as an employee, may file a qui tam lawsuit on behalf of the state government. The state officials may choose to participate in the qui tam lawsuit or allow the individual to proceed alone on the state's behalf. If the case is successful, the individual is entitled to a portion of the state's monetary recovery. Employees who assist or participate in an action under Texas' False Claims law are protected from workplace retaliation. To prevail in a civil or administrative proceeding, proof of specific intent to knowingly file or submit a false claim is not required. Additional state law allows state officials to seek criminal penalties against any person who knowingly defrauds the state Medicaid program by submitting false claims or making false representations. Private individuals cannot file qui tam lawsuits under these provisions; criminal actions may only be brought state officials.

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