



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	1 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to: <input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans			

**PURPOSE:**

The purpose of this policy is to provide an overview of key provisions of the False Claims Act (the “FCA”) and related legal requirements as required by the Deficit Reduction Act of 2005 (the “DRA”) for Schaller Anderson, Incorporated and its affiliated entities including the health plans administered by such affiliated entities (collectively, “SAI”).

**STATEMENT OF OBJECTIVE:**

The officers, directors and employees of SAI and any contractor or agent thereof have available resources of an existing SAI corporate compliance program that addresses relevant elements for effective corporate compliance including mechanisms intended to assist in detecting, reporting and preventing false claims and other fraudulent, wasteful or abusive practices. Further, SAI and any contractor or agent thereof is provided information about the FCA by this Policy and through the SAI Compliance Office in addition to the Schaller Anderson Compliance Program Employee Handbook.

**DEFINITIONS:**

False Claims Act/FCA - The FCA, as amended is codified at 31 U.S.C. §§ 3729-3733, prohibits the knowing submission of unjustified or false claims to obtain federal funds. False claims to Federal Health Care Program are actionable under the civil FCA. (See Appendix A for summary of relevant Federal laws and Appendix B for relevant state false claims statutes)

Deficit Reduction Act/ DRA of 2005 - The DRA is Public Law 109-171.

Client - The individual member or beneficiary enrolled in a Federally funded health care program.

Claim - The definition of “claim” under the FCA, includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the government will reimburse such contractor, grantee, or other recipient for any



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	2 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

portion of the money or property which is requested or demanded.

**Contractor or Agent -** Any contractor, subcontractor, agent, or other person who, on behalf of the SAI, furnishes, or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by the SAI.

**Entity -** Any SAI entity which receives or makes payments, under a state health care program approved under Title XIX or under any waiver of such plan, totaling at least \$5 million annually.

**False -** When an item or service for payment is untrue, misrepresentative, deceptive, unjustified, or fraudulent.

**Federal Health Care Program -** Any plan or program providing health care benefits, whether directly through insurance or otherwise, that is funded directly, in whole or part, by the United States Government (other than the Federal Employees Health Benefits Program), or any state health care program.

**Knowing/Knowingly -** The definition of “knowing” and “knowingly” under the FCA mean that a person, with respect to information:

- has actual knowledge of the information;
- acts in deliberate ignorance of the truth or falsity of the information; or
- acts in reckless disregard of the truth or falsity of the information.

No proof of the specific intent to defraud is required.  
(See also Appendix A.)

**Relator -** The person who may bring a civil action for a violation of the FCA on behalf of the person and the government.

**Government -** The United States Government.



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	3 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

State Health Care Program -

Medicaid, Maternal and Child Health Services Block Grant program, Block Grants to States for Social Services or State plan approved under Title XIX of the Social Security Act.

**LEGAL/CONTRACT REFERENCE:**

- The False Claims Act (31 U.S.C. §§ 3729-33)
- Deficit Reduction Act of 2005
- Code of Federal Regulations
- The Social Security Act
- Applicable state laws
- SAI contracts with contractors, subcontractors, or agents that assist SAI in providing managed health care administrative operations to SAI clients
- SAI affiliated companies' state contracts
- SAI affiliated companies' contracts with subcontractors or agents that assist in the provision of managed health care administrative operations to such affiliated companies' clients
- SAI compliance policies and procedures

**FOCUS/DISPOSITION:**

The DRA requires that any entity that receives or makes annual Medicaid payments, under the State plan, of a least \$5 million must establish written policies for its employees, management, contractors and agents regarding the FCA. The FCA applies to claims presented for payment by Federal health care programs. The FCA allows private persons to bring a civil action against those who knowingly submit false claims upon the government. Key information on the FCA is provided to SAI employees (including managers) and contractors or agents and includes:

**Administrative Remedies for False Claims and Statements**

The government has administrative remedies available in cases that have resulted in FCA violations. The administrative remedy for violating the FCA is three times the dollar amount that the government is defrauded and civil penalties of \$5,500 to \$11,000 for each false claim by the party responsible for the claim. If there is a recovery in the case brought under the FCA, the



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	4 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

person bringing suit (relator) may receive a percentage of the recovery against the party that had responsibility for the false claim. For the party that had responsibility for the false claim, the government may seek to exclude it from future participation in Federal health care programs or impose integrity obligations against it.

***State Laws Pertaining to FCA***

To prevent and detect fraud, waste, and abuse, many states have enacted laws similar to the FCA but with state-specific requirements, including administrative remedies and relator rights. Those laws generally prohibit the same types of false claims for payments for healthcare related goods or services as are addressed by the FCA. For further information on specific state law requirements, contact your respective Compliance Office. (See also Appendix B for a current information on state statutes on false claims or fraudulent conduct.)

***Relator Protections Under the FCA***

SAI is committed to fostering a culture of compliance and an environment in which its employees and other members of SAI are educated and knowledgeable about their role in reporting concerns and problems in relation to compliance and ethics. SAI encourages employees to report any concerns relating to potential fraud and abuse, including false claims.

The FCA and related law commits that no person will be subject to retaliatory action as a result of their reporting of credible misconduct. Pursuant to SAI's commitment to compliance with the relevant FCA and other applicable laws, no employee will be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by SAI solely because of actions taken to report potential fraud and abuse or other lawful acts by the employee in connection with internal reporting of compliance issues or an action filed or to be filed under the FCA.



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	5 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

***Reporting Potential Fraudulent Activity***

SAI employees are encouraged and expected to bring forward concerns or complaints about any compliance or ethical issues pertaining to the SAI's operations. This expectation is intended to allow SAI to investigate and correct any issue pertaining to false claims or other aspect of organizational compliance. An employee who fails to report properly either through internal lines of communication, or to authorized governmental officials, when that person knows of conduct constituting a violation the FCA or related legal provision is subject to discipline, up to and including termination.

As part of SAI Compliance Program's objective to detect, prevent, and correct potential, credible incidents of fraud, waste and abuse, it is the policy of SAI that its employees, contractors, agents, subcontractors, and directors, in particular those involved in the provision of services under government programs including members and providers, to report matters which involve potential violations of this policy. These individuals or parties may either report the incident(s) to their appropriate supervisor, the SAI Compliance Hotline [1 (800) 810-6544] or respective affiliate's Compliance Office's Hotline, or the Schaller Anderson Compliance Office or respective SAI affiliated company Compliance Office. Such reports may be made anonymously; the reporting individual or party may request confidentiality and will be protected from any retaliatory action.

***OPERATING PROTOCOL:***

***Systems***

- QMACS / QNXT application
- Claims processing system
- Compliance hotline

***Measurement***

- Volume of reported cases by personnel and providers

***Reporting***

False Claims Act reporting will be included in the following reports:



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	6 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

- Monthly Compliance Log
- Quarterly Compliance Log
- Annual Compliance Log

***INTER-/INTRADEPENDENCIES:***

***Internal***

- SAI leadership
- SAI affiliate leadership
- Member Services
- Claims department
- SAI departments
- SAI affiliate companies including the health plans administered by such affiliated companies
- Single State Agency for Medicaid

***External***

- Vendors
- Contractor, subcontractors or agents
- Potential clients
- State regulators
- Clients
- Providers
- Consumers

Reviewed and revised: 12/26/2006



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	7 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to: <input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans			

**APPENDIX A:**

**Summary of Relevant Federal Laws**

**Federal False Claims Act (31 U.S.C. §§ 3729-3733):**

Under the False Claims Act a person or entity is liable for:

- Knowingly presenting or causing to be presented a false or fraudulent claim for payment or approval;
- Knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;
- Conspiring to defraud by getting a false or fraudulent claim allowed or paid;
- Delivering or causing to be delivered less property than the amount for which the person receives a certificate or receipt;
- With intent to defraud, making or delivering a receipt without completely knowing that the information on the receipt is true;
- Knowingly buying public property from a government employee who does not have the legal right to sell the property; and
- Knowingly making or using a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government

**Civil Money Penalties for False Claims in Federal Health Care Programs**

**(42 U.S.C. §§ 1320a-7a )("CMPL"):**

Provides for monetary penalties against anyone who presents a claim to a Federal or state officer, employee or agency that he or she knows or should have known was not provided as claimed. CMPL can also be imposed on a provider who: 1) submits a bill for services provide by a person who is not licensed or is excluded from Federal or state health care programs; 2) violates the anti-kickback statute, or 3) violates the prohibition on physician self-referral, or Stark, law.

**Criminal Penalties for False Claims in Federal Health Care Programs (42 U.S.C. § 1320a-7b):**

A fine of up to \$25,000.00 and/or imprisonment of up to five years may be imposed on any person in connection with the furnishing items of services under a Federal health care program and who is convicted of a felony for knowingly and willfully:

- Making a false statement or representation of material fact in any application for a benefit or payment under or for use in determining rights to such benefit or payment in a Federal health care program;



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	8 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

- Concealing or failing to disclose, with intent to defraud, any event affecting his or her initial or continued right to any benefit or payment;
- Presenting or causing to be presented a claim for a provider's service for which payment may be made under a Federal health care program and knowing that the individual who furnished the service was not a licensed provider; or
- For a fee counseling or assisting an individual to dispose of assets in order for the individual to become eligible for medical assistance under a state Medicaid program if disposing of the assets results in the imposition of a period of ineligibility for such assistance

**Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b)):**

The anti-kickback statute was designed to prevent fraud and abuse in Federal health care programs by making it a crime for anyone to knowingly and willfully solicit or receives, or pays anything of value (remuneration) including any kickback, bribe, or rebate in return for referring an individual to a person for any item or service for which payment may be made in whole or in part under a Federal health care program. Punishment for felony conviction for violating the anti-kickback law is a fine of not more than \$25,000 or imprisoned for not more than five years, or both, administrative civil money penalties of up to \$50,000.00, and exclusion from the Federal health care programs. The law contains several "safe harbors" that provide protection from prosecution for certain transactions and business practices with further guidelines provided in 42 C.F.R. § 1001.952.

**Federal Anti-Self Referral (Stark) Statute (42 U.S.C. § 1395 (a) and 42 U.S.C. § 1903(s)):**

Subject to specific exceptions, prohibits a physician from referring Federal health care program patients for certain designated health services to an entity with which the physician or an immediate family member has a financial relationship. No specific intent is required. A financial relationship is either a direct or indirect ownership interest or compensation arrangement. Certain regulatory exceptions apply. A physician who violates the anti-self referral laws is subject to substantial civil money penalties and exclusion from the Federal health care program for improper claims. The anti-self referral laws impose specific reporting requirements on entities that receive payment for services covered by Federal health care programs. Failure to report would subject the entity to civil money penalty of up to \$10,000 for each day for which reporting is required to have been made.



**Schaller Anderson Incorporated  
Policy**

Policy Name:	Deficit Reduction Act and False Claims Act Compliance Requirements	Page:	9 of 9
Department:	Legal	Policy Number:	3000.40
Subsection:	Compliance	Effective Date:	1/1/07
Applies to:	<input checked="" type="checkbox"/> Medicaid Health Plans <input type="checkbox"/> Medicare Health Plans <input type="checkbox"/> Commercial Health Plans		

**APPENDIX B:**

**State False Claims Statutes (for Schaller Anderson, Incorporated affiliated companies)**

California	<a href="http://www.leginfo.ca.gov/">http://www.leginfo.ca.gov/</a>	California Government Code Section 12650 et seq.
Delaware	<a href="http://www.delcode.state.de.us/">http://www.delcode.state.de.us/</a>	Delaware Code Annotated, Title 6, Section 1201 et seq.
New Hampshire	<a href="http://www.nh.gov/government/laws">http://www.nh.gov/government/laws</a>	New Hampshire Revised Statutes Section 167:61-b
Tennessee	<a href="http://www.legislature.state.tn.us/">http://www.legislature.state.tn.us/</a>	Tennessee Code Annotated Section 71-5-181 et seq.
Texas	<a href="http://www.legis.tx.us/">http://www.legis.tx.us/</a>	Texas Human Resources Code Section 36.001-36.117 Section 32.039

Appendix B will be updated from time-to-time as additional information is available. The most current information regarding State False Claims Statutes is available from your respective Compliance Office.