



VISIONQWEST Healthcare GROUP

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SUBJECT: FEDERAL ANTI-KICKBACK STATUTE
POLICY NUMBER: VQ-SP-1002
LINE OF BUSINESS: GLOBAL POLICY (ALL BUSINESS LINES)
EFFECTIVE DATE: 11/21/11
REVISED DATE: 11/21/11
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1. REGULATORY REFERENCES:

- 1.1 CoP: N/A
- 1.2 ACHC: N/A

2. PURPOSE:

- 2.1 This policy provides guidance for compliance with the Federal Anti-Kickback Statute. The Company has additional state specific policies for compliance with other federal and state fraud and abuse laws and regulations, as well as compliance with the Deficit Reduction Act.

3. POLICY:

- 3.1 The Company is committed to complying with all federal and state laws enacted to prevent and detect fraud, waste, and abuse related to the federal and state health care programs. The Company will not tolerate any fraud, waste, or abuse.
- 3.2 Employees must adhere to all federal and state fraud and abuse laws and regulations.
- 3.3 Summary of the Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b).
 - 3.3.1 The Anti-Kickback Statute (AKS) prohibits the knowing and willful offer, solicitation, payment or receipt of anything of value that is intended (1) to induce the referral of an individual for which a payment may be made by Medicare and Medicaid or certain other Federal or State health care programs ("Covered Programs") or (2) to induce the ordering, purchasing, leasing or arranging for, or recommending the purchase, lease or ordering of, any service or item for which payment may be made by such Federal or State health care programs (collectively referred to as an illegal inducement). The AKS applies to any arrangement where even one purpose of the remuneration offered, paid, received, etc. is to obtain or pay remuneration in exchange for referrals or to induce referrals.
 - 3.3.2 The AKS applies to any item or service that might be paid for by Medicare or any other Federal or State health care program.

- 3.3.3 Both parties that participate in an impermissible “kickback” transaction can be found guilty of committing a felony crime, and can be subject to criminal and civil penalties and administrative sanctions.
- 3.3.4 Examples of arrangements that could potentially violate the AKS include: paying an individual or entity for referring home health patients, agreeing to utilize an individual or entity as a service provider or Vendor in exchange for a referral of home health patients and service providers splitting payments with patients.
- 3.3.5 The Office of Inspector General (“OIG”) of the Department of Health and Human Services is responsible for interpreting the AKS and its applicability, as well as issuing regulatory and sub-regulatory guidance (such as advisory opinions). The OIG has issued regulatory “safe harbors” that offer protection to parties that enter into various payment and business practices that would potentially be prohibited by the AKS. These safe harbors are found in the Federal Regulations at 42 CFR § 1001.952.
- 3.3.6 In order for an arrangement to obtain the presumptive protection of the safe harbors, **all** elements of the applicable safe harbor must be met. If an arrangement does not meet all elements of the applicable safe harbor, the arrangement is not necessarily an illegal arrangement, however, the arrangement cannot receive the automatic rebuttable presumption of compliance with the AKS. If you have any questions regarding the safe harbor provisions, please contact the legal department.

4. PROCEDURE:

- 4.1 The Chief Compliance Officer and Legal Department must review all agreements with joint venture partners, physicians, service providers, independent contractors, vendors, manufacturers and suppliers before such agreements are executed.
- 4.2 The Company will ensure that any remuneration it pays or receives from or provides to any potential referral source is not a payment for referrals.
- 4.3 The Company will structure transactions, arrangements, and relationships in such a manner so as to fit within the statutory and regulatory safe harbors set forth in the AKS.
- 4.4 Any employee, independent contractor or Company agent who identifies a potential AKS violation involving individuals or entities with whom the Company has a referral relationship should immediately contact the Company’s toll-free Compliance Hotline at 1-818-547-0497 Ext 2
- 4.5 The Chief Compliance Officer shall investigate any and all reported violations in a timely manner, and in accordance with the Company’s compliance plan. The Chief Compliance Officer must take all necessary actions to prevent the reoccurrence of any such violations. The appropriate action(s) to be taken will depend on the specific violation, and include, but are not limited to, revisions of processes, policies, procedures and/ or systems and disciplinary action.

5. ADDITIONAL DOCUMENTATION:

- 5.1 State Specific Guidelines
- 5.2 Beneficiary Inducement & Waiver of Co-Pays & Deductibles Policy
- 5.3 Code of Conduct
- 5.4 Deficit Reduction Act Policy
- 5.5 Offer and Acceptance of Gifts and Business Gratuities Policy
- 5.6 Physician Self-Referrals Policy
- 5.7 Progressive Discipline Policy
- 5.8 Policy and Procedure Cross-Walk