

## **Arc of Onondaga Corporate Compliance Plan**

The Corporate Compliance Plan consists of seven key elements as well as a wide array of policies and procedures that address key risk areas, to guide our best efforts to operate under ethical and legal standards. The agency-wide Code of Conduct is also a key part of the Corporate Compliance Plan. An overview of each element is described below.

### **Element I: Corporate Compliance Plan – Policies and Procedures**

Our compliance philosophy is expressed within this Corporate Compliance Plan and related documents, including our Code of Conduct, our policies and procedures related to compliance, program operations, human resources and fiscal management. Collectively, these documents establish standards and procedures that must be followed by Arc of Onondaga employees and, as applicable, independent contractors and the Board. Understanding and following these standards will reduce the prospect of unethical, illegal and criminal conduct.

#### **A. Code of Conduct**

The purpose of Arc of Onondaga's Code of Conduct is to provide information and guidance to all employees, independent contracts and the board to assist in carrying out the day-to-day responsibilities within legal and ethical standards.

Arc of Onondaga Code of Conduct is a set of guiding principles that are more completely developed in the Corporate Compliance Plan and its related policies and procedures. Our Code of Conduct, which reflects our tradition of caring, provides guidance to ensure our work is done in an ethical, legal manner. The Code of Conduct emphasizes the shared common values and culture we seek to cultivate that guides our actions each day.

Arc of Onondaga requires that each employee, independent contractors and Board member sign a written acknowledgment that he or she understands and will follow Arc of Onondaga Code of Conduct.

#### **B. Policies and Procedures**

Arc of Onondaga has developed and will continue to develop policies and procedures to implement the Corporate Compliance Plan. These policies and procedures establish the activities and processes that Arc of Onondaga will undertake to operate in conformance with all applicable laws and regulations. The agency will review, revise and develop new policies and procedures, as necessary, to ensure that Arc of Onondaga's operations are conducted with "best practices". The policies and procedure of not only the health regulatory components of the agency, but also those related to human resources, environmental health and safety and financial operations shall apply broadly to each employee through this Corporate Compliance Plan. Divisional policies and procedures, as well as agency-wide policies, have been established to outline

compliance standards and practices, including documentation and billing of client services.

### **Element II: Compliance Program Structure and Oversight Responsibilities**

Arc of Onondaga is committed to the operation of an effective compliance program and has assigned compliance oversight responsibilities to individuals at the management level. Individuals with day-to-day compliance oversight authority occupy high levels in the agency's organizational structure, including the Corporate Compliance Officer, and are empowered to implement the Corporate Compliance Plan, investigate compliance concerns, report compliance concerns directly to those in higher positions of authority, up to and including, the President, Arc of Onondaga Board of Directors and the Executive Director.

Arc of Onondaga has established a Corporate Compliance Committee comprised of key management and operations staff and agency leadership with responsibility to meet regularly to advise the Corporate Compliance Officer, to identify and resolve compliance concerns and to continue to improve and refine the agency's overall compliance activities. Arc of Onondaga Board of Directors will be an integral part of the Corporate Compliance Plan and will be knowledgeable about the content and operation of the agency's Corporate Compliance Plan and will exercise oversight with respect to the implementation and effectiveness of the Corporate Compliance Plan.

### **Element III: Due Care in Assignment of Responsibilities – Background Checks**

Arc of Onondaga will use due care not to employ, contract with or delegate substantial discretionary authority to any individual with a propensity to engage in illegal activities. In order to maintain the integrity of our services and financial and business operations, it is critical that the agency hire and contract with individuals and entities that have the same respect for applicable legal and ethical obligations that the agency has. This standard applies to all personnel, including those in positions with "substantial" control over Arc of Onondaga, including, but not limited to those having the ability to affect and determine policy and to negotiate contracts.

Arc of Onondaga will conduct exclusion screening of all current and proposed employees and independent contractors. Exclusion checks are completed through both the Office of Inspector General List of Excluded Individuals/Entities and the General Service Administration Excluded Parties List System. An additional check is completed through the NYS Department of Health. Additionally, the agency will verify that entities and businesses that provide and/or perform service for the agency have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs.

Arc of Onondaga will also comply with requirements promulgated under state law with respect to background checks and appropriate screening activities as those requirements apply to personnel with the agency's operations.

#### **Element IV: Education and Training**

The Board of Directors, all employees and, as applicable, independent contractors, must be informed about regulatory requirements and agency policies and procedures that implement these requirements, as they apply to each individual. Therefore, Arc of Onondaga will adequately train the Board, high-level personnel, substantial authority personnel, employees and independent contractors on the organization's standards and procedures. The agency will continuously identify training topics, including those arising as a result of self-monitoring, audits by regulatory agencies and regulatory developments.

New employees receive training in Arc of Onondaga Code of Conduct, this Corporate Compliance Plan and those policies and procedures relevant to their job duties as part of agency-wide Orientation. Additional training, tailored to the roles and responsibilities of each group of individuals and in a manner that the individual can understand, is provided on a divisional basis.

#### **Element V: Auditing and Reporting**

##### **A. Internal Auditing and Monitoring**

Arc of Onondaga is committed to routinely conducting internal audits of concerns that have regulatory or compliance implications. Appropriate individuals in key management positions will be responsible for engaging in self-monitoring processes conducted within specific departments/divisions. We believe that a combination of various compliance reviews will permit us to maintain a consistent conformity to relevant laws and regulations, while fulfilling a commitment to identify and share best practices.

##### **B. Reporting by Employees**

Each employee has a responsibility to report through our compliance processes any activity by any colleague, clinician, independent contractors or client that appears to violate applicable laws, rules, regulations, accreditation standards, standards of medical practice or the Corporate Compliance Plan. Arc of Onondaga encourages a culture in which all employees feel free to report behaviors or actions which they believe should be reported. Therefore, the effectiveness of our Corporate Compliance Plan depends on the willingness and commitment of the employees in all parts and at all levels of the agency to step forward, in good faith with questions and concerns. Likewise, we are committed to making every effort to maintain, within the limits of the law, the confidentiality of the identity of any individual who reports a concern in good faith.

It is an expected good practice, when one is comfortable with it and thinks it is appropriate under the circumstances, for concerns to be raised first with a supervisor. If this is not comfortable or not a viable option, employees are encouraged to contact the Corporate Compliance Officer directly, at 476-7441, extension 127, or leave a message on the Corporate Compliance Hotline at 476-7441, extension 310, where reports may be made confidentially.

Any employee who intentionally makes a false accusation with the purpose of harming or retaliating against a colleague will be subject to appropriate disciplinary action.

**Element VI: Disciplinary Action and Incentives**

Failure to comply with the Corporate Compliance Plan, the Code of Conduct and/or laws and regulations applicable to Arc of Onondaga and our operations may result in disciplinary action. Retraining of staff will occur if misconduct is based on a lack of awareness or understanding of a regulatory obligation, policy or procedure. Resolution of disciplinary issues will be determined through the Corporate Compliance Plan structure in direct cooperation with the appropriate manager and Division Director, the Associate Executive Director, the Human Resources Director, and the Corporate Compliance Officer and, as appropriate, the Executive Director. The degree of discipline may range from counseling, verbal warnings, written warnings, recommended change or discontinuation of privileges, termination of a contract, termination of employment or removal from a particular position or function – and the agency will endeavor to be consistent in its approach to discipline with the same disciplinary action for similar offenses. The agency will also seek to reward employees who foster a culture of compliance.

**Element VII: Detection and Response**

Arc of Onondaga is committed to fostering our culture of compliance through detecting, correcting and preventing non-compliance behaviors. Through the process of our corporate compliance reporting structure and the articulation of compliance-related roles and responsibilities at every level of the agency's operations, detection and correction of problems is expedited. If an internal investigation substantiates a reported violation, then it is our policy to engage in a two-fold process: (1) to initiate corrective action, including, as appropriate, making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, instituting whatever disciplinary action is necessary; and (2) implementing systemic changes to prevent a similar violation from recurring in the future.

Detailed policies and procedures regarding any of the above elements, as well as copies of applicable federal and state laws, are available by contacting the Corporate Compliance Office, at 315-476-7441, extension 127.

# Arc of Onondaga Code of Conduct

## **Mission**

Arc of Onondaga assists individuals with developmental disabilities achieve their fullest potential.

## **Vision**

All people with developmental disabilities will be respected, contributing citizens who will achieve their fullest potential for independence and inclusion in the community.

## **Core Values**

We believe that . . .

- Services are best provided in a personalized manner designed around the individual's needs and desires.
- Working together, in partnership with the community at large, creates the best opportunities for people with developmental disabilities
- Our success is dependent upon having a qualified, caring, and trained staff
- All individuals should be treated with dignity and respect.
- The drive for excellence and continuous quality improvement is part of all that we do.
- We must be flexible and seek out opportunities for advancement and growth.
- Sound, ethical business practices ensure financial stability and future organizational success.
- We must be diverse and culturally sensitive.

## **Commitment to Stakeholders**

To the individuals we serve: We are committed to providing the highest quality of care, in a caring and compassionate manner and conscious of unique individual needs.

To the families and communities we serve: We are committed to understanding the unique needs of the individuals we serve and to provide our services with cost-effective, quality services.

To our employees: We are committed to a work setting which is safe, which treats all employees with fairness, dignity and respect, which affords all employees an opportunity to grow, to develop professionally, and to work in a team environment where all ideas are considered.

To our third party payors: We are committed to working with our payors in a way that demonstrates our commitment to our contractual obligations and reflects our shared concerns for quality services in an efficient and effective manner. We encourage our payors to adopt their own set of ethical principles that recognize their obligations to the individuals we serve, as well as the need for fairness between providers and payors.

To our regulators: We are committed to creating an environment in which compliance with applicable rules, laws and regulations is woven into the fabric of the Arc of Onondaga. We accept responsibility to self-govern and monitor adherence to requirements of law and our Code of Conduct.

To our suppliers: We are committed to fair competition among existing and prospective suppliers. We encourage our suppliers to adopt their own set of standards and ethical practices.

### **Rules of Conduct**

We believe that certain rules of conduct must be observed to promote a positive and ethical work environment and pledge to abide by the laws, regulations and Arc of Onondaga policies and procedures, including, but not limited to those related to the Corporate Compliance Plan.

We also understand that, as individuals working for and on behalf of the Arc of Onondaga, we have the added responsibility of following specific rules of conduct, as described below:

- To work cooperatively and respectfully with all employees, Board members and agents to provide the highest quality of services;
- To place the interests of the people we serve and their family members first and foremost in all aspects of what we do;
- To represent the Arc of Onondaga positively in the community at large;
- To conduct all activities in a fiscally responsible manner;
- To work in accordance with applicable laws, regulations and agency policies;
- To seek training and assistance in areas that would strengthen the ability to fulfill responsibilities to clients and the Arc of Onondaga;
- To avoid conflicts of interest, including the acceptance and giving of gifts;
- To conserve resources of the agency by not engaging in wasteful behavior;
- To treat confidentially information related to the agency and its consumers and to respect the privacy of consumers and fellow employees
- To complete tasks in a timely manner and meet expectations for the quality of work that the Arc of Onondaga strives to achieve;
- To bill individuals and third party payors accurately;
- To report to a supervisor or to the Arc of Onondaga Compliance Hotline any potential violation of applicable laws, regulations and policies, including the Corporate Compliance Plan;
- To respect the role of the Board and management and to fully implement their decisions; and
- To consult Arc of Onondaga leadership when questions arise as to the conduct permitted under applicable laws, regulations and policies, including the Corporate Compliance Plan.

# **Corporate Compliance Program**

## **What is Corporate Compliance?**

A set of business practices and principles which allow the Arc of Onondaga to be in legal conformance with the Federal Government's guidelines for Medicaid reimbursement of programs and services. These practices and principles make up the Corporate Compliance Program.

Corporate Compliance is defined as a long term commitment by an organization to conduct business in a manner that promotes compliance with laws and regulations, that continually monitors itself for compliance, and has created systems to allow the organization to respond to changes in the regulatory environment.

Arc of Onondaga is committed to making sure that we provide high quality services with the highest degree of integrity, and always act in an ethical manner.

## **What are the elements of the Corporate Compliance Plan?**

- Designation of a Corporate Compliance Officer and a Corporate Compliance Committee
- Development of a Code of Conduct, and written policies & procedures
- Training and education of all employees
- Confidential communication using the Hotline or speaking directly with the Corporate Compliance Officer
- Enforcement of the standards
- Billing affirmation statement or proof of service
- Auditing and monitoring – by all divisions and Quality Assurance
- Corrective action

## **What are some of the Rules of Conduct and Compliance Standards?**

- To work cooperatively and respectfully with all employees, Board members and agents to provide the highest quality of services;
- To place the interests of the people we serve and their family members first and foremost in all aspects of what we do;
- To represent the Arc of Onondaga positively in the community at large;
- To conduct all activities in a fiscally responsible manner;
- To work in accordance with applicable laws, regulations and agency policies;
- To seek training and assistance To avoid conflicts of interest, including the acceptance and giving of gifts;
- To conserve resources of the agency by not engaging in wasteful behavior;
- To treat confidentially information related to the agency and its consumers and to respect the privacy of consumers and fellow employees
- To complete tasks in a timely manner and meet expectations for the quality of work that the Arc of Onondaga strives to achieve;
- To bill individuals and third party payors accurately;
- To report to a supervisor or to the Hotline any potential violation of applicable laws, regulations and policies, including the Corporate Compliance Plan; Hotline number is 476-7441, extension 310

- To not make any false entries in any of the agency's records or in any public record for any reason.
- To correct entries in the correct manner – errors should be crossed out with a single line, initialed and dated.
- To not create or participate in the creation of any records that are intended to mislead or to conceal anything that is improper.
- To document only the services that he or she provided.
- To complete documentation contemporaneously with the provision of services.
- To complete documentation of plan implementation in accordance with program identified guidelines and parameters
- To implement plans according to identified frequency.
- To ensure documentation includes all required elements, and must be made in ink, permanent and legible.
- To not bill for goods or services that were never delivered or rendered
- To report overpayment to the Government

**Note:** This list is not exhaustive or all inclusive

### **What is the Deficit Reduction Act of 2006?**

These are mandated requirements for adoption by Medicaid services providers, such as Arc of Onondaga, that must be adopted. The purpose of this act is to strengthen the protection against fraud and abuse in the Medicaid program. The basis of this act is the False Claims Act.

### **The False Claims Act**

This act (31 U.S.C. § 3729 *et seq*) is designed to discourage fraud and allow for whistleblower protection (*qui tam*) to those who report known or suspected cases of fraud to the Department of Justice. This law applies to any federally funded contract or program, with the exception of tax fraud. At the Arc of Onondaga, these provisions will apply to the employees of the organization, contractors, or agents that have a business relationship to the Arc of Onondaga.

There are seven areas of liability under the False Claims Act:

Any person who:

1. Knowingly presents or causes to be presented a false or fraudulent claim, payment or approval;
2. Knowingly makes, uses, or causes to be used a false record or statement to get a claim paid or approved by the Government
3. Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
4. Has possession, custody, or control of property or money used, or to be used, to defraud the Government, or willfully to conceal the property, delivers or causes to be delivered, less property than the amount for the person receives a certificate or receipt;
5. Authorized to make or deliver a document certifying receipt of property used, or to be used, by Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

6. Knowingly buys, or receives as a pledge of an obligation or debt, public property from any officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property;
7. Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.

### **How is “Knowingly” Defined?**

For the purposes of this procedure, “knowing or knowingly” are defined as the following:

- a. has actual knowledge of the information
- b. acts in deliberate ignorance of the truth or falsity of the information, or
- c. acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

### **Where are Whistleblower Protection procedures Outlined?**

In the policy/procedure called “Reporting Compliance Concerns and Non-Retaliation”, located in the Corporate Compliance section of the Administrative Manual.

### **How is a Claim Defined?**

A claim refers to 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 federal government provides any portion of the money or property which is requested, demanded, or if the government will reimburse such.

### **Reasons to “hold” or “void” a bill:**

We will deliver services on each day that a consumer attends, but we will not necessarily bill each day of service. On some days/weeks/months, we may hold up a bill until a document arrives or we, in some other way, fix the documentation problems. Here are some reasons to hold or void a bill:

1. Level of Care Eligibility Determination (LCED) creates a gap from the date of the previous one.
2. No documentation of service
3. Daily documentation is not legible – and legibility does not mean that *you* can read it but that *anyone* can read it
4. Daily documentation does not match up to the habilitation plan
5. Evidence of double billing
6. Daily documentation that lacks staff signature or initials, or is not dated with a 3-part date, or missing a job title is not acceptable. There must be a legend for the initials and initials must be used the same way each time.
7. The “smear” test – when you run your finger over a pen marking and it smears on the paper – this is not an acceptable writing instrument
8. Insufficient hours of attendance
9. If the ISP is not current, incomplete or in error

### **How is “Current” Defined?**

An ISP is current as long as it has been reviewed by the close of the 6<sup>th</sup> month following the previous review. It must identify the agency as the provider of the identified service.

It must be signed by at least one MSC staff person – either the Service Coordinator or the MSC Supervisor.

### **How are “Fraud” and “Abuse” Defined?**

**Fraud:** An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.

Common examples of fraud: Falsifying a mileage statement, falsifying a time-sheet, documenting that a service was provided when it did not take place, falsifying a Business Expense report.

**Abuse:** Provider practices that are inconsistent with sound fiscal, business or medical practices and result in an unnecessary cost to the Medicaid Program, or in reimbursement for services that are not medically necessary or that fail to meet professional recognized standards for healthcare.

Common examples of abuse: providing more service than is authorized, insufficient documentation of the service delivery, providing an unauthorized service, or providing far less quality than is agreed upon or required by regulations. Another example would be providing a low intervention of service, which prevents the individual from making progress or results in a more restrictive placement. Not reporting on progress or failing to make changes to the plan to achieve progress or at least to maintain the current level of performance.

### **What is Misconduct?**

Any act or omission by an employee, including the failure to report known non-compliance, which could cause financial liability or non-certification of any program or site being operated by the Arc of Onondaga.

### **Course of Action:**

When an event has been report, the Quality Assurance Director makes an initial inquiry and determines if a full investigation is necessary. If necessary, an investigator is assigned. The Corporate Compliance Committee is informed of the investigation, the results of the investigation, and actions taken to address the issue.

### **Disciplinary Action**

Any employee found to have committed abuse or fraud may be subject to disciplinary action up to termination. Legal action may also be considered.

To Report a Compliance Concern, contact:

**Ellen Gutmaker, Corporate Compliance Officer – 476-7441, ext 127**

or

**Confidential Hotline – 476-7441, ext 310**