

Arc of Onondaga Corporate Compliance Plan

The Corporate Compliance Plan consists of eight 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 contractors and the board to assist in carrying out the day-to-day responsibilities within legal and ethical standards.

The 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 the Arc of Onondaga Code of Conduct.

B. Policies and Procedures

Arc of Onondaga has developed and will continuously review policies and procedures associated with 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 procedures of not only the 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 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, the Arc of Onondaga Board of Directors and the Executive Director. The Compliance Officer is an employee of the agency and reports directly to 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 is an integral part of the Corporate Compliance Plan and is knowledgeable about the content and operation of the agency's Corporate Compliance Plan. The Board of Directors exercises oversight with respect to the implementation and effectiveness of the Corporate Compliance Plan and receives periodic updates directly from the Compliance Officer.

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

The 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. All current and prospective employees will be required to disclose, on a periodic basis, whether he or she has committed a crime, including health care related crimes.

Further, Arc of Onondaga checks to determine if new hires or existing employees, independent contractors and members of the Board of Directors have been excluded from participation in the federal healthcare programs by checking the OMIG and OIG's "List of Excluded Individuals/Entities", a database which provides a list of parties excluded from participation in federal healthcare programs. Similarly, the General Services Administration maintains the List of Parties Excluded from Federal Procurement and Nonprocurement programs, which identifies those parties excluded from receiving federal contracts or certain subcontracts and certain types of federal financial and nonfinancial assistance and benefits.

Arc of Onondaga also complies 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 adequately trains 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 the 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. Compliance training is provided annually to all employees.

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.

For the purpose of reporting compliance concerns, all employees as well as Board members have access and can report concerns directly to the Compliance Officer. The Compliance Officer can be contacted in a variety of ways, including direct contact, in writing or via telephone. The Corporate Compliance Hotlines allows for anonymous and confidential reporting of compliance issues.

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

Compliance Officer at 315-476-7441, extension 1127 or the Corporate Compliance Hotline at 476-7441, extension 1310

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 appropriate Assistant 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.

Element VIII: Non-intimidation and Non-Retaliation

Arc of Onondaga maintains a policy of non-intimidation and non-retaliation for good faith participation in the compliance program. Specific areas of protected activity include, but are not limited to, reporting potential issues, investigating issues, self-evaluations, audits and remedial actions and reporting to appropriate officials as allowed by NYS Labor Laws §§ 740 and 741,

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
- Policy of non-retaliation and non-intimidation

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 1310

- 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 on an annual basis. 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 Assistant Executive Director for Quality & Compliance Services 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:

Donna Loveland, Corporate Compliance Officer – 476-7441, ext 1127

or

Confidential Hotline – 476-7441, ext 1310