Corporate Compliance Statement and Policy Guidelines

Code of Conduct: Section C-20

Applicability

This policy applies to all **Affected Others, defined as all persons who are affected by the Agency's risk areas and includes, all employees, chief executives/senior administrators, agents, managers, contractors, subcontractors, independent contractors, governing body and corporate officers.**

Employees and all Affected Others must not engage in, or refuse to engage in any conduct that is contrary to this policy.

RSS Commitment

The Agency is committed to providing consumers and their families with quality behavioral health and rehabilitative services. It is the policy of the Agency to consistently and fully comply with the letter and spirit of all applicable federal and state law and regulatory requirements. It is the duty of the Agency and all affected others to comply with all federal and state standards and conduct all business in a legal and ethical manner. This Policy is intended to comply with the requirements of the Deficit Reduction Act, the False Claims Acts and requirements outlined in regulation and law.

RSS Compliance Program Expectations

- **Billings:**
  - All claims submitted to a payer are accurate and complete supported by appropriate documentation in the record
- **Payments:**
  - Payments received from payers are appropriate and accurate.
- **Ordered Services**:
  - Accurate and appropriate documentation is contained within the record regarding the individual/entity ordering the services and it is in compliance with regulation and an individual's scope of practice
- **Medical Necessity**
  - Consumers meet the eligibility requirements for services
  - The need for admission and continued stay in the service is clearly documented
  - Evidence of progress in that the consumer is benefitting from the service
- **Quality of Care:**
  - Quality services are provided throughout all RSS programs and services
- **Governance:**
  - The RSS Board of Directors is charged with providing high level oversight of RSS activities and performance; ensuring accountability of executive leadership and the organization.
- **Mandatory Reporting:**
  - Duty to Report: RSS and its affected others must adhere to the requirement to report observed or suspected fraud, waste or abuse

- **Credentialing:**
    - Staff providing services are appropriately credentialed. Consumers of RSS services receive the highest level of care from qualified individuals.
- **Contractor, subcontractor or independent contractor oversight:**
    - Contractors, subcontractors or independent contractors support and are privy to the RSS Compliance Program.
    - RSS maintains oversight of all persons or companies (related to RSS Risk Areas) and ensures they are knowledgeable of the RSS Compliance Program and expectations

Clearance through Federal and State Exclusion Lists

- Medicaid/Medicare seeks to ensure that the medical providers participating in the program are professional, ethical and provide recipients with quality healthcare services. When it is determined that a provider should no longer be eligible to participate in the program due to unethical behavior, the individual or entity is placed on a list of excluded providers.
- Individuals or entities (excluding client trainees) who are on the State or Federal Exclusion List are prohibited from being employed by or contracting with RSS in any capacity.
- Prior to hire and every 30 days thereafter, RSS checks the OIG (Federal) and OMIG (State) Exclusion Lists to ensure that RSS affected others are not excluded from participation in Medicaid, Medicare or other federal health care programs.

Duty to Report

- Affected individuals are required to report any suspected fraud, waste or abuse or other improper activity as soon as they suspect or become aware of it.
- Affected individuals are required to report conduct that is observed or discovered that is contrary or inconsistent with RSS Standards of Conduct, agency procedures, rules regulations or the law
- How to Report:
    - Contact your supervisor and/or Managing Director
    - Contact the RSS Human Resources Department at 518-579-4243
    - Contact the RSS Compliance Officer at 518-579-4208
    - Report Anonymously at 855-222-0629
    - Report via email at compliance-privacy@rehab.org

Policy on Non-Retaliation/Whistleblower Provisions:

- No individual or affected other who in good faith reports any action or suspected action taken by or within RSS that is illegal, fraudulent, or in violation of any adopted policy of RSS shall suffer intimidation, harassment, discrimination or other retaliation, or in the case of employees, adverse employment consequences.
- Intimidation and retaliation is also prohibited against an affected other for refusing to carry out any activity that is the subject of a report made under this policy in good faith. No employee or affected other may threaten to retaliate against another individual for filing a report.
- Prohibited retaliation includes, but is not limited to; termination, suspending, demoting or failing to consider for promotion, harassing or reducing compensation of an employee due to

the employees intended or actual filing of a report under this policy. Retaliation is prohibited even if it is determined that the alleged improper conduct was proper or did not occur, provided that the report was made in good faith.

- RSS reserves the right to take disciplinary action on any affected individual who maliciously files a report he or she knows to be untrue.

Affected Other's Responsibilities in the RSS Compliance Program

- Ensure that all service documentation is accurately documented
  - Never document a service that was not rendered
  - Never willfully misrepresent the date on which a service was provided

- Ensure that all service documentation is documented in real-time and demonstrates the unique details of the service interaction
  - Never copy and paste information related to any consumer interaction

- Ensure prior to any claim submission that a service was rendered and accurately documented
  - Never bill for services not rendered

- Ensure that all required documentation is maintained and accurate in support of claims made to Medicaid or other payers

- Ensure that Medicaid is only billed as the payer of last resort
  - Never Bill Medicaid when the individual has other primary insurance which covers the service

- Ensure consumer is eligible for services and benefits are in place prior to claim submission
  - Never submit a false claim related to the eligibility of an individual to receive benefits

- Ensure the accuracy of all costs or cost reports filed with government agencies or private funders
  - Never inflate or misrepresent agency costs on cost reports filed with government agencies or private funders

- Ensure medically necessary healthcare services are provided to all consumers
  - Never intentionally deny or restrict access to medically necessary healthcare services to which the agency is responsible

- Ensure Medicaid/Medicare/Medicaid Managed Care coverage for each consumer

            - Never bill Medicaid/Medicare for a client if the employee is aware that the client or his or her family obtained coverage fraudulently

- Ensure the accuracy of all reports submitted to a government agency
    - Never submit inaccurate or misleading data or reports to a government agency or other funder

- Ensure all funds received from payers are used in a manner consistent with the payer requirements
    - Never use grant funds from government agencies in a manner inconsistent with requirements

- Ensure the appropriate use of all agency funds

- Ensure compliance with all laws, regulations or government contracts

Structure of the RSS Compliance Program

1. **Written Policies and Procedures:**
    - As an employee or affected other you are expected to be familiar with RSS Policies and Procedures, the standards of conduct as well as the required documentation and billing procedures based upon your role in the organization. Supporting documentation is required to be on file in the Human Resources Department upon hire/appointment and annually thereafter. RSS Policies and Procedures are available through formal trainings, from your supervisor and maintained in the Relias Learning Management system.
2. **Compliance Officer and Compliance Committee:**
    - RSS employs a full-time Compliance Officer dedicated to Corporate Compliance
    - RSS has a Compliance Committee made up of Senior staff which meets on a quarterly basis
    - Duties are outlined in the RSS Compliance Committee Charter which is available in the Relias Learning Management System
3. **Required Training and Education**
    - RSS maintains a comprehensive training and education program for all affected individuals
    - Affected individuals are expected to adhere to training expectations and guidelines as outlined in the training plan
        - Board of Directors
        - Employees, Students, Volunteers, Agents
            - Failure to complete required training will result in disciplinary action as outlined below:
                - First Notice: To complete required training within 30 days

- Failure to complete within 30 days, results in manager scheduling a time in office for employees to complete within next 15 days or suspension will occur
- Failure to complete within 15 days as scheduled will result in suspension without pay and requirement to complete within one week-staff is instructed to schedule time to report to the program site to complete the training-once completed the suspension will be lifted
- Failure to complete within one (1) week results in discipline up to and including termination (decision to not terminate takes into consideration any extenuating circumstances)

- Contractors/Subcontractors/Independent Contractors who are subject to the RSS Compliance Program
  - First Notice: to complete required training prior to execution of contract
  - Failure to complete the required training will result in delay in contract and/or termination of contract

4. **Lines of Communication**
   - **Duty to report suspected fraud, waste or abuse**
5. **Disciplinary Standards for Violation of the Compliance Program**
   - RSS maintains a commitment to the need for clear disciplinary standards and practices. Disciplinary standards and outcomes are managed by the Human Resources Department.
6. **Auditing and Monitoring**
   - RSS maintains an extensive Auditing and Monitoring Program
   - Additional detail of the RSS Auditing and Monitoring Plan can be found in the Relias system.
7. **Response to Compliance Issues**
   - It is the policy of RSS to respond promptly to any reports or other information when there is an allegation or suspicion of non-compliance with the Compliance Program by commencing a thorough investigation to determine whether a non-compliance violation has occurred.

Willful violation of the RSS Compliance Policy

- Will result in immediate termination of employment or contract

Federal and State Laws

NYS Social Services Law §145(b): False statements: Actions for Treble Damages

- It shall be unlawful for any person, firm or corporation knowingly by means of a false statement or representation, or by deliberate concealment of any material fact, or other fraudulent scheme to device, on behalf of himself or others to attempt to obtain payment from public

funds for services or supplies furnished or purportedly furnished. This includes any claim for payment made to the state, or an entity performing services under contract to the state or a political subdivision of the state; an acknowledgement, certification, claim, ratification or report of data which serves as the basis for a claim or rate of payment, financial information whether in a cost report or otherwise, healthcare services available or rendered, and the qualifications of a person that is or has rendered healthcare services. For any violation, the state will have the right to recover civil damages equal to three times the amount by which any figure is falsely overstated.

- The Medicaid Inspector General or may implement monetary penalties if:
  - It receives or causes to be received by another person, payment from the medical assistance program when such person knew, or had reason to know that:
    - The payment involved the providing or ordering of care, services or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished
    - The care, services or supplies for which payment was received were not, in fact, provided

NYS Social Services Law §366-B: Penalties for Fraudulent Practices:

- Any person wo knowingly makes a false statement or representation, or who by deliberate concealment of any material fact, or by impersonation or other fraudulent device, obtains or attempts to obtain or aids or abets any person to obtain medical assistance to which he is not entitled, shall be guilty of a class A misdemeanor, unless such act constitutes a violation of the penal law of the state of NY, in which case he shall be punished in accordance with penalties fixed by such law.
- Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise shall be guilty of a class A misdemeanor, unless such act constitutes a violation of a provision of penal law of the state of NY, in which case he shall be punished in accordance with penalties fixed by such law.

The Deficit Reduction Act of 2005 (DRA): 18 NYCRR § 1396-a(a)(68)

- Passed into law in February, 2007 requires providers receiving at least 5 million in payments from Medicaid to establish clear written policies describing the provisions and requirements of certain federal and state anti-fraud statutes and qui tam or whistleblower provisions at the federal and state level.

The Federal and State False Claims Acts (FCA 31 USC 3729-3733):

- Imposes liability on any person who submits a claim to the government that he/she knows (or should know) is false. It is law that bars a person or entity from “knowingly” presenting or causing to be presented a false or fraudulent claim for payment. It is illegal to submit claims for payment to Medicare or Medicaid that you know, or should know are false or fraudulent.

Federal False Claims Act (FCA) (Title 31 United States Code § 3729- 3733): The False Claims Act is a federal statue that covers fraud involving any federally funded program, such as Medicaid and Medicare. The Act establishes liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the government for payment. The provisions under the FCA state that it is a violation to:

- Knowingly present or cause to be submitted a false claim to the government. "Knowing" and "knowingly" mean that a person with respect to information actually has knowledge of the information, acts in deliberate ignorance of the truth or falsity of information; or acts in reckless disregard of the truth or falsity of the information and no proof of specific intent to defraud is required.
- Knowingly uses a false record or statement to obtain payment on a false claim paid by the government
- Engages in a conspiracy to defraud the government by the improper submission of a false claim for payment

NYS False Claims Act

- Signed into legislation in April, 2007.
- Closely tracts the Federal False Claims Act
- Penalties and fines for individuals or entities that file false or fraudulent claims for payment from any state or local government including health care programs such as Medicaid/Medicare

Affordable Care Act

- In March, 2020 President Obama signed the Affordable Care Act into law
- Comprehensive reforms to improve access to affordable health coverage for everyone and to protect consumers from abusive insurance company practices
- Allows all Americans to make health insurance choices that work for them while guaranteeing access to care for the most vulnerable
- Strengthens consumer rights and protections, grants more affordable coverage, gives better access to care

Definitions

Fraud: Intentional deception or misrepresentation made with the knowledge that the deception could result in an unauthorized benefit to the provider or another person

NYS Office of Medicaid Inspector General (OMIG)

The Office of Medicaid Inspector General (OMIG) is an independent entity created within the NYS Department of Health to promote and protect the integrity of the Medicaid Program in NYS. OMIG conducts and coordinates investigations, detection, audit and review of Medicaid providers and recipients to ensure compliance with law and regulation.

Office of Inspector General (OIG)

Independent entity in the US Department of Justice who's mission is to promote integrity , efficiency and accountability within the Department of Justice. Forefront of the nations efforts to fight waste, fraud and abuse to improve the efficiency of Medicaid, Medicare and the Department of Health and Human Services Programs.