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Bureau of Compliance Identified Compliance Program Best Practices As of March 31, 2014

The Office of the Medicaid Inspector General's (OMIG's) Bureau of Compliance conducts compliance program reviews of New York Medicaid providers who are required to have compliance programs. If a best practice in compliance is identified during the course of the Bureau's review of a provider's compliance program, it is included in the Bureau's written assessment. Best practices are cited to recognize new and innovative approaches to mandatory compliance with the hope that this will encourage innovation and improvements in Medicaid program integrity.

New York State Social Services Law §363-d recognizes that a wide variety of provider types are enrolled in the Medicaid program and that compliance programs should reflect a provider's size, complexity, resources, and culture. However, the statute requires that all compliance programs satisfy the eight elements set out in §363-d subd. 2 and 18 NYCRR 521.3(c). The best practices identified leverage those eight elements beyond the letter of the law and regulations and serve as examples for other providers. OMIG recognizes that one provider's best practice may not be reasonably attainable by another due to a provider's type, size, complexity, resources, and culture.

The following is a list of best practices in compliance identified during the Bureau of Compliance's reviews of providers' compliance programs.¹ OMIG intentionally did not break this listing down by provider type, as it is expected that best practices could apply to all provider types. Due to the evolving nature of compliance, increased allocation of resources to compliance, and other legislative and regulatory factors, what is identified as a best practice now may become the standard later.

This listing is broken down by the required compliance program element and will be updated periodically on OMIG's Web site. The information contained in parentheses following each item indicates the period during which it was added to the list. Updates have been made to some previously published items to reflect additional guidance on the same topic.

¹ The best practices cited have been edited, and, in some cases, combined for purposes of presentation in this format. If best practices are combined, the parenthetical entry reflects the period when the most recent addition was made.

Element (1) Written policies and procedures

1. Publication of code of conduct and/or compliance plan document on the provider's intranet and/or public Web site. (7/2011)
2. Language in the compliance plan document outlines the benefits of a corporate compliance program as a way to obtain buy-in from the provider's constituency. (1/2013)

Element (2) Designate an employee vested with responsibility

1. The compliance officer reports directly to the governing board, with dotted line responsibility to a member of senior management. (7/2011)
2. The chief executive officer receives regular reports from the compliance officer if the compliance officer does not report directly to the CEO. (7/2011)

Element (3) Training and education

1. Use of an electronic training and education system that tracks mandatory compliance education of employees via an electronic system which:
 - a. is customized to the organization;
 - b. sends an individualized e-mail to employees to announce upcoming required and elective training; and
 - c. tracks each employee's required compliance training and educational needs. (7/2011)
2. Results of online compliance education quiz scores are analyzed and tracked to identify areas of weakness for both the education program and for those being trained. Additional training and education is provided based on this analysis. Results of the online post-test quizzes are utilized to identify risk areas and assess the need for internal monitoring and auditing. (7/2011)
3. The compliance training and educational materials are tailored to the needs of differing organizational levels as well as the educational backgrounds of all employees. (7/2011)
4. Issuance of a brochure to consumers, partners, and vendors that highlights the provider's quality initiatives and commitment to performance and quality improvement. The brochure includes a "CONTACT US" section, which identifies contact names and numbers of the compliance staff. (7/2011)
5. The compliance manual/code of conduct is distributed annually and upon hire. (7/2011)

Element (4) Communication lines to the responsible compliance position

1. The compliance program operates in an environment of transparency throughout the organization and includes communication lines among the president/director, senior management, and employees. (7/2011)
2. Human resource department's exit interviews of employees include specific compliance-related questions that are fed back to the compliance function. (7/2011)
3. Clients/patients receive information on how to identify Medicaid fraud and how any concerns can be reported to management. They also are given examples of Medicaid fraud, and compliance-related issues. (7/2011)
4. An electronic information board is used for communication as part of compliance education for

staff and patients. (10/2011)

5. Provider issues laminated cards to all employees to wear with their ID badges. The cards include the compliance officer's contact information; a list of compliance risk areas; and a summary of the provider's policies addressing the risk areas items. The cards are printed in five different languages. (3/2014)

Element (5) Disciplinary policies to encourage good-faith participation

1. Employee performance evaluations incorporate compliance as one indicator of performance, as well as an employee's adherence to applicable laws, regulations, and policies. (7/2011)

Element (6) A system for routine identification of compliance risk areas

1. The Compliance Program uses a comprehensive self-assessment tool to plan and develop an annual compliance work plan. (7/2011)
2. A compliance dashboard centralizes information to track and provide reports on compliance activities. (7/2011)
3. Internal monitoring and auditing systems are used throughout the agency as evidenced by:
 - a. Teams of cross-trained peer reviewers, who conduct quarterly case record reviews in each program area to ensure that documentation complies with established requirements and to ensure quality of service provided. This review is conducted as part of a quality improvement program.
 - b. Monthly reviews of case records are conducted to ensure compliance with admission criteria and continued treatment, as part of a utilization review process.
 - c. A pre-claim review process is used prior to submission of Medicaid claims to address billing and coding errors and weaknesses. (7/2011)
4. Identified risk areas are tracked month to month, analyzed, and trended to monitor the identified risk area activity. The data is shared with committee members and the governing board with the goal of improving the number of identified risk areas, processes, and outcomes. (7/2011)
5. An internal audit of 100 percent of the medical records for accuracy of the individual education plans of school programs where physical therapy/occupational therapy staff provides services is utilized as a compliance risk reduction measure. (10/2011)
6. Individualized sampling of medical records is conducted to assess the accuracy of ordered services and whether the services were actually rendered. (1/2013)
7. A Compliance Program assessment is undertaken at least six months prior to the December certification period to identify potential program gaps and maximize the opportunity meet the annual December certification obligation. (12/2013)

Element (7) A system for responding to compliance issues

1. Review OMIG's, OIG's and CMS's Web sites for regulatory work plans and alerts associated with specific areas of focus; assess organizational risk in those areas; and develop appropriate action plans to address the risk or weakness. (7/2011)
2. Establish work plans with milestones for action and staff responsibility assignments to address

compliance-related issues and Compliance Program gap analysis. (12/2013).

Element (8) A policy of non-intimidation and non-retaliation

1. Exit interviews with employees include an interview with the compliance officer who inquires about cases of intimidation or retaliation related to the employee who is leaving employment and related to what the departing employee may have observed while employed. (7/2013)
2. Compliance officer reaches out to former employees 30 days after former employee's termination date to inquire of any possible compliance matters observed during employment. (12/2013)