



Policy Number:
21
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Subject: Corporate Compliance

PURPOSE:

Camden County Developmental Disability Resources (CCDDR) shall have a policy to follow ethical business practices and to comply with all applicable state and federal laws with regard to waste, fraud, and abuse of public funds.

DEFINITIONS:

Fraud:

Fraud and other similar irregularities include but are not limited to:

- Claim for reimbursement of expenses that are not job-related or authorized by the current policies
- Forgery or unauthorized alteration of documents (checks, time records, independent contractor agreements, budgets, etc.)
- Misappropriation of agency assets (funds, securities, supplies, furniture, equipment, etc.)
- Improprieties in the handling or reporting of money transactions
- Authorizing or receiving payment for goods not received or services not performed
- Computer-related activity involving unauthorized alteration, destruction, forgery, or manipulation of data or misappropriation of agency-owned software
- Fraudulent logging and/or billing of Targeted Case Management services on behalf of the agency
- Misrepresentation of information on documents
- Any apparent violation of Federal, State, or local laws related to dishonest activities or fraud
- Seeking or accepting anything of material/monetary value from those doing business with the agency including vendors, consultants, contractors, lessees, applicants, and grantees

Employee:

In this context, employee refers to any individual or group of individuals who receive compensation, either full or part-time, from the agency. The term also includes any volunteer who provides services to the agency, which includes through an official arrangement with other related organizations.

Manager or Management:

In this context, manager or management refers to the CCDDR Executive Director, Compliance Manager, Accounting Manager, Director of Services and Supports, TCM Office Manager, or other supervisor or manager.

POLICY:

CCDDR receives federal Medicaid funds through its Targeted Case Management program. CCDDR also receives public funds through its tax levy. The agency has a responsibility to ensure that ethical practices are followed with regard to billing practices and other such matters in an effort to reduce the likelihood of fraud, waste, and abuse of federal, state, and local public funds. No employee, contractor, or Board member of CCDDR shall engage in any activity that constitutes financial fraud (falsification of items, reports, records for which funds are paid or received) in activities on behalf of, or representing CCDDR. All Board members and employees will sign a Code of Ethics Statement agreeing to abide by the agency's Corporate Compliance Policy.

I. Corporate Compliance Officer

The Executive Director shall be the designated Corporate Compliance Officer (CCO) for CCDDR. The CCO is responsible for overseeing corporate compliance efforts; reviewing agency policies, plans, manuals, job descriptions, procedures or any other Board governance documents; recommending changes to agency policies, plans, manuals, job descriptions, procedures or any other Board governance documents; overseeing administration of agency risk assessment relative to compliance issues and recommending changes in procedures as a result of risk assessment; developing and implementing internal audit procedures relative to corporate compliance issues; overseeing the implementation of corporate compliance training including conducting of training sessions for staff; investigating matters related to corporate compliance issues, including employee, consumer, and/or payor complaints; and developing and implementing an employee feedback loop which encourages employees to report potential problems without fear of retaliation.

II. Written Policies and Procedures

A Code of Corporate Ethics has been written which details expected employee behavior covering various areas. In addition, the Employee Handbook details policies and procedures expected to be followed by employees.

III. Auditing and Monitoring

Internal audit procedures have been developed to ensure billing of third party payors will not occur until specific expectations have been met. The CCO is responsible for facilitating corporate compliance oriented pre-billing audits for the Targeted Case Management program. These auditing procedures are detailed in the Billing section of this document. The

board shall also receive an external independent audit each year by a certified public accountant to minimize the possibility of fraud, waste, and abuse of public funds.

IV. Training, Education, & Compliance Materials

In addition to a orientation program and an ongoing training and education program, Corporate Compliance Policy training and education is conducted on an annual basis. The CCO is responsible for facilitating these training programs.

V. Reporting Workplace Wrongdoing

Employees can report wrongdoing in a safe and confidential manner, and without fear of retaliation. If an employee is aware of any acts of wrongdoing, an employee is encouraged to discuss his or her complaint with their supervisor or the Compliance Manager. If an employee is unable to discuss the complaint with their supervisor or Compliance Manager, if the supervisor or Compliance Manager is the source of the problem, or if the supervisor or Human Resource Manager condones or ignores the problem, the employee should immediately contact the Executive Director. If all alternatives are not satisfactory, the employee should immediately contact the Board Chairperson regarding his/her complaint.

In no circumstances is an employee required to confront the person who is the source of the complaint before notifying any of the individuals listed above.

Employees will be granted whistle-blower protection when acting in accordance with this policy. When informed of a suspected impropriety, neither the agency nor any person acting on behalf of the agency shall:

- Dismiss or threaten to dismiss the employee reporting the impropriety
- Discipline, suspend, or threaten to discipline or suspend that employee
- Impose any penalty upon that employee
- Intimidate or coerce an employee for that employee's role in reporting the suspected impropriety

This section is intended to protect employees from retaliation for reporting suspected improprieties. It shall not be construed as absolving an employee of responsibility for his or her own fraudulent activity; any such fraudulent activity shall be subject to disciplinary and/or legal action.

VI. Violations of the whistle-blower protection will prompt disciplinary action, up to and including dismissal.

Management Responsibilities

The agency will fully investigate any suspected acts of fraud, misappropriation, or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, length of service, or relationship with the agency of any party who might be involved in or becomes the subject of such investigation.

Management is responsible for being alert to and reporting fraudulent or related dishonest activities in their areas of responsibility.

Management should be familiar with the types of improprieties that might occur, and be alert for any indication that improper activity, misappropriation, or dishonest activity is or was in existence.

Management should not attempt to conduct individual criminal investigations, interviews, or interrogations. However, management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of criminal actions.

Management should support the agency's responsibilities and cooperate fully with other investigators and/or law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.

Management must give full and unrestricted access to all proper authorities to all necessary records and personnel. All agency workspaces including, furniture, desks, desk contents, and computers, are not private and are open to inspection at any time.

In dealing with suspected dishonest or fraudulent activities, great care must be taken. Therefore, management should avoid the following:

- Incorrect accusations
- Alerting suspected individuals that an investigation is underway
- Treating employees unfairly
- Making statements that could lead to claims of false accusations or other offenses

In handling dishonest or fraudulent activities, management has the responsibility to:

- A. Make no contact with the suspected individual to determine facts or demand restitution unless specifically directed to do so by the Executive Director or his/her designee. Under no circumstances should there be any reference to "what you did", "the crime", "the fraud", "the misappropriation", etc.
- B. Avoid discussing the case, facts, suspicions, or allegations with anyone outside the agency, unless specifically directed to do so by the Executive Director.

- C. Avoid discussing the case with anyone inside the agency other than employees who have a need to know. Relevant discussion and information should always be shared with the agency attorney and law enforcement personnel, if applicable.
- D. Direct all inquiries from the suspected individual, or his or her representative, to the Executive Director unless otherwise directed. All inquiries by an attorney of the suspected individual should be directed to the agency attorney. All inquiries from the media should be directed to the Executive Director.
- E. Take appropriate corrective and disciplinary action, up to and including dismissal.

VII. Investigation and Action

The Executive Director shall immediately be informed of suspected activity involving fraud or related dishonest activity by supervisors and/or staff. The Executive Director will determine how best to investigate the suspected activity. If evidence is uncovered showing possible dishonest or fraudulent activities, the Executive Director shall:

- Consult with the appropriate supervisor and Compliance Manager or agency attorney to determine if disciplinary actions should be taken
- If applicable, consult with the agency attorney to determine if a law enforcement agency should be notified
- If applicable, report to the agency CPA in order to assess the effect of the illegal activity on the agency's financial statements
- If applicable, coordinate with the agency's attorney regarding notification to insurers and filing of insurance claims
- If applicable, take immediate action, in consultation with the agency attorney, to prevent the theft, alteration, or destruction of evidentiary records – such action shall include, but is not limited to:
 - Removing the records and placing them in a secure location, or limiting access to the location where the records currently exist
 - Preventing the individual suspected of committing the fraud from having access to the records

The Executive Director, following review of investigation results, will take appropriate action regarding employee misconduct. Disciplinary action may include referral of the case to police officials.

The agency will pursue every reasonable effort, including court ordered restitution, to obtain recovery of agency losses from the offender or other appropriate sources.

VIII. Responding to Search Warrants

- A. In the event that agents of the federal or state government present any Board member or employee of CCDDR with a search warrant seeking access to the organization's books,

records, or documents, that person should immediately contact the Executive Director. If the Executive Director is unavailable, the Board Chairperson and/or other Board officer(s) shall be contacted.

- B. The employee receiving the warrant should ask to see identification from each agent and get a business card from each agent present. The business cards should be immediately copied and transmitted by fax, email, or hand delivery to the Executive Director or Board Chairperson. The agents are required to provide a copy of the warrant.
- C. The agents should also be asked for a copy of any affidavit supporting the search warrant. This must also be disclosed unless it is under seal. If the affidavit is obtained, it should be immediately faxed, emailed, or hand delivered to the Executive Director or Board Chairperson. If the agents state that the affidavit is under seal, that fact should also be immediately communicated to the Executive Director or Board Chairperson.
- D. The search warrant will include an attachment listing things that can be seized and places that may be searched. If the agents try to go into areas that are not listed in the warrant, ask them to wait until legal counsel arrives. If they refuse to wait, do not interfere, but note which agents went into areas not specified in the warrant and exactly when that occurred.
- E. The agents should be requested to provide an itemized list of any things taken away. They are required to give you a receipt.
- F. If the agents take documents (including computer files), ask to make copies of those documents before they do so. They are not required to allow copies to be made and may refuse to do so.
- G. PERSONS ON THE PREMISES are NOT required to speak with agents during the search, even if they are served with a subpoena, and should not do so except to the extent that it is necessary to comply with the search warrant. ANY PERSON PRESENT MAY DECLINE TO ANSWER ANY QUESTIONS ADDRESSED TO THEM BY AN AGENT.
- H. The senior ranking employee(s) present should accompany the agents during the search and take careful notes of what they take, what they look at, who they talked to, and what questions were asked.
- I. It is absolutely critical that no employee interferes with the agents during their search or prevents them from accessing anything listed in the search warrant. To do so could constitute obstruction of justice, which is a criminal offense.

IX. Responding To Subpoenas

- A. In the event any CCDDR Board member or employee receives a court order, summons, administrative request, or subpoena requesting documentation or testimony regarding the

organization's business, clients, books, records or documents, that person should immediately contact the Executive Director. If the Executive Director is unavailable prior to the response time set forth in the subpoena, the Board Chairperson and/or other Board officer(s) shall be contacted.

- B. The organization shall comply with all court orders, summons, administrative requests, and subpoenas to the extent consistent with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other federal and state law applicable to the testimony, books, records, or documents sought (see Policy # 25-HIPAA Compliance).
- C. The organization may disclose protected health information and other private business, employee, or client information in the course of any judicial or administrative proceeding in response to an order of a court or administrative tribunal, or in response to a grand jury subpoena or a subpoena or summons issued by a judicial officer, to the extent expressly authorized by the order of the court, administrative tribunal or judicial officer.
- D. Several conditions must be met prior to release of protected health information and other private information business, employee, or client information even when it is sought by law enforcement or by subpoenas, discovery requests, or other lawful process when such subpoenas, requests, or other lawful process is *not* accompanied by an order of a court or administrative tribunal. No Board member or employee should release information under such circumstances without approval of the Executive Director and, where deemed appropriate by the Executive Director, review by legal counsel.

REFERENCES:

- CARF Standards Manual
- CMS Guidelines
- Targeted Case Management Operations Manual, MO Dept. of Mental Health