

MEDICAID COMPLIANCE PROGRAM

CODE OF CONDUCT

In a *Medicaid in Education Alert* dated February 21, 2007, from the New York State Office of the Medicaid Inspector General, the following was stated:

*...Effective immediately, no Medicaid claims should be submitted for payment, regardless of the service periods, which do not comply with the requirements contained in the letter [from the NYS Education Department entitled *Medicaid Reimbursement Billing Requirements*]. Failure to comply with these requirements will put such claims at risk for disallowances as well as the U.S. Department of Justice potentially charging federal False Claims Act violations against the school district, county, or 4201 school. False Claims Act penalties range from minimum, of \$5,500 to \$11,000 "per claim" in addition to three times the amount of each claim as well as attorneys' fees and costs.*

The School District has an obligation to exercise diligence, care, and integrity when submitting Medicaid claims for payment for services rendered. Honest, fair, and accurate billing practices shall be maintained.

Employees, non-employees, and contractors involved in the provision of, or claiming federal Medicaid financial compensation or reimbursement for, school and preschool supportive health services are required to conform their conduct to the governing federal and State statutes and regulations. Failure to do so may result in adverse consequences to them.

Medicaid claims shall be submitted only for necessary services provided, as supported by appropriate documentation. Billings should not be duplicated to create overpayment. Proper and timely documentation of services provided must be maintained. Claims will be considered only when such documentation is maintained and available for review.

Compensation for any employee or service provider shall not include any financial incentive to make claims. No employee or service provider will knowingly and willfully offer, pay, solicit, or receive any remuneration, directly or indirectly, in return for referrals or to induce referrals, or to arrange for or recommend goods, facilities, services, or items for which payment may be made under the Medicaid program.

Services will not be billed unless the provider has certified that the services were provided, and appropriate documentation completed in compliance with federal and State laws, regulations, and School District guidelines.

When a provider submits such certification, the provider is certifying that there is supporting documentation to support the claim and that: (1) all services reported were personally provided or personally supervised; (2) such services were necessary and appropriate; and (3) the rendering of such services, the coding or charging for these services, and the documentation of such services have all been performed in accordance with federal and State laws and regulations and School District guidelines.

Speech services may not be billed unless those services are provided by a licensed speech pathologist or provided under the direct supervision of a qualified speech pathologist. Any individuals working under the direction of a qualified speech pathologist must be given contact information to enable them to directly contact the supervising speech pathologist as needed during treatment.

Transportation may not be billed unless the provider can clearly document the child's attendance on the vehicle for eligible services on the specific day being billed.

Counseling services may not be billed unless provided by a professional whose credentials allow that same service outside of school.

The School District will attempt to ensure that all claims for services are accurate, properly documented, and correctly identify the services performed or provided.

All employees and service providers are required to report suspected fraud or abuse or other non-compliance problems. Failure to report suspected problems, assisting or participating in fraud, abuse or other non-compliant behavior, or encouraging, directing, permitting, or facilitating such activities whether actively or passively will result in disciplinary action.

Suspected fraud, abuse, or other non-compliance problems must be reported to the immediate supervisor, unless the immediate supervisor is suspected of being involved in the issue. In that case, the report should be made to the next higher-level supervisor not suspected of being involved. If the supervisor is not available, the report should be made to the next higher-level supervisor. If the suspected violation is on an organization-wide level or by the Administration, the report should be made to the President of the Board of Education.

Monies obtained from any federal or State funded healthcare programs that clearly represent overpayments are monies, which must be returned promptly.

SCHOOL DISTRICT COMPLIANCE OFFICER

Responsibility for monitoring the School District's Compliance Program shall be vested in ~~Kristina Hand~~ Matthew Sheldon, Morris Central School, 65 Main Street, P.O. Box 40, Morris, New York 13808, ~~(607)-263-6104~~ (607) 263-6102.

The duties of the Compliance Officer shall include, but not be limited to:

- a. overseeing and monitoring compliance activities;
- b. reporting regularly to the Superintendent and periodically to the Board of Education;
- c. establishing procedures to improve efficiency and to reduce vulnerability to fraud, abuse, and waste;
- d. ensuring that the Compliance Program is implemented and evaluated periodically;
- e. developing, coordinating, and participating in a multifaceted educational and training program that focuses on elements of the Compliance Program, and seeks to ensure that all appropriate employees and service providers, administrators, and Board of Education members are knowledgeable of, and compliant with, pertinent federal and State requirements;
- f. educational and training programs shall occur periodically and shall be made a part of the orientation of any new employee, service provider, administrator, and Board of Education member;
- g. coordinating internal and external auditing of all compliance requirements on a periodic basis;
- h. establishing and administering a reporting system that is available to report any suspected illegal conduct or other conduct that violates applicable law, regulation, or School District guidelines;
- i. developing and publishing notices that encourage the reporting of all suspected fraud and other improprieties without fear of retaliation;
- j. investigating any report or allegation concerning possible unethical or improper business practices and monitoring subsequent action and compliance;
- k. monitoring any and all fraud alerts issued by the Office of the Medicaid Inspector General;
- l. monitoring the website of the Office of the Medicaid Inspector General for Compliance Program guidelines, including any Compliance Program template and revising the School District's Compliance Program if necessary; and

- m. during the month of December of every school year certify, using a form provided by the Office of the Medicaid Inspector General on its website if one is available, that an effective compliance program meeting the requirements of the regulations is in place.

STATE COMPLIANCE OFFICER CONFIDENTIAL DISCLOSURE POLICY

1. Any employee who believes that any practice or billing procedure related to Medicaid reimbursement of school or preschool supportive health services is inappropriate, may send information concerning such practice or billing procedure in writing to the State Compliance Officer by U.S. mail, courier service, e-mail, or facsimile transmission. The address, phone numbers, and fax number of the State Compliance Officer are: Rose Firestein, New York State School Supportive Health Services Program, New York State Department of Health, Office of General Counsel, 90 Church Street, 4th Floor, New York, New York 10007, Phone: (212) 417-4393, Fax: (212) 417-4392, E-mail: ref01@health.state.ny.us. Disclosure may be made anonymously. Any verbal communication of any such allegation will not be sufficient to require any further action to be initiated under the Confidential Disclosure Policy procedures set forth below.

2. The State Compliance Officer will send any disclosures to the relevant State agency and to the implicated local school district, if any. If the State Compliance Officer is aware of the employee's identity, it will not be revealed to any other person without the employee's written consent, provided by U.S. mail, courier service, e-mail, or facsimile transmission.

3. The relevant State agencies and the School District shall undertake a review of the practice described in the disclosure without attempting to uncover the identity of the complaining employee and shall determine: (a) whether the allegations are credible, (b) whether any federal or State statute, regulation or policy pertaining to any practice or billing procedure related to Medicaid reimbursement of school or preschool supportive health services has been violated, and (c) whether any such violation is systemic or was limited to one or a small number of cases.

4. The relevant State agencies and the School District shall address any violation found during the review, whether systemic or limited, in a manner designed to avoid a similar violation in the future and to remedy the effect of the violation in the cases in which it was found to have occurred. If the review determines the violation was systemic, the relevant State agencies and the School District shall take all steps necessary to identify the cases in which the violation occurred and then to remedy the effect of the violation in those cases.

5. Within 90 days of receiving notice from the State Compliance Officer of the information provided by an employee, the relevant State agencies and the School District shall: (a) complete the review of such allegations and any remedial plan required

as a result of such review and (b) provide to the State Compliance Officer a written description of the review, the remedial plan, and all actions taken pursuant to such plan.

In the event the relevant State agencies and the School District determine the allegations are not credible, the written response shall describe the basis for such determination. The written document shall identify the individual(s) at the relevant State agencies and the School District who are responsible for approving the review, the remedial plan, and all action taken pursuant to such plan, including the name, job title, telephone number, mailing address, e-mail address, and fax number of the person(s) who took such action.

6. If the State Compliance Officer is not satisfied with the review, the remedial plan, or the actions taken pursuant to such plan, the State Compliance Officer may discuss the matter with the relevant State agencies and the School District to resolve these concerns. In addition, the State Compliance Officer may request that the Audit Unit of the Department of Health's Division of Administration undertake an audit to determine: (a) whether a violation occurred; (b) whether any such violation has been remedied; and (c) whether the remedial action is sufficient to prevent similar violations in the future.

7. In the event the employee's identity becomes known to a State agency or the School District, or to an employee of such agency or School District, no adverse employment action of any type shall be taken against such employee because information was provided to the State Compliance Officer or to a person conducting a review of the disclosure.

8. The relevant State agencies and the School District shall include in every training any of them provides (a) a description of the Confidential Disclosure Policy procedures described above; (b) the name, mailing address, e-mail address, and fax number of the State Compliance Officer and School District Compliance Officer; and (c) an assurance that no adverse employment action of any type will be taken against an employee because information was provided to the State Compliance Officer and School District or to a person conducting a review concerning alleged inappropriate practices or billing procedures related to Medicaid reimbursement of school or preschool supportive health services.

EDUCATION AND TRAINING

The School District's Compliance Program requires compliance and ethics training for all employees and service providers associated with Medicaid services and claims. This training will emphasize the School District's commitment to compliance with all federal and State laws, regulations, and guidelines. This training will be conducted on an annual basis to ensure all such employees and service providers fully comprehend the implications of failing to comply with the School District's Compliance Program.

Mandatory training will include compliance, prevention of fraud and abuse, whistleblower protections, ethical standards, confidentiality, and conflicts of interest. All affected employees and service providers must attend an initial training session following hire and participate in ongoing, routine training sessions thereafter as required. As new developments or concerns arise, the Compliance Officer may require additional training sessions.

All compliance training must be documented. The Compliance Officer will maintain all such documentation signed by those attending any training sessions. All affected employees and service providers must sign an Acknowledgement Form at initial training, and thereafter when any updates of those documents are received.

Education and training will cover the School District's Compliance Program, and will reinforce the requirement that strict compliance with the Compliance Program is a condition of employment. Employees will be informed that failure to comply with the Compliance Program may result in disciplinary action up to and including termination.

In addition to compliance and ethics training, the need for periodic continuing education, which may be required by law or regulations, will be provided for affected personnel. The School District will post in common work areas and other prominent places a notice reminding all affected individuals of the School District's commitment to compliance with all federal and State laws and regulations regarding Medicaid claims and services.

COMMUNICATION – ACCESS TO COMPLIANCE OFFICER

An open line of communication with the Compliance Officer is critical to the successful implementation and operation of the Compliance Program. Accordingly, there is an open-door, confidential, complete anonymity, non-retribution assurance to all employees, service providers, administrators, and Board of Education members to encourage good faith reporting of potential compliance issues.

Reports that suggest violations of the Compliance Program will be maintained by the Compliance Officer in a log and will be investigated promptly by the Compliance Officer to determine their validity. The Compliance Officer will report the findings to the Superintendent and the Board of Education for possible further investigation of and possible corrective action regarding each compliance issue.

Identifying and reporting compliance issues may also be made directly to the New York State Department of Health or the Office of the Medicaid Inspector General.

The School District will not penalize, discriminate, or retaliate against anyone who in good faith discloses a practice that violates any law, regulation, or guideline, initiates, cooperates or participates in an investigation, or objects to or refuses to participate in any activity, policy or practice that violates any law, regulation, or guideline.

INVESTIGATING, REPORTING AND CORRECTING IDENTIFIED PROBLEMS

Any and all reports or violations of the School District's Compliance Program regarding Medicaid claims and services will be investigated. The Compliance Officer or designee will conduct an investigation. The investigation will be done promptly and will be conducted under advice of legal counsel as deemed necessary. The purpose of the investigation will be to determine if any violation has occurred. If a violation has occurred, steps will be taken promptly and thorough investigation. Outside auditors or legal counsel may be retained to assist when deemed necessary. If at the completion of the investigation disciplinary action is required, discipline will be imposed in accordance with applicable law, regulation, and collective bargaining agreement. Law enforcement will also be informed if the conduct may have violated criminal law.

The Compliance Officer will direct that appropriate correction action be taken to prevent similar violations of the Compliance Program from recurring. Any issue for which corrective action was directed to be taken shall be specifically targeted for monitoring and review in future audits.

DISCIPLINARY ACTION

Failure to comply with the Compliance Program may result in disciplinary action. Discipline may include:

- discipline of individuals who fail to report known non-compliant conduct;
- discipline of individuals involved in non-compliant conduct;
- discipline of individuals involved in encouraging, directing, facilitating, or permitting either actively or passively non-compliant behaviors;
- discipline of supervisor if the misconduct reflected poor supervision or lack of diligence;
- discipline of individuals who intentionally make false statements.

Discipline may include termination of employment.

AUDITING AND MONITORING

The Compliance Program requires a thorough monitoring of its implementation. Annual audits will be performed. Audits will be internal and, as appropriate, external. Audits will be designated and implemented to ensure compliance with the Compliance Program and all applicable federal and State laws and regulations and School District guidelines.

Zero tolerance of fraud and abuse is the main goal of the Compliance Program. In attempting to ensure this goal, compliance audits will include:

- internal reviews;
- interviews with personnel involved in Medicaid services and claims, management, operations, billing, and other related activities; and
- review of written materials and documentation utilized in Medicaid services and claims;
- identification of compliance risk areas specific to the provider type, self-evaluation of such risk areas, credentialing of providers and persons associated with providers, mandatory reporting, governance and quality of care of Medical assistance program beneficiaries.

Formal audit reports will be prepared and submitted to the Compliance Officer, the Superintendent, and the Board of Education to ensure that the School District is aware of the results and can take appropriate steps to correct problems and prevent them from recurring. The audit reports will specifically attempt to identify areas where corrective action is needed. Subsequent audits or studies will be used to ensure that the recommended corrective actions have been effectively implemented.