Creating Hope, Transforming Lives

Catholic Charities

DIOCESE OF SYRACUSE

Chenango County

CORPORATE COMPLIANCE TRAINING

AGENDA/TOPICS TO BE COVERED:

- Definition of Corporate Compliance
- Policy (from Diocesan Corporate Compliance Plan)
- Major Compliance Activities
- Fraud/Abuse Definitions & Examples
- Benefits of a Compliance Policy
- Prohibited Behavior & Responsibility
- Expectations of Employees/Supervisors: Code of Ethics
- Conflict of Interest
- Documentation Requirements & Common Errors
- Reporting
- False Claims Act
- Whistleblower Provisions
- Summary

WHAT IS CORPORATE COMPLIANCE?

- Corporate Compliance is a program initially recommended by the Federal Office of the Inspector General (OIG), in order to assist medical providers in detecting Medicaid Fraud and Abuse, whether intentional or not.

- Catholic Charities has extended the definition beyond Medicaid funded programs. Corporate Compliance is required for all programs throughout the agency and is intended to uphold the integrity of the entire agency, by establishing standards of conduct for all employees designed to promote honest and ethical behavior.

POLICY
(FROM DIOCESAN CORPORATE COMPLIANCE PLAN)

- It is the policy of Catholic Charities of the Roman Catholic Diocese of Syracuse, N.Y. to comply with all applicable federal, state, and local laws and regulations. It is also Catholic Charities policy to adhere to the Code of Ethics, adopted by the Diocesan Corporate Board of Trustees.

MAJOR COMPLIANCE ACTIVITIES:

- Develop a Corporate Compliance Plan which is "…a set of formal organizational systems

  intended to prevent, detect and respond to

  intentional misconduct or unintentional

  mistakes committed by employees or other agents."

  The Diocese of Syracuse adopted its current plan March 18, 2004, and revised the plan effective December 16, 2009.

CORPORATE COMPLIANCE PLAN

- The Corporate Compliance Plan includes:
  - A Code of Ethics
  - A review of Laws And Regulations
  - Compliance Program Structure and Operations
  - Education and Training Activities
  - Reporting and Confidentiality
  - Enforcing Compliance
  - Internal Auditing: Detecting Violations and Responses

MAJOR COMPLIANCE ACTIVITIES:

- Area and Diocesan Compliance officers have been appointed to receive and investigate reports, and Compliance Committees have been appointed to oversee and assist.

- Ongoing training and education on Compliance related issues is to be provided to all employees

COMPLIANCE ACTIVITIES:

- Confidential communication such as a hotline:

Diocese Hot-Line is ***866-460-2024.***

(Communication is confidential and retaliation against an employee for reporting any suspicious activity is forbidden)

- Policies and standards in the Compliance Plan are to be enforced
- Auditing and monitoring of activities such as documentation and billing are to be done.
- Corrective Action Plans are to be developed following the detection of an offense

FRAUD

- Fraud is defined as making false statements or representations of material facts in order to obtain some benefit or payment whether made for your own benefit or for the benefit of some other party.

- Billing for a service you did not perform or a supply not furnished to a client is an example of fraud. A provider can be fined by the OIG for fraudulent billing in the amount of $5,000 to $10,000 per false claim, under the 1998 False Claim Act.

ABUSE

- Abuse is defined as actions that do not involve intentional misrepresentations of fact, but nevertheless are inconsistent with the sound financial, business, or healthcare practices and create significant risk to the integrity of the organization such as:
  - Unnecessary cost to the programs
  - Reimbursement for services that are not medically necessary
  - Reimbursement for services that fail to meet professionally recognized standards of care.

EXAMPLES OF FRAUD & ABUSE

- Billing for services not delivered to the client: for example, billing for a home visit you did not provide, or documenting a 30 minute visit, when 10 minutes was provided.
- Falsifying certificates of medical necessity, treatments plans, and service records to justify your payment.
- Altering claim forms and/or receipts in order to receive a higher payment amount.
- Maintaining an incomplete record. All required documentation must be placed in the client's record for each component, describing the contact , services performed, and outcome.

COMPLIANCE POLICY BENEFITS

- Improvement in communication between providers, supervisors, and billing staff to ensure accurate billing and coding.
- Early detection of billing errors, reducing the amount of payback.
- Elimination of fines and additional penalties in case of an audit.
- Supports Agency's Quality Improvement efforts
- Maintain Agency's reputation as a trustworthy service provider

PROHIBITED BEHAVIOR

- Accepting kickbacks
- Making false claims for services that were not provided or were not medically necessary
- Donation of Catholic Charities funds or other resources to any political cause or candidate.
- Insider trading (trading in the securities of any company base on nonpublic information acquired through employment at Catholic Charities).

PROHIBITED BEHAVIOR

- Accept, solicit or offer anything of value (other than items of nominal value, less than $25.00) from anyone doing business or proposing to do business with Catholic Charities
- Submitting a claim for services when documentation of the service does not exist
- Signing for the work of another employee
- Illegal alteration of a case record
- Billing services without a signed physician's order, if required by program regulations.

RESPONSIBILITY

- "All employees, contracted practitioners, agents and vendors shall acknowledge that it is their responsibility to promptly report any suspected instances of suspected or known noncompliance to their immediate supervisor, Division Director, the Executive Director, the Agency Compliance Officer, or the Diocese Compliance Officer."
- Reports may be made anonymously without fear of retaliation, retribution, or breach of confidentiality. Failure to report known noncompliance or making false reports which were not made in good faith will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace oriented issues, will be referred to Human Resources.

EXPECTATIONS OF *ALL* EMPLOYEES:

- Compliance with a Code of Ethics which ensures that all aspects of client care and business conduct are performed in compliance with Catholic Charities Mission statement, policies and procedures, professional standards, applicable governmental laws, rules and regulations and other payor standards.
- Each Employee shall:
  - Support the Dignity of human life
  - Prefer those suffering-the neediest and most vulnerable among us
  - Support the right of all to pursue their goals
  - Strive for charity and justice
  - Seek to change oppressive laws
  - Respect privacy and confidentiality
  - Strive for quality and excellence
  - Support pluralism
  - Promote honesty and ethical behavior in all areas

EXPECTATIONS OF ***ALL*** EMPLOYEES:

- Yearly disclosure of any potential or actual conflicts of interest
- Reporting of known or suspected violations.
- Keeping current on compliance information by attending required in-service and other training as arranged by the agency.
- Maintaining case records according to program regulations or guidelines to insure that the documentation required for billing is present.

EXPECTATIONS OF SUPERVISORS:

- Ensuring that employees are aware of and follow the standards in the Code of Ethics and Corporate Compliance Plan
- Receiving reports of known or suspected violations and reporting them to the Compliance Officer
- Providing oversight and supervision sufficient to detect or prevent noncompliance
- Refraining from retaliatory action against any employee reporting in good faith a known or suspected violation.
- Assuming responsibility for completeness of documentation required for billing
- Reviewing with all employees compliance policies and procedures, including consequences of noncompliance

DOCUMENTATION

- It is the Agency's responsibility to ensure that complete and accurate records of its business and service activities are maintained.
- Records to be maintained include: Financial/Accounting, Corporate, Insurance, Personnel, and Program Related documents.

DOCUMENTATION EXAMPLES (GENERAL)

- Financial: Accounts Payable/Receivable, Bank Statements, Petty Cash, Vouchers, Credit Card receipts, Clients Related expenditures
- Corporate: Contracts, Meeting Minutes, Grant related Documents, Annual Reports
- Insurance: Accident Reports, OSHA records
- Personnel: Employee Files, Time Sheets, Performance Appraisals

PROGRAM RELATED DOCUMENTATION

- Case Records
  - Assessments
    - Are completed within required timeframe
    - Are comprehensive
    - Are reviewed as required
  - Service or Treatment Plans
    - Are completed within required timeframe
    - Authorize the services to be provided
    - Are based on assessed client need
    - Are reviewed and updated as required

DOCUMENTATION EXAMPLES (CASE RECORDS)

- Progress Notes
  - Describe services from service/treatment plan
  - Identify: service provider, duration , date, service goal addressed and client response
  - Are signed by service provider
- Utilization Review
  - Is performed as mandated
  - Recommendations are reflected in service plan and progress notes
- Other (as specified by program regulations)

COMMON DOCUMENTATION ERRORS IN CASE RECORDS:

- Services were provided, but the provider did not sign the record
- Physician orders are lacking, or are present but lack: a signature, a diagnosis, a statement as to frequency, or duration of services
- Referrals were missing
- Inadequate Plans of Care
- Case records are missing
- Service plans are missing for specific dates of service
- Service plans are not reviewed and goals are not reassessed
- Progress notes are missing
- Duration of services is not documented
- Services billed were not documented
- More than 1 service billed on the same date and time
- Discharge planning missing

REPORTING

- If you suspect fraud or abuse involving any services, billing, or documentation, it is your responsibility to come forward to discuss it.

- There is a need for strict compliance with all governmental rules and regulations, as well as agency policies. Violations can lead to fines, criminal charges, discipline and possible termination of employment.

FEDERAL FALSE CLAIMS ACT

- It is against the law for a person to knowingly present, or cause to be presented, a false or fraudulent claim for payment to the federal government
- Fines imposed up to $11,000 per claim
- In addition, 3 times the amount of damages which the Government sustains because of the act
- Liable for federal administrative action

"KNOWINGLY"

- A person:
  - Has actual knowledge of the information;
  - Acts in deliberate ignorance of the truth or falsity of the information
  - Acts in reckless disregard of the truth or falsity of the information
  - *No proof of specific intent to defraud is required!*

NYS FALSE CLAIMS ACT

- Penalizes providers for knowingly presenting or causing to be presented, a false or fraudulent claim for payment to the government
- Fines of up to $12,000 per claim
- Recoverable damages, 2—3 times the value of the amount falsely received

COMPLIANCE WITH NEW RULES

Agency must have written policies and procedures that:

- Inform management, employees, contractors, agents about the Federal False Claims Act
- Include federal fines and penalties for false claims and statements
- Include state fines and penalties for false claims and statements
- Detail whistleblower protections

POLICIES AND PROCEDURES

- Polices and Procedures adopted by the Agency must include detailed provisions regarding how the Agency detects and prevents fraud and abuse

WHISTLEBLOWERS

What is a Whistleblower?

- Someone who "reports" suspected fraud directly to Medicaid
- The report is in the form of a lawsuit on behalf of the government

POSSIBLE FINANCIAL OUTCOMES

When the federal government intervenes:

- Whistleblower can receive at least 15% but not more than 25% of the recovery of the false claims act action

When the federal government does not intervene:

- An amount that the court deems reasonable, but that is not less than 25% and not more than 30% of the recovery.

With some exceptions.

ADDITIONAL OUTCOMES

Under New York State False Claims Act:

- Whistleblower may receive up to 10% of the recovery

RETALIATION DEFINED

- Demotion
- Firing
- Enacting discipline
- Public humiliation
- Slander

WHY NO RETALIATION?

Any retaliation against a person who reports in good faith, suspected non-compliance or fraud is against the law

- Reporting retaliation is done internally as outlined, or through the compliance hotline
- External reporting (qui tam lawsuit)
- The prohibiting of retaliation will be defined in policies and procedures
- Any employee who commits or condones any form of retaliation will be disciplined, up to and including termination

WHISTLEBLOWER PROTECTIONS

Non-retaliation protections:

- Reinstatement of position with comparable seniority
- Two times the amount of any back pay
- Interest on any back pay
- Compensation for any special damages sustained as a result of the discrimination, including attorney's fees and litigation costs

HOW TO REPORT:

- There are several ways to report a suspected problem:
  - Discuss this with your Supervisor/Program Manager/Director
  - Contact your Area Corporate Compliance Officer—Stephanie Stewart--607-334-8244

    Or
  - Contact the Corporate Compliance Hotline of Catholic Charities for the Roman Catholic Diocese of Syracuse at 866-460-2024

Summary

- Questions on topics covered?