

Medicaid Compliance

It is the policy of the Newburgh Enlarged City School District that all claims for reimbursement by the New York Medicaid Program for services, supplies or equipment provided through school supportive health services programs (SSHSPs) meet all requirements for federal financial participation established by federal statutes and regulations. Failure to comply with such federal requirements may result in the loss of federal Medicaid financial participation for these services.

All employees, contractors and agents of the school district involved in the provision of, or claiming federal Medicaid financial participation for, SSHSPs shall conform their conduct to the standards and requirements established by applicable federal and state statutes and regulations designed to prevent fraud, abuse and waste in federal and state health care programs.

The school district's Medicaid Compliance Officer shall develop a comprehensive program to: (1) detect and correct payment and billing mistakes; (2) advise employees, contractors and agents of the school district when and how to report suspected noncompliance; and (3) advise employees, contractors and agents of the school district of their protection against reprisal or retaliation for reporting.

A subcommittee of the full Board shall be appointed to monitor the implementation of this policy and coordinate compliance activities with the school district's Medicaid Compliance Officer.

Medicaid Compliance Regulations

I. Medicaid Compliance Officer

- A. The Board hereby appoints the Assistant Superintendent, Student Intervention and Support Services, to serve as the school district's Medicaid Compliance Officer.
- B. Responsibilities. The Medicaid Compliance Officer shall:
 - (1) monitor the day-to-day operation of school supportive health services programs (SSHSPs) for compliance with mandatory reporting and credentialing requirements;
 - (2) receive, investigate and respond to any and all reports of non-compliance;
 - (3) develop a method by which he/she may receive anonymous and confidential reports of suspected violations;
 - (4) supervise all internal and external audits of the school district's SSHSPs;
 - (5) develop and provide compliance training to the Board as well as to all school district employees, contractors and agents who provide or oversee the provision of SSHSPs to students;
 - (6) recommend modifications to the plan on an as needed basis to the Board; and
 - (7) report quarterly to the Board's Medicaid Compliance Subcommittee, which in turn will report to the full Board on the school district's Medicaid compliance activities.

II. Code of Conduct

- A. Scope. This Code applies to all school district employees providing Medicaid eligible services, supplies or equipment to students as part of SSHSPs. This Code also applies to all contractors and agents of the school district who furnish or authorize the furnishing of Medicaid eligible services, supplies or equipment, or perform billing or coding functions or are involved in monitoring the care provided to students as part of SSHSPs.
- B. Ethical Standards
 - (1) Each employee, contractor and agent of the school district will strive to act in accordance with the provision of all applicable federal, state and local laws, the Board's Medicaid Compliance Policy and Regulation and this Code of Conduct, and will encourage other employees, contractors and agents to do the same.
 - (2) No employee, contractor or agent of the school district shall act contrary to the provisions of any applicable federal, state and local laws, the Board's Medicaid Compliance Policy and Regulation or this Code of Conduct or authorize, direct or condone such action by any other employee, contractor or agent of the school district.
- C. Billing and Coding Standards. Only employees, contractors or agents of the school district who are not otherwise excluded under federal law from providing Medicaid eligible services shall be authorized to provide such services to students as part of SSHSPs.

Each employee, contractor or agent of the school district involved with providing or obtaining reimbursement for Medicaid eligible services, supplies or equipment to students as part of SSHSPs is responsible for submitting honest and accurate bills to Medicaid and other federal and state health care programs.

- (1) Completeness and Accuracy in Medical Records and Billing.
 - i. All services, equipment and supplies billed for will be reasonable and fully documented.

- ii. All bills will be for services provided by properly credentialed and licensed providers furnishing services within their respective scope of practice.
 - iii. Documentation will be in sufficient detail so that an accurate bill can be submitted for each treatment or procedure performed.
 - iv. Provider numbers will be accurate and will not be shared.
 - v. Services provided by therapists that require supervision will be billed only in compliance with federal and state laws and regulations, including the presence of a supervising licensed professional.
 - vi. Bills submitted for services performed shall describe the services in sufficient detail, be based on proper documentation, not duplicate bills for the similar services, be accurate, be based on the correct provider number, and be in compliance with federal and state law.
 - vii. Billing and coding staff will comply with instructions and policies of the Center for Medicare and Medicaid Services.
 - (a) The above-referenced practices shall also be utilized in the district's submission of bills to the county for any Preschool Supportive Health Services Programs (PSHSPs).
- (2) Impermissible Billing Practices. The following billing practices are not permitted:
- i. billing for services performed by an unlicensed provider or one who has been excluded from a federal health care program;
 - ii. billing for services that were not performed at all or not performed as described;
 - iii. billing for services on days when a child was absent from school;
 - iv. submitting claims for medical equipment, supplies or services that were not necessary;
 - v. double billing;
 - vi. upcoding or assigning a code that secures a higher reimbursement, rather than the code that matches the services performed;
 - vii. unbundling or billing the parts of a global fee separately;
 - viii. knowingly misusing provider numbers;
 - ix. failing to use coding modifiers accurately or appropriately; or
 - x. preparing or submitting false cost reports.
- (a) The above-referenced billing practices shall also be impermissible for the district's submission of bills to the county for any PSHSPs.

D. Other Duties.

- (1) All employees, contractors and agents of the school district will comply with all applicable federal and state laws and regulations concerning fraud and abuse in federal health care programs.
- (2) No employee, contractor or agent of the school district is permitted to give cash, gifts, favors, payment, services, entertainment, tips or any other items of value to anyone in exchange for their signing a contract or reporting services to be billed to Medicaid or any other government or private health care program.

- (3) All reports required to be submitted to state or federal health care programs must be truthful and accurate. No manager, officer or employee shall attest to the accuracy of a submitted report unless he or she has been able to satisfy himself or herself that the data submitted or representations made are truthful and accurate.
- (4) All cost report data, schedules and worksheets must be truthful, accurate and complete.
- (5) No employee, contractor or agent of the school district will attempt to improperly influence the actions or decisions made by government bodies, officials, employees or contractors.
- (6) All employees, contractors and agents of the school district will cooperate and be truthful in responding to government inquires, requests and investigations, including audits, surveys and certification reviews.

E. Duty to Report

- (1) Any employee, contractor or agent of the school district who believes that any practice or billing procedure related to Medicaid reimbursement of SSHSPs is inappropriate has an obligation, promptly after learning of such activities, to report the matter to the Medicaid Compliance Officer. Reports may be made anonymously and employees, contractors and agents of the school district will not be penalized for reports made in good faith. Reports made by employees, contractors and/or agents to the Medicaid Compliance Officer shall remain confidential to the maximum extent permitted by law.
- (2) Any employee, contractor or agent of the school district who believes that any practice or billing procedure related to Medicaid reimbursement of SSHSPs or 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.

Disclosure may be made anonymously and such disclosures will remain confidential pursuant to the New York State Confidential Disclosure Policy, a copy of which is annexed to this regulation as Appendix A.

- i. The contact information for the New York State Compliance Officer is:

Rose Firestein
Compliance Officer
New York State Department of Health
Office of General Counsel
90 Church Street, 4th Floor
New York, New York 10007
Telephone: (212) 417-4393
Facsimile: (212) 417-4392
Email: ref01@health.state.ny.us

- (3) Failure to report known or suspected violations, failure to detect violations due to negligence or reckless conduct, or intentionally, maliciously, or making false reports in bad faith shall be grounds for disciplinary action of employees, including termination; or immediate nullification of the contract with the applicable contractor or agent of the school district. The appropriate form of discipline will be case specific, and in accordance with the New York Education Law, the New York Civil Service Law and/or existing collective bargaining agreements.

- F. Certification.** Every employee, contractor or agent of the school district providing Medicaid eligible services, supplies and equipment as part of SSHSPs shall certify in writing that he/she has received and reviewed this Code of Conduct.

III. Response to Reported Violations

A. Investigation. After a suspected violation has been reported, the Medicaid Compliance Officer will conduct an investigation into the allegations to determine the nature, scope and duration of the alleged violation, if any, and identify individuals who may have knowingly or inadvertently violated the law or the school district's Medicaid Compliance Policy and Regulations.

(1) Process. Upon receipt of information, concerning an alleged violation, the Medicaid Compliance Officer will:

- i. prepare a preliminary report which includes, if known, the name of the employee who made the report, the date of the report, and a detailed narrative of the employee's concern;
- ii. ensure that the investigation is initiated as soon as reasonably possible, which shall include, as applicable, but need not be limited to:
 - (a) interviews of all persons who may have knowledge of the alleged conduct and a review of the applicable laws, regulations and standards to determine whether or not a violation has occurred;
 - (b) identification and review of relevant documentation, including, where applicable, representative bills or claims submitted, to determine the specific nature and scope of the violation and its frequency, duration and potential financial magnitude; and
 - (c) interviews of persons who appeared to play a role in the suspected activity or conduct. The purpose of the interview is to determine the facts surrounding the conduct, and may include, but shall not be limited to:
 1. the person's understanding of the applicable laws, rules and standards;
 2. identification of relevant supervisors or managers;
 3. training that the person received; and
 4. the extent to which the person may have acted knowingly or with reckless disregard or intentional indifference of applicable laws.
 - (d) prepare a summary report which:
 1. defines the nature of the alleged violation;
 2. summarizes the investigation process;
 3. identifies any person who is believed to have acted deliberately or with reckless disregard or intentional indifference of applicable laws; and
 4. where applicable, estimates the extent of any resulting overpayment by the government.

B. Remediation. Where an alleged violation is confirmed by the Medicaid Compliance Officer, he/she shall take reasonable steps to correct the violation and prevent further similar violations, including, but not limited to:

- (1) as quickly as possible, cease the offending practice;
- (2) if the conduct involves the improper submission of claims for payment, cease all billing potentially affected by the offending practice;
- (3) if applicable, calculate and process adjustments for any improper payments made by a federal or state government program as a result of the violation;
- (4) promptly undertake appropriate training and education to prevent a recurrence of the violation;

- (5) conduct a review of policies and procedures to determine whether modification(s) of the school district's Medicaid Compliance Policy, Regulation and/or Code of Conduct is warranted to prevent recurrence of the violation and detect similar violations of law in the future;
 - (6) conduct, as appropriate, follow-up monitoring and auditing to ensure effective resolution of the offending practice.
- C. Discipline. Where an alleged violation is confirmed by the compliance officer, he/she shall refer the matter to the Superintendent of Schools for possible discipline, subject to any applicable contractual or statutory disciplinary procedures, where the violation is committed by an employee; or contract nullification, where the violation is committed by a contractor or agent of the school district. Discipline of an employee, subject to any applicable contractual or statutory disciplinary procedures, or contract nullification for a contractor or agent of the school district, may ensue upon the finding that an individual engaged in non-compliant behavior and/or that an individual encouraged, directed, facilitated and/or permitted non-compliant behavior.

IV. Routine Identification of Compliance Risk Areas

- A. Records Management. The following procedures shall be observed when submitting records of Medicaid eligible services, supplies and equipment for reimbursement:
- (1) only complete and accurate records will be submitted;
 - (2) no record shall be altered without the permission of the Medicaid Compliance Officer;
 - (3) where permission is granted for a record alteration, the record must include the date of the alteration, the signature of employee who altered the record and the signature of the Medicaid Compliance Officer;
 - (4) where a record requires a signature, the signing of another person's name is prohibited; and
 - (5) where a record requires a signature, the use of a signature stamp is prohibited.
- B. Audits
- (1) Internal Audit. The Medicaid Compliance Officer shall conduct an internal audit of Medicaid eligible services, supplies and equipment provided to students as part of SSHSPs as appropriate, but in no event less than once every three (3) years.
 - (2) External Audit. An external audit of Medicaid eligible services, supplies and equipment provided to students as part of SSHSPs and shall be conducted as appropriate and/or upon recommendation by the Medicaid Compliance Officer or by the Board of Education or a subcommittee thereof.

V. Training/Distribution

- A. Training
- (1) All current and new employees, administrators and board members shall receive no less than one hour of training annually on the practices and procedures contained in this Policy and Regulation.
 - (2) The Medicaid Compliance Officer shall maintain a written record of the participation of every individual who participates in training called for under this Policy and Regulation.
 - (3) Contractors and/or agents of the school district providing Medicaid eligible services, supplies and/or equipment to students as part of SSHSPs shall supply the District

annually with written documentation of training received in Medicaid billing and reporting requirements.

- (4) As required by New York State's Policy Regarding Its Commitment to Ensure Compliance with the Laws and Regulations Related to the Receipt of Federal Medicaid Financial Participation in The School and Preschool Supportive Health Service Programs, a copy of which is annexed hereto as Appendix B, the school district will provide its employees, agents and/or contractors that are directly or indirectly involved in providing SSHSPs the information that they need to conform their conduct to the standards and requirements set forth in federal statutes and regulations governing the availability of federal Medicaid financial participation for such services.

B. Distribution

- (1) The school district will take steps to communicate standards and procedures set forth in this Policy and Regulation to all school district employees, administrators, Board members, contractors and agents by disseminating information which explains in a practical manner conduct required by this Policy and Regulation. This will include distribution of this Policy and Regulation via the school district's web page.
- (2) In addition, hard copies of this Policy and Regulation will be provided to new employees during the orientation process and current employees who provide Medicaid eligible services, supplies and equipment to students as part of SSHSPs. All such employees will be required to sign a statement of certification that they have been informed of this Policy and Regulation.
- (3) Hard copies of this Policy and Regulation will be distributed to all contractors and agents of the school district who provide Medicaid eligible services, supplies and equipment to students as part of SSHSPs.

VI. Non-Retaliation.

- A. Retaliation or reprisal in any form against anyone who makes a good faith report of wrongdoing, cooperates in an investigation, or participates in this compliance program is strictly prohibited. If any school district employee, contractor or agent believes that an adverse action in the form of reprisal or retaliation has been taken against him or her as the result of making a report or cooperating in an investigation pursuant to this or any other compliance policy, he or she should report it to the Medicaid Compliance Officer immediately.
- B. In the event that a district employee, contractor or agent believes the Medicaid Compliance Officer has taken an adverse action in the form or reprisal or retaliation against him or her as the result of making a report or cooperating in an investigation pursuant to this or any other compliance policy, he or she should report it to the Board of Education.

APPENDIX A

CONFIDENTIAL DISCLOSURE POLICY

The New York State School Supportive Health Services Program Compliance Agreement, entered into on July 20, 2009, by the New York State Department of Health, the New York State Education Department and the New York Office of the Medicaid Inspector General (hereinafter “Compliance Agreement”) provides:

The State and local school districts shall establish a confidential disclosure mechanism enabling employees to disclose anonymously any practices or billing procedures, deemed by the employee to be inappropriate, to the State’s Compliance Officer. The State shall make the confidential disclosure mechanism known to each employee as part of his or her training. The State and local school district shall, as part of the confidential disclosure program, require the internal review of any such credible disclosure and ensure that proper follow-up is conducted. The State shall include in its annual compliance report to CMS a summary of communications concerning inappropriate billings or any other inappropriate conduct under the confidential disclosure program, and the results of any internal review and follow-up of such disclosures.

The Confidential Disclosure Policy required by the foregoing Compliance Agreement provision consists of the following:

1. An employee of the State Education Department, State Department of Health (“DOH”) (collectively “state agencies”), or any local school district, including New York City and, with respect to the Preschool Supportive Health Services Program, any county in the State (“local school district”), 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. Disclosures may be made anonymously. An employee’s 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 Compliance Officer will send any disclosures to the relevant state agency and to the implicated local school district, if any. If the Compliance Officer is aware of the employee’s identity, he/she will not reveal it 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 local school district shall undertake a review of the practice described in the employee’s disclosure without attempting to uncover the identity of the complaining employee and shall determine: (a) whether the employee’s 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 local school districts 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 local 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 Compliance Officer of the information provided by an employee, the relevant state agencies and local 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 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 local school district determine the employee's 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 local school district who was (were) responsible for approving the review, the remedial plan and all actions taken pursuant to such plan, including the person's name, job title, telephone number, mailing address, e-mail address and fax number.

6. If the Compliance Officer is not satisfied with the review, the remedial plan, or the actions taken pursuant to such plan, he/she may discuss the matter with the relevant state agencies and local school district to resolve these concerns. In addition, the Compliance Officer may, if he/she considers it necessary to assure the State's compliance with the Compliance Agreement, request that the Audit Unit of DOH'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 relevant state agency or local school district or to an employee of such agency or district, no adverse employment action of any type shall be taken against such employee because he/she provided information to the Compliance Officer or to a person conducting a review of the disclosure.

8. The relevant state agencies and the local school districts shall include in every training any of them provides pursuant to the Compliance Agreement: (a) a description of the Confidential Disclosure Policy procedures described above, (b) the name, mailing address, e-mail address and fax number of the Compliance Officer, and (c) an assurance that no adverse employment action of any type will be taken against an employee because he/she provided information to the Compliance Officer 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.

Approved By:

Deborah Bachrach, Deputy Commissioner
Office of Health Insurance Programs
New York State Department of Health

Date:
