

**MEDICAID FRAUD WASTE AND ABUSE  
DETECTION AND PREVENTION COMPLIANCE POLICY**

As New York State has legislated requirements for certain school districts receiving reimbursement or submitting Medicaid claims regarding the detection and prevention of fraud, waste and abuse, the Board of Education of the Hudson City School District hereby enacts the following policy:

**I. INTRODUCTION**

The Hudson City School District has developed this Fraud, Waste and Abuse (“FWA”) Compliance Policy as a comprehensive statement of the responsibilities and obligations of all employees and contractors regarding submissions of information on which payment is made or submitted to Medicaid. This policy is intended to apply to business arrangements with physicians, vendors, subcontractors, hospitals, related service providers, agents, and other persons who may be subject to federal or state laws relating to FWA. The New York State Office of the Medical Inspector General looks for fraud waste and abuse in New York State’s Medicaid program ([www.omig.state.ny.us](http://www.omig.state.ny.us)).

Detecting and preventing FWA is the responsibility of everyone, including employees, members, providers and sub-contractors. The District also provides compliance training.

**1. Definitions of FWA**

**Fraud** – An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself/herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

**Waste and Abuse** – Incidents or practices that are inconsistent with legal, ethical, accepted and sound business, fiscal or medical practices that result in unnecessary cost to health programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes Medicaid, School Supportive Health Services Program (“SSHSP”), and commercial plan member practices that result in unnecessary costs to a health program.

Listed below are some examples of potential FWA:

- Falsifying Claims/Encounters
- Alteration of Claim
- Incorrect Coding

Double Billing  
Billing for services not provided  
Misrepresentation of services/supplies  
Substitution of services

## **II. CODE OF ETHICS**

Any employee who in good faith believes s/he has knowledge of a potential violation of this policy, must report this information to the District directly to the Compliance Officer. Alternatively, an employee may report the violation to the District's Legal Counsel. Violations of this policy or failure to report a known violation of the policy is considered to be a serious infraction of District procedures, any may result in the imposition of disciplinary action up to and including termination. No employee shall be subjected to intimidation or retaliation solely for the good faith reporting of a suspected violation.

## **III. EMPLOYEE PARTICIPATION AND REPORTING**

It is the responsibility of every District employee to abide by applicable laws and regulations and support the District's compliance efforts by:

1. being alert to potential compliance issues relevant to their activities;
2. seeking advice from the Compliance Officer or the District's Legal Counsel regarding compliance issues as appropriate;
3. reporting their good faith belief of any suspected, actual or potential compliance violations including FWA;
4. cooperating in the investigation of compliance reports; and
5. being completely honest in all dealings with federal and state agencies and representatives.

The District shall maintain confidentiality and provide anonymity to the employee(s) to the extent possible under the circumstances, and consistent (in the judgment of the District) with its obligations to investigate employee concerns and take necessary corrective action. Any retaliation or intimidation against an employee as a result of such good faith reporting or as a result of an employee's cooperation in the investigation of such a report shall be strictly prohibited.

#### **IV. COMPLIANCE OFFICER**

The Compliance Officer is the individual within the District responsible for the day to day operation of the compliance program. The Compliance Officer shall be the coordinator for special seminars and education on compliance issues, expectations, and the compliance program operation to ensure that:

1. All employees, including new employees and new school board members, are receiving adequate education and training and that such education and training is documented;
2. All employee complaints and other concerns regarding compliance are promptly investigated; and
3. Adequate steps are taken to correct any identified problems and prevent the reoccurrence of such problems.

#### **V. REPORTING SUSPECTED VIOLATIONS**

Employees shall report their good faith belief of suspected, actual, or potential violations of the compliance program, including FWA or applicable laws, either orally or in writing to the Compliance Officer. Alternatively, the employee may report the violation to the District's Legal Counsel. The District shall maintain confidentiality and provide anonymity to the employee(s) making such report to the extent possible under the circumstances.

#### **VI. DISCIPLINARY POLICIES**

Should an employee intentionally fail to report suspected problems with FWA, participate in FWA under this policy, or encourage, direct, facilitate or permit active or passive non-compliant FWA behavior, such action or inaction may lead to disciplinary action in accordance with provisions of applicable collective bargaining agreements and state and federal law.

#### **VII. MONITORING AND AUDITING**

##### **Procedures for Internal Monitoring and Auditing of FWA**

As an integral part of its commitment to prevent FWA, the District has developed, and shall continue to develop and refine procedures for effective internal monitoring and auditing for FWA and shall conduct Risk Assessments to detect and prevent FWA.

### **1. Internal Auditing and Monitoring**

In order to detect non-compliance with the Compliance Program and to detect FWA, the District shall periodically monitor, internally audit, and as appropriate, externally audit the business activities of the District including, but not limited to, the auditing of the health and pharmacy claims and other compliance audits. Audits may also consist of evaluation of potential or actual non-compliance as a result of such self-evaluations, credentialing of providers and persons associated with providers, mandatory reporting, governance, and quality of care of medical assistance program beneficiaries.

Auditing and monitoring of FWA may be performed utilizing any of the following:

- a. unannounced internal audits or “spot checks;”
- b. review of areas previously found non-compliant to determine if the corrective actions taken have fully addressed the underlying problem;
- c. use of objective, independent auditors that are knowledgeable of the Medicare, Medicaid program requirements and who are not employed in the area under review; and
- d. access to existing audit resources, relevant personnel, and relevant areas of operation by both internal and independent auditors.

### **2. Informal Audits and Monitoring**

Monitoring activities refer to reviews that are repeated on a regular basis during the normal course of operations. Monitoring may occur to ensure corrective actions are undertaken or when no specific problems have been identified to confirm ongoing compliance.

### **3. Risk Assessment**

The District shall have a risk assessment system that determines where the District is at risk for FWA, and shall prioritize the risks. The Compliance Officer shall participate in or contribute to the risk assessment process. The District shall have a system of ongoing monitoring and auditing that is coordinated or executed by the Compliance Officer to assess performance in, at a minimum, areas identified as being at risk.

**VIII. RESPONDING TO COMPLIANCE ISSUES****1. General**

The District is committed to investigating any incident of noncompliance with the District's Compliance policy, significant failures to comply with applicable federal or state law, and other types of misconduct which threatens or calls into question the District's status as a reliable, honest, and trustworthy entity. Fraudulent or erroneous conduct that has been detected, but not corrected, can seriously endanger the reputation and legal status of the District. In this regard, the District has developed internal and external audit procedures and encourages employees to report FWA on their own initiative.

**2. Investigation of and Correcting Potential Violations**

Upon receipt of reports or reasonable indications of suspected noncompliance or FWA, the Compliance Officer, or his/her designee, will investigate the allegation(s) to determine whether a material violation of applicable law or requirements of the District's Compliance Program has occurred. Generally, investigation of a violation will be conducted by the Compliance Officer or his/her designee, and will normally include conferring with the parties involved, any named or apparent witnesses, review of all relevant records and documentation, and analysis of applicable laws and regulations.

In the event any material violation of this Compliance Program, or if any incident of fraud is determined by the Compliance Officer, the Compliance Officer shall immediately take appropriate actions, including:

- a. refer any abusive or potentially fraudulent conduct or inappropriate utilization activities, once identified via proactive data analysis or other processes, for further investigation to the Center for Medicare and Medicaid Services ("CMS"), the Office of Inspector General ("OIG"), the New York State Attorney General, or other state or federal agency as appropriate;
- b. immediately report potential violations of Federal law to the CMS, OIG, or, alternatively, to appropriate law enforcement authorities;
- c. cooperate with the above mentioned agencies;

- d. identify and repay any overpayments to the appropriate party;  
and
- e. discipline any employees or plan members who engage in fraud or abusive practices in accordance with applicable collective bargaining agreements, up to and including termination.

The results of any investigations shall be thoroughly documented. Investigation records shall include a description of the investigative process, copies of interview notes and key documents, a log of individuals interviewed and documents reviewed, the results of the investigation, and any disciplinary or corrective actions taken. Precautions shall be taken to ensure that critical documents are not destroyed without permission of the Compliance Officer and approval of Legal Counsel, and are retained in accordance with statutory guidelines regarding retention.

### **3. Corrective Action**

Corrective Action should be taken promptly following completion of the investigation. If an audit or investigation reveals a material violation of this policy, the Compliance Officer shall draft a corrective plan of action, and establish deadlines by which corrective action must take place. Possible corrective actions include, but are not limited to, refunds of any overpayment received, employee disciplinary action up to and including termination, and reporting to federal or state authorities.

All corrective actions shall be documented, and include progress reports with respect to each error identified. Any decision whether to disclose the results of investigations or audits to federal or state authorities shall be made in consultation with Legal Counsel.

Adoption date:            January 25, 2010