MEDICAID COMPLIANCE PROGRAM

The Board of Education recognizes its obligation to put a plan and program in place to prevent or otherwise detect fraud, waste, and abuse in the Medicaid program. In general, the Board expects that its officers and employees will operate with integrity and in conformance with the adopted Code of Ethics of the Yonkers Public School District (policy 2160). As such, the Board of Education is committed to avoiding any situation in which the existence of conflicting interests of an employee may call into question the integrity of the management or operation of the District.

In compliance with Part 521 of Title 18 of the Codes, Rules, and Regulations of the State of New York, the District has adopted and implemented a Medicaid compliance program to guarantee that all Medicaid Preschool/School Supportive Health Services Program ("SSHSP") policies and procedures employed by the District are in compliance with State and Federal mandates. In accordance with the Intermunicipal Agreement ("IMA") between City of Yonkers (the "City") and the District, filed June 16, 2014, the city's Finance Accounting unit serves as the billing unit for all the SSHSP Medicaid sponsored related services. As a result, the City Accounting staff involved in Medicaid billing and reimbursement is also mandated to follow all applicable New York State Medicaid SSHSP regulations and compliance laws.

The District Medicaid Compliance Plan outlines the following:

1. Compliance expectations as embodied in the District Code of Ethics;

2. Compliance expectations as embodied in the NYS Medicaid Compliance Program as outlined by OMIG;

3. Policies and procedures for the implementation/adherence of the Medicaid SSHSP compliance program;

4. Training and education for all affected District and City employees and other District providers associated with the Medicaid Compliance Plan or dealing with potential compliance issues; such training shall be made a part of the orientation for all new affected employees and shall occur periodically for all affected employees, including but not limited to, all principals, service providers, the Medicaid Compliance Committee members, the Board of Trustees members, and Medicaid Billing clerks;

5. Direction regarding how to communicate potential compliance issues to appropriate compliance personnel;

6. Direction regarding how potential compliance problems are investigated and resolved; and,

7. Disciplinary polices to encourage good faith participation in the compliance program by all affected individuals.

SECTION I: General Overview

In order to bill for Medicaid eligible SSHSP services, the District utilizes laws, rules and, regulations as dictated under New York State SSHSP and OMIG laws. The District and City are committed to having accurate Medicaid claims created, processed, and submitted for reimbursement. Anyone who believes a false, inaccurate, or questionable claim has been processed and/or submitted for payment should report it immediately to the Medicaid Compliance Officer.

To avoid potential New York State and/or Federal criminal and/or civil liability for violations of the False Claims Act; the False Statements Act; or the Medicare and Medicaid False Claims Statute, the District, in conjunction with the City, emphasize the following:

1. The District shall not submit claims for reimbursement unless the services were rendered and appropriately documented by the service provider.

2. The District shall only seek reimbursement in the amounts in which it is entitled.

3. The District is committed to submitting timely and accurate claims for reimbursement. Any false, inaccurate, or questionable claims should be reported to the Medicaid Compliance Officer immediately.

To ensure compliance with New York State and Federal Medicaid laws for SSHSP claims reimbursement, the District has developed policies and procedures to conform to applicable SSHSP Medicaid regulations. All persons, including, but not limited to, District and City employees, contractors, service providers, and/or vendors of either the District or City, as well as executives, and governing body members, involved in the District's Medicaid covered services and/or the program's oversight are expected to be aware of and follow the laws, rules, regulations, and policies that affect the way they do their jobs. If any employee, executive, and/or governing body member, or any person associated with either the City or the District as a contractor, service provider, or vendor has an issue with any of the required laws and/or regulations, they should contact their supervisor and the Medicaid Compliance Officer.

SECTION II: Designation and Responsibilities of the Medicaid Compliance Officer

The Board of Education, in accordance with the guidelines from OMIG, shall ensure the appointment of a Medicaid Compliance Officer (hereinafter referred to as "Compliance Officer"). The Compliance Officer's responsibilities include, but are not limited to, the following:

1. Maintaining a knowledge base of the services that are covered by Medicaid such that the District files compliant claims.

2. Verifying the credentials of the provider(s) before the District engages their services. District employees will be required to sign an agreement that said employee will inform the Compliance Officer and the District Human Resource Administrator upon receipt of any notification or knowledge that the individual's license has been suspended, revoked, or lapsed, or if they have been excluded from participation in the Medicaid program. Upon notice by the employee, the District will take remedial steps as soon as possible. Contracts with outside providers will include provisions to address this requirement.

3. Reviewing the list of excluded providers monthly to determine if any District employees who deliver Medicaid-covered services, or if any contractors, have been added to the list or have been reinstated. If any have been excluded, it will be reported immediately to the Superintendent who will initiate remedial action.

4. Overseeing the day-to-day operation of the Medicaid SSHSP compliance program including:

    - scheduling and presiding over the quarterly Medicaid Compliance Committee Meetings;
    - ensuring that all conveyed compliance issues, whether anonymous or not, are appropriately investigated and, as necessary, reported to the Board of Education and New York State OMIG personnel;
    - developing and scheduling a calendar to review and update both the SSHSP Medicaid and compliance regulations;
    - developing and scheduling a calendar to communicate annually both Medicaid and compliance issues to appropriate City and District compliance personnel. The communications should be regarding, but not limited to, the following:
        i. the procedures for completing the required documentation;
        ii. updating the billing information;
        iii. verifying that provider credentials/licenses are active;
        iv. providing staff guidance on the reporting of potential compliance issues/concerns such as to whom the issues/concerns must be reported and how they can be reported; and
        v. identifying and enforcing the procedures followed by the Compliance Officer when investigating and resolving potential compliance issues/concerns.

5. Reporting directly to the Superintendent or other senior administrator as designated by the Superintendent.

6. Reporting directly to the Board of Education on a quarterly basis on the activities of the SSHSP program and its compliance program or sooner as issues necessitate.

7. Maintaining, in a secure place, a confidential log of all reports of compliance issues and concerns and updating the Superintendent and the Board of Education as often as necessary.

8. Completing a review of any and all allegations presented by any District or City staff and/or from OMIG State Compliance staff.

9. Promptly reporting the findings of any investigation to the Superintendent, the Board of Education, and/or the Medicaid Inspector General, as appropriate. The Compliance Officer will report to the Board of Education all fraud, significant findings, or patterns of noncompliance.

10. The Compliance Officer will develop any remedial plan required as a result of the review within established timelines and follow established New York State procedures. The Compliance Officer will provide the OMIG State Compliance Officer with a written description of the following:
    - the allegation reviewed; and
    - the remedial plan and all actions taken pursuant to the plan; or
    - a written response as to why the allegation is/was not credible.

SECTION III: Claims Submission by COY and/or District Employees and/or Persons Associated Therewith

In accordance with the guidelines from OMIG, the District and City shall require that each employee, contractor, or vendor involved with providing or obtaining reimbursement for medical services, supplies, or equipment from or on behalf of the District be responsible for submitting honest and accurate SSHSP claims to Medicaid. All employees, contractors, and vendors are required to comply with established OMIG policies and procedures in regard to the provision and billing of services.

1. All services, equipment, and supplies billed for will be fully documented as required.

2. All claims will be for services provided by providers who are properly credentialed and licensed and have provided services within their scope of practice.

3. All employees, contractors, and/or vendors are expected to comply with Federal and State laws and administrative remedies designed to prevent fraud, abuse, and waste in Federal and State health care programs, especially the Federal False Claims Act and administrative remedies associated with their enforcement.

4. No employee, contractor and/or vendor is permitted to give or receive cash, gifts, favors, payment, services, entertainment, tips or any other items of value to refer an individual to a person for the furnishing of or arranging for the furnishing of any item or service to be billed to Medicaid, Medicare or any other government of private health care program.

5. No employee, contractor and/or vendor is permitted to give or receive cash, gifts, favors, payment, services, entertainment, tips, or any other items of value to purchase, lease, order, or sign a contract for or arrange for or recommend the furnishing of any item or service to be billed to Medicaid, Medicare, or any other government of private health care program.

SECTION IV: Training/Education for Employees/Persons Associated with the District

As appropriate, District and City personnel, contractors, service providers, and vendors shall participate in mandatory training and education on Medicaid SSHSP compliance issues/program operations, the expectations for those providing services, and the procedures to be followed by any person who suspects non-compliance. This includes when and how to report the suspected wrongdoing and their protection against reprisal or retaliation for reporting.

Training and education shall be provided for the following individuals:

1. All affected District and City employees.

2. All District providers associated with the Medicaid Compliance Plan or dealing with potential compliance issues.

3. All providers employed by the District and City as employees and/or contractors.

4. All principals, service providers, the Medicaid Compliance Committee members and the Medicaid Billing clerks.

5. All affected employees and persons associated with the provider, which includes office executives and the Board of Trustees members.

Training shall occur annually and shall be made a part of the orientation packet for a new employee, appointee or associate, executive, and governing body member. This training shall be completed prior to December 31 of each school year and be evidenced by the training sign in sheets.

SECTION V: Lines of Communication for Anonymous Disclosure to the Compliance Officer
The District will work towards ensuring that its culture encourages communication among all parties involved in the Medicaid compliance program. The New York State Education Department and Health Department have outlined the requirements of a disclosure mechanism that enables employees to report anonymously any practice or billing procedure that the employee deems inappropriate to the District's Compliance Officer and/or the State's Compliance Officer. The established lines of communication to the Compliance Officer are described below. They have been established to ensure that the Compliance Officer is accessible to all employees, persons associated with the provider, executives, and governing body members to allow such persons to communicate suspected issues of non-compliance whether based on direct knowledge or a good faith suspicion.

1. Direct contact through written notes left on the desk, phone, e-mail, interoffice mail, and/or the United States Postal Service.

2. Disclosure may be made by calling the Compliance Hotline at (1-844-284-1227) or emailing Medicaidcompliance@yonkerspublicschools.org.

3. Disclosure may be made anonymously, including an anonymous written correspondence left on a desk or anonymous communication delivered through inter-office mail, which does not indicate the origin of the communication, but only destination. (Please note: during training and education sessions as outlined in Section IV, the challenges that occur when a concern is presented anonymously will be explained to staff, including how the complaint cannot be clarified nor further information be gleaned since the source of the complaint is unknown).

4. Any person who believes that any practice or billing procedure related to Medicaid reimbursement of the SSHSP is inappropriate may send information concerning such

practices or billing procedures in writing to the state Compliance Officer by U.S. Mail, courier services, e-mail, or facsimile transmission. Disclosure may be anonymous.

5. Alternatively, any person who discovers wrongdoing that is a false claim or statement may report that information to the Department of Justice or the U.S. Attorney by filing a complaint under seal in the court pursuant to the False Claims Act. They may also report to the appropriate local prosecutor or other law enforcement authorities.

6. The Compliance Officer will not reveal to any other person the source of the allegations without the employee's written consent.

SECTION VI: Disciplinary Policies to Encourage Good Faith Participation

District disciplinary procedures and practices, in conjunction with collective bargaining agreements, will be followed to encourage good faith participation in the compliance program by all affected individuals. Failure of District employees to comply with this policy and the reporting requirements pursuant to District Policy 9645, Disclosure of Wrongful Conduct, may result in a range of disciplinary actions, up to and including termination, in conformance with the relevant collective bargaining agreements and applicable laws.

Such disciplinary policies shall be fairly and firmly enforced in the following instances:

1. Failing to report suspected problems;

2. Participating in non-compliant behavior;

3. Encouraging, directing, facilitating, or permitting, either actively or passively, noncompliant behavior; and

4. Failing to participate in any compliance investigation as may be required.

Any person who has knowledge of or in good faith suspects any wrongdoing in the documentation, coding, or billing for services, equipment, or supplies, in the District's practices or those of the District's clients, or in violation of any State and/or Federal law or Regulation and/or District policy should report the wrongdoing in accordance with District policy and/or procedures so that an investigation can be conducted and appropriate action taken. Retaliation or reprisal against anyone for such report is strictly prohibited.

Such wrongdoing that shall be reported if known or suspected in good faith includes, but is not limited to, violation(s) due to impermissible billing practices as well as violation(s) of Federal or state law, such as:

- billing for services not performed at all or not performed as described;
- submission of claims for unnecessary or undocumented services, equipment, or supplies;
- double billing;
- false reports;
- billing for services by an unlicensed or excluded provider; and/or

- paying or accepting money, gifts, or favors in return for referrals.

SECTION VII: Disciplinary Procedures and Practices
In the event an investigation identifies employee misconduct or suspected criminal activity, the District will undertake the steps listed below, guided by any relevant collective bargaining provisions and applicable law.

1. Demand the individual in question immediately cease the offending practice.

2. If the conduct involves the improper submission of claims for payment, the District and individual will immediately cease all billing potentially affected by the offending practice and or individual.

3. Consult with legal counsel, if necessary, to determine whether voluntary reporting of the identified misconduct to the appropriate governmental authority is warranted and, if applicable, calculate and process adjustments for any improper payments made by a Federal or State government program as a result of misconduct.

4. If the offense involves the action of an employee, the District will immediately report the instance to the Legal Department and OMIG.

5. In the case of possible criminal conduct by an employee or a client, referral to the appropriate government official will be made.

6. If the investigation uncovers what appears to be criminal conduct on the part of an employee or client, appropriate disciplinary action against the employee(s) or client(s) who authorized, engaged in, or otherwise participated in the offending practice will include, at a minimum, the removal of the person from any position of oversight and may include, in addition, suspension, demotion, and/or termination.

7. Initiate appropriate disciplinary action, which may include, but is not limited to, reprimand, demotion, suspension, and/or termination.

8. Promptly undertake appropriate training and education to prevent a recurrence of the misconduct.

9. Conduct a review of policies and procedures to determine whether revisions or the development of new policies and/or procedures are needed to minimize future risk or noncompliance.

10. Conduct, as appropriate, follow-up monitoring and auditing to ensure effective resolution of the offending practice.

SECTION VIII: Creation of System for Routine Identification of Risk Areas.
Medicaid claims will be included as part of the District's risk assessment and will be reviewed as directed by the Audit Committee or the Board of Education. In addition, the Medicaid claims

functions will be tested and reviewed as part of the District's internal audit plan routinely, or as directed by the Audit Committee or Board of Education. Further, the District, through Compliance Officer oversight, will routinely review the Medicaid system in order to identify compliance risk areas. These areas can be specific to the provider, type of claims, and self-evaluation of other risk areas. This may include internal audits, external audits, evaluation of potential or actual non-compliance, such as credentialing of providers and persons associated with providers, mandatory reporting, governance, and quality of care given to the students. When the internal audit reveals weaknesses, a corrective action plan will be initiated by the Superintendent and/or his/her designee.

SECTION IX: Creation of Systems for Responding to Compliance Issues Raised Including Baring Retaliation

The District's program will include mechanisms to ensure compliance issues are responded to appropriately as they are raised. The Compliance Officer, as noted in Section II above, is responsible for ensuring that the system for receiving reports and responding appropriately is implemented. The procedures and practices listed below shall be put into place in response to compliance issues as they are raised through investigating potential compliance problems and/or responding to compliance problems as identified in the course of self-evaluations/audits/reviews. Efforts will be made to correct such problems promptly and thoroughly. When necessary, the District will implement procedures, policies, and/or system changes as necessary to reduce the potential for recurrence.

1. Anyone who becomes aware of or in good faith suspects wrongdoing by another employee, a board member, a client, a vendor, a contractor, or any other person, must report it to the Compliance Officer.

2. The individual making the report may do so in writing and such report may be anonymous as indicated in Section V.

3. If the person is self-reporting wrongdoing or violation(s) of law, he/she will be given due consideration in mitigation of any disciplinary action that may be taken.

4. Upon a report of wrongdoing, the Compliance Officer will then conduct an investigation into the allegations to determine the nature, scope and duration of wrongdoing, if any, and take appropriate measures, including contacting appropriate State and Federal officials if an allegation is confirmed.

5. The Compliance Officer and Board of Education are charged with the responsibility of enforcing District Policy 9645, Disclosure of Wrongful Conduct, which protects individuals who, in good faith, report or investigate suspected cases of fraud, waste, or abuse in the District's Medicaid program from retaliation or intimidation. Retaliation or reprisal in any form against anyone who makes a report of wrongdoing, cooperates in any investigation, or participates in the compliance program is strictly prohibited. If an employee, contractor, or vendor believes an adverse action in the form or reprisal or retaliation has been or will be taken against him or her as a 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 Compliance Officer or Superintendent immediately.

6. Anyone who makes a report of wrongdoing maliciously, frivolously, or in bad faith will be subject to disciplinary action up to and including termination.

SECTION IX: Dissemination of Policy

The Board of Education directs the Superintendent to ensure that this policy, as well as the cross-referenced policies, are disseminated to employees as well as those entities providing Medicaid covered services, with particular attention to those employees involved in administering the programs and services associated with Medicaid and their billing.

The policy outlined above shall be periodically reviewed and updated consistent with the requirements and standards established by the District and Federal and State laws and regulations. The Board authorizes the Superintendent of Schools and/or his/her designee to establish such rules, regulations, and/or procedures necessary to implement and maintain this policy.

Cross-ref: 2160, Code of Ethics of The Yonkers Public School District for Board Members, Officers, and Employees
2230, Committees of the Board
2520, Mandatory School Board Member Training
6650, Claims Auditor
6660, Independent Auditor
6680, Internal Audit Function
9645, Disclosure of Wrongful Conduct
9700, Professional Learning and Staff Development

Ref: Civil False Claims Act, 31 U.S.C. §3729, et seq.
Criminal False Claims Act 18 U.S.C. §287
False Statements Act 18 U.S.C. §1001
Medicare and Medicaid False Claims Statute, 42 U.S.C. §1320a-7b-(a)
NY CLS State Finance Law §§187 et seq. (New York False Claims Act)
NY CLS Social Services Law §145-b (False Statements)
NY CLS Social Services Law §145-c (Sanctions)
NY CLS Social Service Law §363-d (Provider Compliance Program)
NY CLS Labor Law §740 (Prohibits Retaliation)
18 NYCRR §§521.1 et seq. (NYS Provider Compliance Program)

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