



The Institutes of Applied Human Dynamics, Inc.
Embracing Families, Enriching Lives

Corporate Compliance Policy	Policy Manual: Corporate Compliance
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PURPOSE:

In accordance with 14 NYCRR Part 521-1.4, providers must ensure the agency complies with all federal and state regulations pertaining to identified risk areas, as well as the detection and prevention of fraud, abuse, or waste. The purpose of this document is to provide guidance on the various laws associated with compliance and the potential liabilities and penalties that may be levied on a person involved in fraudulent activities. This document also highlights steps taken by IAHD to detect fraud, abuse or waste and disciplinary actions which could be taken by IAHD, where applicable.

APPLICABILITY:

This policy applies to the following:

- All IAHD employees
- All members of the IAHD Board of Directors
- All vendors or contractors utilized by IAHD
- All consultants contract directly with IAHD

DEFINITIONS:

The following are terms defined for the purposes of this policy:

- a) **“Affected individuals”** - “all persons who are affected by the required provider’s risk areas including the required provider’s employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers” *(See 18 NYCRR Part 521-1.2(a)(1))*
- b) **“Risk areas”** – “areas of operation affected by the compliance program.” These include, but are not limited to, the following: billing, payments, ordered services, medical necessity, quality of care, governance, mandatory reporting, credentialing and contractor(s), subcontractor(s), agent(s) or independent contractor(s) oversight.” *(See 18 NYCRR Part 521-1.3(d))*
- c) **“Effective Compliance Program”** - a compliance program adopted and implemented by providers, such as IAHD, that satisfies the regulatory requirements and “is tailored to the agency’s unique characteristics. Must also be well integrated into all aspects of the agency, promotes compliance and ethical behavior, and is reasonably designed to prevent and detect fraud, abuse and waste.” *(See 18 NYCRR Part 521-1.2(b)(3))*

- d) “**Vendors**” - for the purposes of this policy, defined as any person or entity where there is a direct relationship, contract or agreement with IAHD, outside of employment or serving as a member of the Board of Directors.

POLICY:

IAHD is committed to ensuring that all applicable federal and state standards pertaining to the risk areas, detection and prevention of fraud, abuse or waste, or any other unethical activities, are followed by all “affected individuals.” This includes internal controls put in place to ensure compliance with all statutory requirements.

IAHD is committed to training and educating all ‘Affected Individuals’ of their responsibilities in detecting, preventing and reporting any concerns or issues. This includes education on potential liabilities, damages/penalties (civil and criminal) which could be implemented for participating in or causing fraudulent activities, as well as withholding information which could affect payment.

Statutes

All “Affected Individuals” should be aware of the potential remedies available to the state and/or federal government for any fraudulent or unethical activities. Citation references are included.

1) **Federal False Claims Act, 13 USC §§3729 to 3733, excluding §3730(h)**

This statute defines fraudulent activity, including the element of *knowledge and intent* of committing fraudulent activities, as well as the penalties for such actions. This includes false statements, causing false statements to be made, or creating false documentation. The law allows for a minimum of civil penalties of \$13,508 per claim submitted and a maximum penalty of \$27,018 per claim, as well as “treble” damages, which are three times the amount of the actual damages. The law also allows for private citizens to bring a case before the court on behalf of the federal government for damages incurred. These types of actions are brought through litigation, after the payment for the fraudulent claim has been made. Violators of these statutes could also find themselves facing up to 5 years in prison.

2) **Federal administrative remedies for false claims and statements 31 USC §§ 3801 to 3812**

This statute allows for administrative action available, rather than through litigation. Also, unlike the previous statute discussed, this statute states that a violation of the law occurs at the time of submission. Payment does not have to have been made. The element of *knowledge and intent* of submitting a fraudulent claim is key to proving liability. The penalty for submitting such claims could be up to \$5,000 per claim, and the person could also be held liable for up to double the amount of damages. The amount may be changed by Congress from time to time.

3) **New York State False Claims Act, New York Finance Law §§187-190 and §192 and §194; New York Social Services Law §145-b and 145-c – civil liabilities, penalties**

This is the NY State statute for any false claims submitted to the government for payment. For our purposes, this pertains mainly to Medicaid payments for services. In NY State, actions brought against a person or entity under the False Claims act must show *knowledge and intent* of the person committing fraudulent activities, including but not limited to filing false claims, causing false claims to be submitted, or creating false documentation which could affect payments. Civil penalties can be imposed at a minimum of \$6,000 and a maximum of \$12,000. Additional penalties may be imposed for damages up to three times the initial amount, as well as attorneys' fees if a civil action is brought. Similar to the federal statutes, either the attorney general or a private person may bring a False Claims Act case before the courts.

4) **New York State Social Services Law §§145, 366-b; New York Penal Law Articles 155, 175, 176, 177 – criminal liabilities, penalties for false claims and statements**

The State of New York has enacted statutes which allow for the state to bring a criminal proceeding against a person for submitting false claims, in addition to civil litigation. A person who submits false statements, or conceals material information to receive payments, could potentially be guilty of a misdemeanor. The law authorizes filing of other criminal actions against a person if the fraudulent actions would fall under the Penal Code of NY, in which case the person could be charged with larceny, offenses involving false written statements, insurance fraud, or health care fraud. A person found guilty of any of these crimes could face up to a year in prison,

5) **Federal and NY State whistleblower protections. Federal False Claims Act 31 USC §3730(h); New York State Finance Law §191; NYS Labor Law §§740-741**

New York State and Federal law provides protection for people who have a reasonable belief that fraud is being committed and report their concerns. Essentially the statutes ensure that those who report, in good faith, a concern or issues shall be protected from any intimidation, harassment, retaliation, discrimination or other adverse employment consequences. The purpose of these protections is to encourage people to come forward and report fraudulent activity. If the person has made a false report of fraudulent actions, as a form of retaliation against another, which have been proven to be false, they could potentially be subject to disciplinary actions. IAHD implemented a Whistleblower Policy in 2022, in accordance with all laws and regulations ensuring these protections to all "Affected Individuals" (*See IAHD Whistleblower Policy*)

Detecting Fraud, Abuse or Waste

IAHD has implemented a number of ways to detect, prevent fraud, abuse and waste. (*See Compliance Documentation Review Procedures*)

- a) *Quarterly internal reviews* – The IAHD Quality Enhancement Department (QE) conducts an internal review of documentation required for submitting claims for services provided, in accordance with OMIG Audit Protocol. A sample of records

from all programs operated by IAHD are reviewed on a quarterly basis to ensure all documentation is completed and contains all elements required by OMIG. Any findings of potential deficiencies are forwarded to the appropriate program directors for review and submission of any corrective actions taken.

- b) *Monthly Reports and Reviews* - QE provides monthly reports on status of requirement documentation to all program directors from the electronic health record to ensure compliance with OMIG protocols and IAHD internal controls.
- c) The IAHD policy and procedure on *Corporate Compliance Reporting, Investigation and Resolution* was implemented highlighting the importance of reporting concerns and/or issues. The procedures provide steps to be taken to investigate any reports of concerns/issues with billing claims. The procedures further discuss the importance of ensuring any remedies for an issue reported are taken to mitigate any repetition of the reported issues, or other issues discovered during the investigation.

Disciplinary Actions

IAHD considers any violations of the above referenced statutes a serious matter. Any “Affected Individual” found to have committed, or caused to be committed, a fraudulent action may be subject to disciplinary action. These steps could be a verbal warning up to and including termination. If the person involved is a member of the Board of Directors, they may be subject to removal from the Board of Directors. For “vendors”, IAHD may cancel a contract.

In instances of abuse or waste, IAHD will determine the appropriate course of action to take to address the issue raised or detected. This could include changing existing practices to improve efficiencies, training on policies and/or procedures to ensure compliance, or disciplinary action up to and including termination, if deemed necessary.

Effective Dates:

Drafted and sent to Cabinet for review: July 21, 2023

Adopted by Cabinet: August 4, 2023

Distributed to all staff via email: August 4, 2023