Medicaid Compliance Cross-Reference Chart

[December 2009]

The following information is offered to assist chemical dependence services providers in responding to Medicaid Compliance Program requirements [18 NYCRR Part 521], which became effective on July 1, 2009.

The York State Office of the Medicaid Inspector General (OMIG) is currently in the process of drafting industry-specific guidelines that reflect the requirements of the Mandatory Compliance Law. The OMIG does not anticipate issuing model compliance plans or templates.

OASAS will work closely with OMIG in developing guidance for the CD field and will continue to make resources available on the OASAS website.

Providers are strongly encouraged to periodically check the OMIG website to obtain updated information and guidance.

Part 521 Regulations	Related OMIG Standards/Guidance	Related OASAS Regulations/ Requirements	Related CARF Standards
REQUIRED ELEMENTS:			
(1) **written policies and procedures** that describe: compliance expectations as embodied in a code of conduct or code of ethics; implement the operation of the compliance program; provide guidance to employees and others on dealing with potential compliance issues; identify how to communicate compliance issues to appropriate compliance personnel; and describe how potential compliance problems are investigated and resolved;	• Establish guiding principles of ethical conduct; part of core mission • Build/implement from bottom up in organization • Publicize/communicate to all staff – compliance is everyone's job • Ensure a clear, consistent investigation process • Should be updated regularly	• OASAS Part 841 – Medicaid Billing for CD Services • OASAS Part 853 - Credentialing of Alcoholism and Substance Abuse Counselors [CASAC Code of Ethics] • ATC standards/ procedures • OASAS §822.2 • OASAS §818.2	• Section 1-A, 4: Corporate Responsibility

Part 521 Regulations	Related OMIG Standards/Guidance	Related OASAS Regulations/ Requirements	Related CARF Standards
(2) **designate an employee** vested with responsibility for the day-to-day operation of the compliance program; such employee's duties may solely relate to compliance or may be combined with other duties so long as compliance responsibilities are satisfactorily carried out; such employee shall report directly to the entity's chief executive or other senior administrator designated by the chief executive and shall periodically report directly to the governing body on the activities of the compliance program;	• Designate a senior manager with direct access to Director and Board as the Compliance Officer [CO] • Employee should NOT be in-house counsel or fiscal officer [possible conflicts of interest] ; not a consultant • Establish system of checks and balances • CO can wear more than one hat • Ensure support/assistance from all staff throughout organization		• Section 1-A, 5: Designation of Point of Contact
(3**) training and education** of all affected employees and persons associated with the provider, including executives and governing body members, on compliance issues, expectations and the compliance program operation; such training shall occur periodically and shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member;	• Conduct at least annual training; more in high-risk areas [e.g. coding, billing] • Any methods are okay • Training or HR staff should arrange – not the CO's responsibility • Measure retention of information by staff	• OASAS § 822.7 and 818.8 – staff training	• Section 1-A, 4: Corporate Responsibility; • Section 1-I, 11: Training
(4) **communication lines** to the responsible compliance position, as described in paragraph (2) of this subdivision, that are accessible to all employees,	• Foster a corporate culture that supports compliance; set tone from the top • Incentivize compliance; show appreciation for		• Section 1-A, 4: Corporate Responsibility; and 5: Point of Contact

Part 521 Regulations	Related OMIG Standards/Guidance	Related OASAS Regulations/ Requirements	Related CARF Standards
persons associated with the provider, executives and governing body members, to allow compliance issues to be reported; such communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified;	doing the right thing • Establish a hotline or other confidential communication methods • Follow-up is also key to ensure appropriate responses are implemented		
(5) **disciplinary policies** to encourage good faith participation in the compliance program by all affected individuals, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for: (i) failing to report suspected problems; (ii) participating in non-compliant behavior; or (iii) encouraging, directing, facilitating or permitting either actively or passively non-compliant behavior; such disciplinary policies shall be fairly and firmly enforced;	• Encourage participation by all – include responsibilities in performance plans • Include goals in managers' plans related to specific job functions • Make reporting of compliance issues mandatory • Establish clear and consistent disciplinary/enforcement policies at all levels • Evaluate to ensure participation	• OASAS § 822.2 and 818.2 -- P&Ps on personnel practices [including disciplinary measures; training; review of performance, etc.]	• Section 1-A, 4: Corporate Responsibility and 8: Leadership; • Section 1-I, 5: Performance Management and 7: Personnel Policies

Part 521 Regulations	Related OMIG Standards/Guidance	Related OASAS Regulations/ Requirements	Related CARF Standards
(6) a **system for routine identification of compliance risk** areas specific to the provider type, for self-evaluation of such risk areas, including but not limited to internal audits and as appropriate external audits, and for evaluation of potential or actual non-compliance as a result of such self-evaluations and audits, credentialing of providers and persons associated with providers, mandatory reporting, governance, and quality of care of medical assistance program beneficiaries;	• Self-evaluation of risk areas is the core of a good compliance program • Conduct periodic vulnerability assessments of all key areas. Look at: o federal, state work plans, audit priorities o Past audit/compliance issues o Internal data/trend analysis – common mistakes, missing elements; other "red flag" areas o Guidance from CD field • Incorporate Stark and anti-kickback issues • Actively monitor in all departments	• OASAS § 822.6 and 818.6 -- Quality Improvement	• Section 1-A, 4: Corporate Responsibility and 8: Leadership; • 1-G. Risk Management
(7) a **system for responding to compliance issues** as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the department or the office of Medicaid inspector general; and refunding overpayments;	• Conduct prompt investigations, coordinated by CO • Determine what caused the problems, and document • Ensure mandatory reporting to officials • Ensure self-disclosure and repayment; keep a log of all repayments • Establish safeguards and processes to avoid in future	• OASAS § 822.6 and 818.6 -- Quality Improvement • OASAS Part 836 -- Incident Reporting	• Section 1-A, 4: Corporate Responsibility; • -H, 7 and 8: Critical Incidents; • 1-G. Risk Management; • 1-N. Performance Improvement

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(8) **a policy of non-intimidation** and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials as provided in sections seven hundred forty and seven hundred forty-one of the labor law.	• Protect whistleblowers, CO and employees • Ensure anonymity • Apply consistently to all staff at all levels • Also establish a process for handling malicious allegations		• Section 1-A, 4. d: Waste, Fraud , Abuse; • Section 1-I, 5: Performance Management and 7: Personnel Policies
OTHER CRITICAL AREAS:			
Medical Necessity/Quality of Care	• Policies/services should be patient-centered and clinically appropriate • Establish and monitor quality outcomes and performance measures	• § 822.6 and 818.6 -- Quality Improvement • §822.11 (k) – Excessive Services • §841.8 –Medicaid Billing	• Section 1-M, 4: Information Management; • Section 2-C, Individual Plan; • Section 1-N, Performance Improvement; • Section 5-A: Individualized Service Plan
Governance	• Organizational integrity must be assured • Board is ultimate authority; actively monitor compliance systems • Expertise in clinical, quality and fiscal areas [not just benefactors/donators] • Give access to all books and records	• OASAS § 810.7 – Certification Standards/Board of Directors requirements	• Section 1-B: Governance

Part 521 Regulations	Related OMIG Standards/Guidance	Related OASAS Regulations/ Requirements	Related CARF Standards
	• Ensure on-going reporting and review • Ensure adequate training and oversight		
Mandatory Reporting	• Adverse patient events and other serious incidents must be immediately reported to appropriate authorities • Incorporate safeguards within quality/performance improvement activities	• OASAS Part 836 - Incident Reporting [Missing Patients, Sexual Misconduct, Child Abuse, other serious incidents] • OASAS Part 853 - Credentialing of Alcoholism and Substance Abuse Counselors	• Section 1-A, 4: Corporate Responsibility
Credentialing	• Medical staff professional standards must be ensured • Ensure required medical peer review • Ensure other professional standards are maintained • Routinely verify/document all credentials; update as required • Check excluded provider lists	• OASAS Part 853 - Credentialing of Alcoholism and Substance Abuse Counselors • OASAS § 822.7 and 818.8– staffing	• Section 1-H, 2, 3, 4, 7, 8, 9: Health and Safety; • Section 1-I; 2, 5, 8,9, 10, and 11: Human Resources
OVERALL EFFECTIVENESS	• Determine whether the overall plan/program is working; self-assess and revise as needed	• § 822.6 and 818.6 -- Quality Improvement	• Section 1-N, Performance Improvement

For additional information and assistance, contact:

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