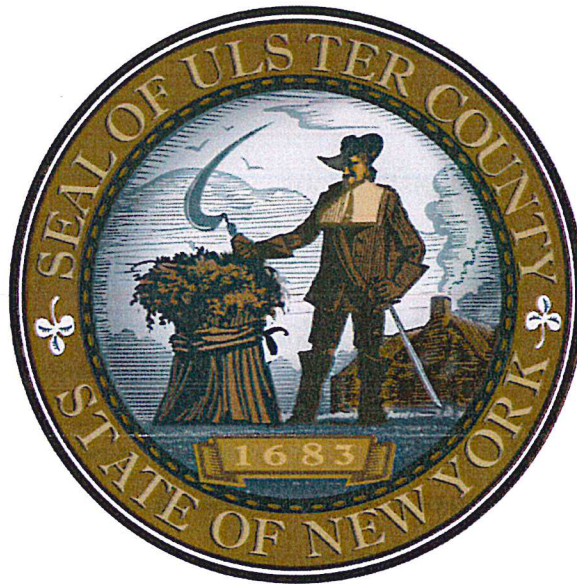


County of Ulster

Standard Operating Procedures

“Compliance Program Procedures”



Patrick K. Ryan

County Executive

May 2012
(Revised December 2018)
(Revised July 2019)
(Revised November 2020)

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Procedure: Compliance

Topic: Conflicts of Interest

Standard: Ethical conflicts of interest are the cause of violations of laws, regulations, policies and procedures. Ulster County government seeks to eliminate waste, fraud and abuse in its operations by giving clear guidance to its employees, contractors and vendors concerning expectations regarding conflicts of interest. The **Ulster County Ethics and Disclosure Law** was adopted in 2008 to address this issue. In 2012, the Ulster County Executive established **Standards of Conduct for Ulster County Government Employees**.

1. All Ulster County government employees, vendors and contractors are required to be familiar with and to conform to the County's policies and procedures concerning conflicts of interest, as set forward in the **Ulster County Government Ethics and Disclosure Law and the Standards of Conduct for Ulster County Government Employees**.
2. All new employees shall be provided copies of or electronic access to these documents, and shall sign a written attestation that they have received or been given access to the documents.
3. All Ulster County government employees are required to seek clarification from supervisors if they have any questions concerning relevant laws, regulations, policies and procedures.
4. All Ulster County government vendors and contractors shall be informed of the **Standards of Conduct for Ulster County Government Vendors and Contractors**, shall be provided electronic access to the document, and shall be provided opportunities to ask questions about the document.
5. The Ulster County government shall hold its employees, vendors and contractors strictly accountable for compliance with all relevant laws and regulations, as well as the County's policies and procedures concerning conflicts of interest.
6. On an annual basis, the Ulster County government shall provide updated training to its employees. In addition, vendors and contractors, by the terms of their contracts

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with the County, shall be responsible for ensuring that their employees and agents receive annual compliance training updates regarding their policies and procedures concerning conflicts of interest.

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Procedure: **Compliance**

Topic: **Relevant Laws**

Standard: Ulster County government is committed to prompt, complete, and accurate billing for all services it provides, in accordance with applicable laws and regulations. The Federal False Claims Act and the New York False Claims Act were created to deter the submission of fraudulent claims by establishing severe criminal and civil punishment, including financial penalties for violations. In addition, these laws encourage parties to “blow the whistle” on suspected violators by providing financial incentives to do so, and also provide protections for whistleblowers against retaliation by their employers. Specifically, as to financial incentives, the Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by the NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover twenty-five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty-five percent if the government did participate in the suit. The Deficit Reduction Act of 2006 requires employers to educate employees about these laws and their intent.

No employee, contractor, or agent shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor, which results in the submission of a false or misleading entry on claims forms or documentation of services that result in the submission of a false claim. This procedure explains the Federal False Claims Act (31 U.S.C. §§ 3729 – 3733), the Administrative Remedies for False Claims (31 USC Chapter 38 §§3801-3812), the New York State False Claims Act (State Finance Law §§187-194), and other New York State laws concerning false statements or claims and employee protections against retaliation.

It is the standard of Ulster County to prevent and detect fraud, waste, and abuse in County government.

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1. Ulster County government's employees, contractors, and agents shall not knowingly make or submit any false or misleading entries on any claim forms.
2. Ulster County departments that bill Medicaid (and other third party payers) for health care services that they provide will perform billing activities in a manner consistent with the regulations and requirements of third party payers.
3. Ulster County departments that bill Medicaid (and other third party payers) for health care services will conduct regular and routine reviews and internal tests of its billing systems to detect the intentional and/or unintentional generation of improper charges for its services.
4. Employees, contractors and other agents of Ulster County government shall be educated about the Federal and New York False Claims Acts, the Whistleblower provisions, and protections afforded "reporters" in order to promote full compliance with laws and regulations. Except where otherwise noted, it shall be the duty of contractors and vendors and other agents of Ulster County to educate themselves regarding the foregoing; and upon request of the County, such contractors and other agents shall provide proof to the County of such education and/or a duly acknowledged sworn statement that they have been educated. Failure for contractors, vendors or other agents to conform to the foregoing may result in termination of the contractual relationship with the County.
5. Any employee, contractor, or agent who has any reason to believe that anyone is engaging in false billing practices or false documentation of services is required to report the practice.
6. Any form of retaliation against any employee who reports a perceived problem or concern in good faith and in accordance with procedure shall be investigated and, if determined to be factual, shall be prosecuted in accordance with the County's disciplinary policies and the law(s).
7. Any employee who commits or condones any form of retaliation will be subject to discipline, up to and including, termination.

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This procedure applies to all employees, contractors, and agents of the County government:

Procedures:

1. Department heads are to keep apprised of all rules, laws and regulations that are relevant to their departmental billing functions and are to conform and maintain their billing procedures in complete conformity with all laws and regulations.
2. Department heads shall conduct regular and routine reviews and tests (e.g. regular auditing and monitoring) to ensure billing practices are in compliance with all rules, laws and regulations. Consistent with the testing schedule, all results of these tests/audits/monitoring are to be reported to the Compliance Officer.
3. The Ulster County Compliance Officer will maintain records of the outcomes of the reviews and tests of internal billing systems.
4. Ulster County departments that bill Medicaid (and other third party payers) for health care services will provide training to their employees, contractors and agents, as appropriate, regarding their systems for testing the effectiveness of clinical documentation and billing systems. The Compliance Officer will monitor to ensure that employees and agents receive training and information related to the contents of this procedure and the False Claims Act. The Compliance Officer will ensure that records are maintained to document the receipt of training/education.
5. Employees and contractors will be educated about the County's Whistleblower procedure. The Compliance Officer shall ensure that the reporting system works effectively.
6. The Compliance Officer is responsible for ensuring that all Whistleblower complaints are thoroughly investigated, that the County Attorney is appropriately involved, and that action is taken, as appropriate, regarding the outcome of every investigation.

Overview of Relevant Laws:

FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

I. FEDERAL LAWS

- 1) Federal False Claims Act (31 USC §§3729-3733)

II. NEW YORK STATE LAWS

A. CIVIL AND ADMINISTRATIVE LAWS

- 1) New York False Claims Act (State Finance Law §§187-194)
- 2) Social Services Law, Section 145-b - False Statements
- 3) Social Services Law, Section 145-c - Sanctions

B. CRIMINAL LAWS

- 1) Social Services Law, Section 145 - Penalties
- 2) Social Services Law, Section 366-b - Penalties for Fraudulent Practices.
- 3) Social Services Law, Section 145-c - Sanctions
- 4) Penal Law Article 175 - False Written Statements
- 5) Penal Law Article 176 - Insurance Fraud
- 6) Penal Law Article 177 - Health Care Fraud

III. WHISTLEBLOWER PROTECTION

- 1) Federal False Claims Act (31 U.S.C. §3730(h))
- 2) New York State False Claim Act (State Finance Law §191)
- 3) New York State Labor Law, Section 740
- 4) New York State Labor Law, Section 741

I. FEDERAL LAWS

- 1) Federal False Claims Act (31 USC §§3729-3733)

The False Claims Act ("FCA") provides, in pertinent part, as follows:

§ 3729. False claims

(a) Liability for certain acts.--

2) In general.--Subject to paragraph (2), any person who--

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government, is liable to the United States

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Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461) note; Public Law 104-410, plus 3 times the amount of damages which the Government sustains because of the act of that person.

(2) Reduced damages.--If the court finds that--

(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

(B) such person fully cooperated with any Government investigation of such violation; and

(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

(3) Costs of civil actions.--A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) Definitions.--For purposes of this section--

(1) the terms "knowing" and "knowingly" --

(A) mean that a person, with respect to information--

(i) has actual knowledge of the information;

(ii) acts in deliberate ignorance of the truth or falsity of the information; or

(iii) acts in reckless disregard of the truth or falsity of the information; and

(B) require no proof of specific intent to defraud;

(2) the term "claim"--

(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that--

(i) is presented to an officer, employee, or agent of the United States; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government--

(I) provides or has provided any portion of the money or property requested or demanded; or

(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;

(3) the term "obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

(4) the term "material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

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(c) Exemption from disclosure.--Any information furnished pursuant to subsection (a)(2) shall be exempt from disclosure under section 552 of title 5.

(d) Exclusion.--This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

While the False Claims Act imposes liability only when the claimant acts “knowingly,” it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. 31 U.S.C. 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government, or submits a claim to entities administering government funds, that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows (or should know) are false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital which obtains interim payments from Medicare or Medicaid throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to

the Medicare or Medicaid program. In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as “qui tam relators,” may share in a percentage of the proceeds from an FCA action or settlement. Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

3) Administrative Remedies for False Claims (31 USC Chapter 38. §§ 3801 – 3812)

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim. Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted rather than when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

II. NEW YORK STATE LAWS

New York State False Claim Laws fall under the jurisdiction of both New York’s civil and administrative laws as well as its criminal laws. Some apply to recipient false claims and some apply to provider false claims. The majority of these statutes are specific to healthcare or Medicaid. Yet some of the “common law” crimes apply to areas of interaction with the government and so are applicable to health care fraud and will be listed in this section.

A. CIVIL AND ADMINISTRATIVE LAWS

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1) New York False Claims Act (State Finance Law §§187-194)

The New York False Claims Act is similar to the Federal False Claims Act. It imposes penalties and fines upon individuals and entities who knowingly file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. It also has a provision regarding reverse false claims similar to the federal FCA such that a person or entity will be liable in those instances in which the person obtains money from a state or local government to which he may not be entitled, and then uses false statements or records in order to retain the money. The penalty for filing a false claim is six to twelve thousand dollars per claim plus three times the amount of the damages which the state or local government sustains because of the act of that person. In addition, a person who violates this act is liable for costs, including attorneys' fees, of a civil action brought to recover any such penalty.

Specifically, as to financial incentives, the Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by the NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover twenty-five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty-five percent if the government did participate in the suit.

2) Social Services Law, Section 145-b - False Statements

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The state or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to ten thousand dollars per violation. If repeat violations occur within five years, a penalty of up to thirty thousand dollars per violation may be imposed if the repeat violations involve more serious violations of Medicaid rules, billing for services not rendered, or providing excessive services.

3) Social Services Law, Section 145-c - Sanctions

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the needs of the individual or that of his family shall not be taken into account for the purpose of determining his or her needs or that of his family for six months if a first offense, for twelve months if a second offense (or if benefits wrongfully received are at least one thousand dollars but not more than three thousand nine hundred dollars), for eighteen months if a third offense (or if benefits wrongfully received are in excess of three thousand nine hundred dollars), and five years for any subsequent occasion of any such offense.

B. CRIMINAL LAWS

1) Social Services Law, Section 145 - Penalties

Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

2) Social Services Law, Section 366-b - Penalties for Fraudulent Practices.

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a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a class A misdemeanor.

b. Any person who, with intent to defraud, presents for payment a false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation, or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a class A misdemeanor.

3) Penal Law Article 155 - Larceny

The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. This statute has been applied to Medicaid fraud cases.

a. Fourth degree grand larceny involves property valued over \$1,000. It is a class E felony.

b. Third degree grand larceny involves property valued over \$3,000. It is a class D felony.

c. Second degree grand larceny involves property valued over \$50,000. It is a class C felony.

d. First degree grand larceny involves property valued over \$1 million. It is a class B felony.

4) Penal Law Article 175 - False Written Statements

Four crimes in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:

a. §175.05 - Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a class A misdemeanor.

b. §175.10 - Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its omission. It is a class E felony.

c. §175.30 - Offering a false instrument for filing in the second degree involves presenting a written instrument, including a claim for payment, to a public office knowing that it contains false information. It is a class A misdemeanor.

d. §175.35 - Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a class E felony.

5) Penal Law Article 176 - Insurance Fraud

This law applies to claims for insurance payments, including Medicaid or other health insurance, and contains six crimes

a. Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a class A misdemeanor.

b. Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is a class E felony.

c. Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a class D felony.

d. Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a class C felony.

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e. Insurance fraud in the 1st degree is filing a false insurance claim for over \$1million. It is a class B felony.

f. Aggravated insurance fraud is committing insurance fraud more than once. It is a class D felony.

6) Penal Law Article 177 - Health Care Fraud

This statute, enacted in 2006, applies to health care fraud crimes. It was designed to address the specific conduct by health care providers who defraud the system including any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided. Medicaid is considered to be a single health plan under this statute. This law primarily applies to claims by providers for insurance payment, including Medicaid payment, and it includes six crimes.

a. Health care fraud in the 5th degree – a person is guilty of this crime when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan. This is a class A misdemeanor.

b. Health care fraud in the 4th degree – a person is guilty of this crime upon filing such false claims on more than one occasion and annually receives more than three thousand dollars. This is a class E felony.

c. Health care fraud in the 3rd degree – a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over ten thousand dollars. This is a class D felony.

d. Health care fraud in the 2nd degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over fifty thousand dollars. This is a class C felony.

e. Health care fraud in the 1st degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over one million dollars. This is a class B felony.

III. WHISTLEBLOWER PROTECTION

1) Federal False Claims Act (31 U.S.C. §3730(h))

The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

2) New York State False Claim Act (State Finance Law §191)

The New York State False Claim Act also provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and

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compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

3) New York State Labor Law, Section 740

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law §177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

4) New York State Labor Law, Section 741

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

Procedure: **Compliance**

Topic: **Reporting of Compliance Concerns and Non-Retaliation**

Purpose: Ulster County government's compliance program has established a culture that promotes prevention, detection, and correction of conduct that does not conform to Federal and State requirements, as well as the County's ethical and business standards.

To promote this culture, Ulster County government has established a compliance reporting process and a strict non-retaliation policy to protect employees and others who report problems and concerns in good faith from retaliation.

1. All employees have a duty to promptly report any known or suspected misconduct, including actual or potential violations of laws, regulations, policies, procedures, the County's Compliance Plan, or the County's Standards of Conduct.
2. An "open-door policy" will be maintained at all levels of management to encourage employees to report problems and concerns.
3. Employees may report their compliance concerns confidentially directly to the Compliance Officer (1-845-340-8771).
4. Ulster County maintains a Compliance Hotline. Employees may report their compliance concerns confidentially to the Compliance Officer through the Compliance Hotline (1-877-569-8777), which is monitored by The Bonadio Group, and available 24 hours a day / 7 days a week.
5. Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited.
6. Any employee who commits or condones any form of retaliation will be subject to discipline up to and including termination.
7. Employees cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of action.

Procedure: **Compliance**

Topic: **Exclusion Screening**

Purpose: Ulster County government is committed to maintaining high quality care, service and integrity in its financial and business operations. Ulster County will conduct appropriate screening of service providers, employees, independent contractors and business vendors to ensure that they have not been barred from doing business with any government entity.

1. Ulster County government does not employ, contract with, or conduct business with an individual or entity excluded from conducting business with government or a government subdivision.
2. Ulster County government conducts exclusion (sanction) screening of all current and prospective employees and contractors/vendors.
3. Ulster County government requires contractors and vendors that provide and/or perform services for the County to disclose to the County if they, or anyone doing work on their behalf for the County, have been the subject of adverse governmental actions and/or excluded from conducting business with government or a government subdivision.
4. The Ulster County Compliance Officer and Corporate Compliance Committee shall conduct an annual review of the effectiveness of the County's efforts to uphold these standards.

Procedures:

1. Ulster County government departments that bill Medicaid will conduct monthly exclusion screenings to verify that all employees, contractors, vendors and others (e.g., volunteers) who do work on behalf of the County have not been excluded from conducting business with government or a government subdivision.

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2. Ulster County government searches the following sources to determine if the individual or entity's name appears on any of the lists:
 - U. S. Department of Health and Human Services, Office of Inspector General (OIG)'s List of Excluded Individuals and Entities (LEIE) available on the website at <http://exclusions.oig.hhs.gov>
 - The System for Award Management (SAM) Excluded Parties List System available at <https://www.sam.gov/SAM/>
 - NYS Medicaid Fraud Database available on the NYS Department of Health website at <https://omig.ny.gov/index.php>
 - The NYS Office of the Professions website at <http://www.op.nysed.gov/>
3. An exclusion check will be performed on all applicants for employment as part of the pre-employment screening process. If the exclusion check confirms that any individual is currently excluded from conducting business with government or a government subdivision, the applicant will not be offered employment.
4. The Compliance Officer will maintain the results of all exclusion checks.
5. If any county employee or contractor working on direct behalf of the Ulster County government is charged with a criminal offense related to healthcare, or is found to be subject to exclusion from Federal healthcare programs, the individual must be suspended from direct involvement in any federally funded healthcare program while the matter is pending. If the matter results in conviction or exclusion, the employee or contractor will be terminated, or, at a minimum, removed from a service provision role for the period of the exclusion.
6. In addition to exclusion screening, the credentials of medical/healthcare and other professionals employed by Ulster County government will be verified monthly with appropriate licensing and disciplining authorities by Ulster County government departments that bill Medicaid, including any adverse actions taken against the

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individual that might impair his or her performance of duties or fiduciary responsibilities on behalf of the County. The process is applicable to all employees for which a license/certification is required for the performance of their duties. The screening and verification will be conducted as part of the hiring process and monthly thereafter.

Specific to Contractors/Vendors:

1. Exclusion screening shall be conducted for contractors and vendors prior to entering into a contract. The County Purchasing Officer is responsible for conducting exclusion checks for all contractors and vendors. If the exclusion check indicates that a contractor or vendor has been excluded from Federal or State healthcare programs, the contract will not be executed. The exclusion check will search the following sources to determine if the individual's or entity's name appears on any of the lists:
 - U. S. Department of Health and Human Services, Office of Inspector General (OIG)'s List of Excluded Individuals and Entities (LEIE) available on the website at <http://exclusions.oig.hhs.gov>
 - The System for Award Management (SAM) Excluded Parties List System available at <https://www.sam.gov/SAM/>
 - NYS Medicaid Fraud Database available on the NYS Department of Health website at <http://www.emedny.org/info/disqualified.html>
 - The NYS Office of the Professions (unless the individual is an agent of a subcontractor and therefore responsibility to conduct exclusion screening is contractually delegated to the vendor under the terms of the contract) website at <http://www.op.nysed.gov/>
2. All contracts entered into by Ulster County government will contain a certification that the contractor and its employees and subcontractors represent that they are not

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excluded by the Federal or State government and are obligated to immediately report a change in that status to the County Purchasing Officer.

3. The County Purchasing Officer shall conduct an exclusion check of every contractor on a monthly basis.
4. If the exclusion check indicates that a contractor has been excluded from doing business with any level of government, the contract will be terminated.
5. The Compliance Officer shall maintain a record of the results of all exclusion checks.

Procedure: **Corporate Compliance**

Topic: **Compliance Training**

Purpose: The development and implementation of a comprehensive education and training program is integral to an effective compliance program.

1. All employees and volunteers shall receive general training related to Ulster County government's compliance program as part of their initial orientation.
2. In addition, all such individuals shall receive yearly compliance training updates that cover, at a minimum, the Standards of Conduct, County Ethics and Disclosure Law, Compliance Plan, Compliance Hotline, Whistleblower provisions and related reporting requirements, and any meaningful changes in compliance-related laws and regulations.
3. It shall be the duty of contractors and vendors and other agents of Ulster County to educate themselves regarding the foregoing; and upon request of the County, such contractors and other agents shall provide proof to the County of such education and/or a duly acknowledged sworn statement that they have been educated. Failure for contractors, vendors or other agents to conform to the foregoing may result in termination of the contractual relationship with the County.
4. Employees in identified risk areas (e.g., health care services for which the County government receives Medicaid reimbursement) shall receive more detailed education tailored to their function and responsibilities, in addition to the general training, on an annual basis.
5. Attendance at training sessions is mandatory. A record shall be made of all participation in training.

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Procedures:

1. The Compliance Officer is responsible for developing the compliance education curriculum and monitoring and ensuring that compliance training and orientation adequately supports the County's Compliance Program.
2. Compliance orientation seminars, at a minimum, will include information on the following aspects of the compliance program:
 - Standards of Conduct;
 - Compliance Plan;
 - Federal False Claims Act;
 - New York False Claims Act;
 - Whistleblower Provisions;
 - Communication channels (name of Compliance Officer, reporting mechanisms, Hotline);
 - Organizational expectations for reporting problems and concerns; and
 - Non-retaliation policy.

Specialized areas for education will include, but not be limited to the following:

- Improper or fraudulent billing for services;
 - Preparation of inaccurate or incorrect cost reports;
 - Misuse of Ulster County funds;
 - Payment or receipt of remuneration or gifts in return for client referrals;
 - Government and private payer reimbursement principles; and
 - Government initiatives related to the services provided by the County.
3. As part of his or her initial orientation, each employee and contractor shall be given a copy of the Standards of Conduct and the Compliance Plan, and shall be required to sign attestations that they have received said documents and understand that they are responsible for being familiar with their contents and for behaving accordingly.

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4. All education and training relating to the Compliance Program will be verified by attendance records and a signed acknowledgement of receipt of training. The individual conducting the training will take attendance at all training sessions through the use of a sign-in sheet that records the date and the content of the material presented. The Compliance Officer will ensure that a file of attendance forms for all training sessions is maintained.
5. Employees and independent contractors will be provided opportunities to seek clarification or more information on any aspect of the compliance program.
6. Compliance program trainers shall be knowledgeable of (a) the compliance program; (b) applicable Federal laws and regulations; (c) requirements of the Federal Sentencing Guidelines; (d) relevant organization procedures; (e) operations of the compliance program; and (f) content of the Standards of Conduct.
7. The Compliance Officer is responsible for coordinating with management to ensure that specialized compliance education occurs in identified risk areas.
8. Supervisors shall assist the Compliance Officer in identifying areas that require specific training.

Procedure: **Corporate Compliance**

Topic: **Internal Auditing and Monitoring**

Purpose: Ulster County government is committed to complying with all laws, rules and regulations. Ulster County government has developed and implemented its compliance program to oversee and coordinate efforts to maintain compliance. In order to determine whether compliance is being achieved, tests of internal systems must routinely be conducted.

Standards:

1. All departments shall conduct regular internal reviews of systems, including but not limited to billing, fiscal management, and clinical service documentation, to ensure compliance with laws, rules and regulations.
2. These review systems shall be monitored and evaluated to continuously improve compliance with all laws, rules and regulations.

Procedures:

1. Every department, as appropriate, shall establish a plan for continuously reviewing the extent to which it complies with laws, rules and regulations, particularly in areas involving reimbursements from third party payers, making payments, managing and accounting for money, and documenting the provision of clinical services. These plans shall be communicated to the Compliance Officer.
2. A protocol for conducting such reviews shall be developed by each department head and recommended to the Compliance Officer (for departments that bill Medicaid and other third party health care payers) or the Commissioner of Finance (for all other departments). Protocols must be specific as to the type, frequency and manner of systems tests.
3. Said departments shall use the information obtained from these evaluations to make improvements in compliance with the laws, rules and regulations that govern their

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operations, and to improve their review systems, wherever possible. Departments shall address identified risk areas immediately.

4. The Compliance Committee shall review reports from departments that bill for health care services at least quarterly to ensure that systems are working effectively and that identified risks are being addressed effectively and promptly. The Compliance Committee shall give feedback to each department, following review of their reports, and may require that the departments make modifications to their systems. Where appropriate, these matters shall be discussed with the Commissioner of Finance. Departments shall respond to directives from the Compliance Committee for corrective actions promptly. It is the responsibility of the Compliance Officer to ensure that corrective action is implemented as quickly as possible.
5. The Compliance Officer and Compliance Committee will coordinate auditing and monitoring of the identified risk areas related to compliance with laws and regulations, as well as County policies, procedures, and standards of conduct. (Risk areas may be identified through the regular course of business, external alerts, or internal reporting channels.)
6. The Compliance Officer shall interface with the Commissioner of Finance to ensure sharing of information regarding auditing and monitoring activities overseen by the County Finance Office. Such audits will serve to ensure that internal controls are in place so that:
 - Generally Accepted Accounting Principles (GAAP) are followed; and
 - Federal, State, and local laws, regulations, and requirements are met.
7. The Compliance Officer and Commissioner of Finance shall report to the County Executive, and communicate with department heads, as appropriate, regarding identified risks, including but not limited to:
 - Compliance with laws, regulations, and related policies and procedures governing the County's programs and operations;
 - Fraud and abuse issues;

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- Third party billing practices;
 - Service delivery and documentation practices;
 - Employment practices;
 - Conflict of Interest;
 - Contract review;
 - Employee and independent contractor compliance training and education; and,
 - Compliance Plan and related policies.
8. To the greatest extent possible, the County will seek to have audits and other internal systems reviews conducted by Ulster County employees who are not directly involved in the delivery of services that are the subject of the audit.
9. The results of all reports on tests of internal systems will be documented and maintained by the Compliance Officer.
10. Any formal audits conducted by any regulatory agency charged with administering a federally or state-funded program received by any department of the County government will be promptly shared with the Compliance Officer for review and subsequent discussion by the Compliance Committee. Departments shall immediately notify the Compliance Officer of any reviews, visits, audits, investigations, or surveys by any regulatory agency or authority.
11. On an annual basis, the Compliance Committee shall assess the effectiveness of the County's tests of internal systems. The County's Compliance Plan may be modified, as necessary.

Procedure: **Corporate Compliance**

Topic: **Response to Governmental Investigations**

Purpose: Federal and State law enforcement and regulatory agencies conduct interviews to gather information during audits, inquiries, and investigations. It is important that Ulster County government respond consistently and appropriately to any official requests for information. The purpose of this procedure is to provide guidance on how to respond to scheduled/planned and unannounced visits by government representatives, relative to such inquiries. This procedure does not address visits by regulatory agencies to perform program certification or quality assurance functions.

Standards:

1. Ulster County government is committed to appropriately responding to and not interfering with any lawful audit, inquiry, or investigation.
2. Employees will remain courteous, cooperative and professional when dealing with investigators or agents.

Procedures:

Scheduled/Planned Visits

1. Announcement of an impending visit by any government compliance reviewer or auditor should be immediately reported by the department head or designee to the Deputy County Executive who is responsible for that department, and to the Compliance Officer.
2. Procedures for handling the receipt of a search warrant or subpoena are covered by SOP Section E.1.

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Unannounced Visits to any of Ulster County's facilities:

1. If an individual arrives unannounced at any County government facility and identifies himself or herself as a government auditor, investigator or other representative, treat him or her with respect and courtesy. Request identification (do not attempt to photocopy credentials, as this is a violation of Federal law) and the reason for the visit.
2. Inform the individual that it is the County's procedure to involve the Office of the County Executive and/or the County Attorney when unannounced program reviews take place. Ask the individual to wait in an appropriate waiting area.
3. The department head or supervisor should immediately inform the Deputy County Executive or, in that individual's absence, the County Attorney.
4. Await direction. Do not submit to questioning or to an interview without representation from the County Executive's or County Attorney's Office or unless given authorization by either of these offices to do so without representation. Similarly, do not provide documents or other information without direction from the County Executive's or County Attorney's Office.
5. Refer to Standard Operating Procedure on Search Warrants.

Procedure: Corporate Compliance

Topic: Obligations of Department Heads, Supervisors and Employees

Purpose: The effectiveness of the Ulster County government compliance program corresponds directly with the conduct and job performance of its employees. Department heads, supervisors and other employees have specific roles to play in regard to the compliance program. The success of the overall program requires that all parties participate fully.

Standards:

1. Ulster County is committed to compliance with all laws, rules and regulations.
2. Department Heads, supervisors and employees shall be familiar with their roles and shall fully conform to them.

Procedures:

1. Department Heads:
 - Be fully committed to the compliance program
 - Set an example to all employees regarding knowledge of the program, relevant laws, conformance to County procedures and policies, and ethical behavior
 - Maintain an open door policy for departmental employees to promote communication regarding compliance issues and concerns
 - Ensure that all employees are aware of their responsibilities
 - Ensure that Standards of Conduct are enforced
 - Ensure that policies and procedures are adhered to
 - Ensure that documentation requirements are followed
 - Evaluate employee performance related to compliance with laws, regulations, procedures and policies in an honest and direct manner

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2. Supervisors, in addition to the responsibilities identified for department heads:

- Fully support the department head's efforts to achieve full compliance
- Be aware of subordinates' issues and concerns about compliance matters
- Give regular feedback to subordinates regarding their participation in and support for the County's compliance program
- Hold subordinates responsible for roles and obligations regarding the compliance program
- Keep the department head fully informed about compliance issues

3. Employees:

- Fully commit to the County's compliance program
- Participate in mandatory trainings
- Be knowledgeable of compliance procedures, rules, regulations and obligations
- Demonstrate conformance with County general and compliance procedures
- Conform to the County's Whistleblower procedure
- Inform supervisors of any compliance concerns
- Conform to the County's Standards of Conduct

Procedure: Corporate Compliance

Topic: Requirement for Prior Approval of Overtime and Compensatory Time

Purpose: Standard Operating Procedure G2 requires that department heads obtain prior approval from the County Executive's Office to authorize employees to work additional hours of a non-emergency nature beyond their standard work week. Employees that violate this procedure expose the County government to additional payroll costs. This procedure identifies the actions that must be taken by department heads when SOP G2 is violated.

Standards:

1. Ulster County is committed to compliance with all laws, rules and regulations.
2. New York State Labor law requires that employees be compensated for hours worked.
3. Ulster County government's Standard Operating Procedure G2 establishes that no employee may work additional hours (or a non-emergency nature) without prior approval.

Procedures:

1. All employees are required to be familiar with Ulster County government's Standard Operating Procedures. SOP G2 requires that employees and department heads obtain prior approval before overtime or compensatory time may be worked.
2. Department heads are responsible for ensuring that systems are in place to prevent violations of this policy.
3. Department heads are required to address all violations of this policy in accordance with NYS Civil Service Law and County policy and procedure concerning discipline.