

Ulster County Compliance Plan



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County Executive**

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BACKGROUND AND PURPOSE

Numerous Federal and New York State laws have been enacted to address the unethical behavior of parties who do business with government. The terms “fraud, waste and abuse” are popularly associated with the Medicaid and Medicare programs because there have been glaring examples of unethical behavior on the part of service providers, which have cost taxpayers billions of dollars. Compliance with these Federal and State laws includes, but is not limited to billing in conformance with Medicaid and Medicare regulations. Compliance includes acting ethically and reporting all potentially unethical behavior.

The purpose of a compliance program is to detect and prevent fraud, waste, and abuse in Medicaid programs as well as organize provider resources to address compliance issues as quickly and efficiently as possible, and to impose systemic checks and balances to prevent future recurrence of such issues. It has been and continues to be the policy of Ulster County (sometimes referred to as the County) to comply with all applicable Federal, State, and local laws and regulations, and payer requirements. It is also the County’s policy to facilitate the prevention of improper or illegal activities, to provide mechanisms to detect any violations of laws and regulations and work to prevent, detect, and investigate issues related to fraud, waste, and abuse. To ensure this, Ulster County has established this Compliance Plan and commits to maintaining an effective Compliance Program as defined by the NYS Office of the Medicaid Inspector General (OMIG).

For the purposes of this Compliance Plan, “Affected Individuals” includes employees, volunteers, interns, appointees, Legislators, County officials, business partners, vendors, agents, contractors and contracted Affected Individuals.

By adopting and implementing this Plan, the Ulster County government expects to operate more cost-effectively and with integrity.

The Ulster County Executive has directed the Compliance Officer and the Compliance Committee to develop and implement a Compliance Program to guide and coordinate all efforts to conform to the laws, rules and regulations that apply to Ulster County’s services, funded through Medicaid, as well as other County departments based on identified risks. In doing so, Ulster County strives to ensure that fraud, waste and abuse do not occur in County Government or in the services for which the County bills others. Ulster County’s Compliance Officer and Compliance Committee are tasked with:

- Establishing written procedures concerning the County’s operations to provide clarity for all Affected Individuals;

- Ensuring that all Affected Individuals are familiar with the County's ethical standards and know how to report actual or suspected non-compliance;
- Organizing training for all Affected Individuals on compliance issues;
- Promoting open lines of communication regarding compliance matters, including anonymous and confidential reporting;
- Ensuring that appropriate consequences for non-compliant behavior are applied throughout Ulster County Government;
- Identifying compliance risk areas through routine internal reviews and targeted external audits, and apply continuous quality improvement practices to ensure appropriate solutions are implemented;
- Operating a system for responding to compliance issues as they are raised, including disclosure and repayments, as appropriate;
- Ensuring that Affected Individuals are provided protection from intimidation and retaliation for proper, good faith reporting of Compliance Program violations.

The four key components of Ulster County's Compliance Program are (1) the "Standards of Conduct for Ulster County," (2) "Ulster County's Compliance Procedures", (3) Ulster County HIPAA/HITECH Compliance Procedures and (4) this "Ulster County Compliance Plan."

The "Standards of Conduct for Ulster County" provides guidance regarding the Ulster County government's expectations for ethical business behavior. In conjunction with the Ulster County Ethics and Disclosure Law, Affected Individuals have a clear set of directions to ensure that their actions are conducive to compliance with laws, rules and regulations. The "Ulster County's Standard Operating Procedures" (SOP Manual) provides detailed guidance to Affected Individuals regarding the steps required to perform many of the Ulster County government's functions. Specific procedures have been included in the SOP Manual for activities that have direct implications for compliance issues. Conformance with procedures assures effective compliance. All Affected Individuals are responsible for adhering to the "Standards of Conduct" and the SOP Manual. Conduct in violation of these standards of conduct and procedures may lead to various actions, including disciplinary action and/or sanctions. The "Ulster County HIPAA/HITECH Compliance Procedures" provides guidance on privacy and IT security procedures which are in accordance with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy and Security Rule, as well as other federal and state requirements.

This document, the “Ulster County Compliance Plan”, describes the Ulster County government’s overall strategy for achieving an effective Compliance Program. It provides a picture of how all of the components of the Compliance Program work together to ensure that Ulster County government is in full compliance with the laws, rules and regulations that apply to Ulster County’s services.

COMPLIANCE PROGRAM

I. Commitment

Ulster County government (also referred to as “the County”) has been and continues to be committed to compliance with all applicable Federal, State, and local laws and regulations, and payer requirements. The County is committed to promoting highly ethical behavior, as detailed in the “Standards of Conduct for Ulster County.”

The County has always been and remains committed to its responsibility to conduct business with integrity based on sound ethical and moral standards. The County holds its Affected Individuals to these same standards.

Ulster County government is committed to maintaining the effectiveness of its Compliance Program through monitoring and auditing systems reasonably designed to detect noncompliance by its Affected Individuals. The County requires that regular, periodic compliance audits be conducted by internal and/or external auditors, who have expertise in Federal and State health care laws, rules, regulations and health care program requirements.

II. Responsibility

It is the responsibility of all Affected Individuals to report any instances of suspected or known noncompliance to their immediate supervisor or to the Compliance Officer. Reports may be made confidentially or anonymously and without fear of intimidation, retaliation or retribution. Failure to report known noncompliance or making reports which are not in good faith may be grounds for disciplinary action and/or sanctions. Reports related to workplace-oriented issues shall be referred to the employee’s Director. Any unlawful workplace harassment or possible workplace violence situations should immediately be reported to the Personnel Officer or the Director of Employee Relations of Ulster County.

III. Standards of Conduct and Compliance Program Procedures

Ulster County government shall communicate its compliance standards and procedures to all Affected Individuals during a mandatory training program and with other means, as appropriate. The County shall provide copies of or electronic access to the Compliance Plan, the Standards of Conduct for Ulster County, and the

County's Compliance Procedures to all Affected Individuals. All Employees will be required to sign a written attestation that they have received or been given access to these documents.

IV. Enforcement

This Compliance Plan shall be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to detect and/or report noncompliance.

V. County Response

Detected noncompliance, through any mechanism, i.e., compliance auditing procedures and/or confidential reporting, shall be responded to in an expedient manner. The County is committed to the resolution of such matters and shall take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

VI. Due Diligence

Ulster County shall, at all times, exercise due diligence with regard to exclusion screenings for all appropriate Affected Individuals. Background and professional license investigations shall be conducted for all prospective and existing Affected Individuals, excluding elected officials.

VII. Non-Retaliation, Non-Intimidation, and Whistleblower Protections

Ulster County government will not take any retaliatory action against an Affected Individual who, in good faith, reports actual or suspected noncompliance or illegal activities or for good faith participation in the Compliance Program.

Ulster County government will not take any retaliatory action against any party that discloses information about the County's policies, practices or activities in a genuine effort to address non-compliance with laws, rules and/or regulations. Protected disclosures are those where the person making the disclosure asserts that the County engages in behavior(s) that create(s) a substantial and specific danger to the public health and safety, which constitute health care fraud, or that constitute improper quality of care. In addition, protected disclosures also include other violations set forth in the Standards of Conduct for Ulster County.

STANDARDS OF CONDUCT

I. Philosophy/Intent

The County has adopted a set of standards for the conduct of certain Affected Individuals and is committed to (1) preventing the occurrence of unethical or unlawful behavior, (2) stopping such behavior as soon as possible after discovery, and (3) taking corrective action against such Affected Individuals who violate the Standards of Conduct for Ulster County, including Affected Individuals who fail to report a violation.

Note that an “Affected Individual” is any individual who meets any of the following conditions:

- The work product and how the work is performed is controlled by the County;
- The County provides work space and equipment/supplies to perform the work;
- The County reimburses the individual for expenses incurred on behalf of the County;
- The County provides “fringe” benefits to the individual;
- There is an expectation that the work relationship shall continue.

All Affected Individuals must (1) comply with the Standards of Conduct for Ulster County, (2) immediately report any alleged violations or wrongdoing, and (3) assist management and Compliance personnel in investigating allegations of violations or wrongdoing.

The expectations addressed in this Plan and in the Standards of Conduct of Ulster County are intended to guide Affected Individuals in the course of their day-to-day responsibilities. Other Countywide and/or department specific policies, procedures and applicable Federal or State laws or regulations may exist. This document co-exists with them. If a conflict seems to occur, please contact your supervisor or the Compliance Officer for advice.

II. Expectations

The County shall ensure that all aspects of service provision and business conduct are performed in compliance with its philosophy/intent, policies and procedures, professional standards, applicable governmental laws, rules, and regulations, and, where applicable, payer standards. Ulster County expects all Affected Individuals who provide services on its behalf to adhere to the highest ethical standards and to

promote ethical behavior. Any Affected Individual whose behavior is found to violate these standards shall be appropriately disciplined.

In accordance with the Standards of Conduct for Ulster County, Affected Individuals may not engage in any conduct that conflicts – or is perceived to conflict – with the best interests of Ulster County. All Affected Individuals must disclose any circumstances where their immediate family member is a consultant, owner, contractor, or investor in any entity that (i) engages in any business or maintains any relationship with the County; (ii) provides to, or receives from the County any patient referrals; or (iii) competes with the County. Affected Individuals may not violate the County's solicitation policy.

Affected Individuals are expected to maintain complete, accurate, and contemporaneous records as required by the County. The term "records" includes all documents, both written and electronic, that relate to the provision of County services or provide support for the billing of County services. Records must reflect the actual service provided. Any alteration of records must reflect the date of the alteration, the name, signature, and title of the person altering the document, and the reason for the alteration, if not apparent. No person shall ever sign the name of another person to any document. Signature stamps shall not be used. Backdating and predating documents is unacceptable and shall lead to disciplinary action, which may result in termination.

When any Affected Individual knows or reasonably suspects that these expectations and the Standards of Conduct for Ulster County have not been adhered to, they are obligated to report this information to their immediate supervisor or to the Compliance Officer, so that each situation may be appropriately addressed. The Compliance Officer may be reached directly by calling **(845) 340-8771** or utilizing the County Compliance Hotline **(877)569-8777**.

COMPLIANCE PROGRAM PROCEDURES

To support the operation of Ulster County's Compliance Program, procedures are established to provide direction to Affected Individuals and address the following components of the Compliance Plan:

- Conflict of Interest
- Reporting of Compliance Concerns and Noncompliance
- False Claims Act, Relevant Laws and Whistleblower Protections
- Compliance Program Education and Training
- Investigation and Resolution of Compliance Concerns
- Auditing and Monitoring
- Exclusion Screening
- Billing Errors, Overpayments and Self Disclosures
- Discipline and Enforcement of Compliance Standards
- Responding to Governmental Investigations

- Obligations of Department Heads, Supervisors and Employees

All Affected Individuals are expected to be familiar with and knowledgeable about the Compliance Program Procedures. The Procedures can be accessed from the Ulster County Intranet Portal under the heading of “Documents” and the Ulster County Web Page under the heading “Business” (<https://ulstercountyny.gov/ulster-county-compliance-plan/>).

COMPLIANCE PROGRAM OVERSIGHT

I. The Role of the Compliance Officer

The County Executive shall appoint an Employee to serve as Compliance Officer. The Compliance Officer has direct lines of communication to the County Executive and the Ulster County Legislature. The County Executive may replace the Compliance Officer as necessary, in order to maintain the effectiveness of the Compliance Program. The Compliance Officer is directly obligated to serve the best interests of the County, its residents and Affected Individuals. Responsibilities of the Compliance Officer include, but are not limited to:

- Overseeing and monitoring the adoption, implementation, and maintenance of the Compliance Program.
- Developing and implementing Compliance Program policies and procedures and Standards of Conduct.
- Reviewing and revising, periodically, the Standards of Conduct, the Compliance Program, and policies and procedures as changes occur within Ulster County, and/or in the law, regulations, or governmental and third-party payers.
- Evaluating the effectiveness of the Compliance Program, procedures, and Standards of Conduct.
- Developing, implementing, and monitoring the annual Compliance Work Plan.
- Reporting, no less frequently than quarterly, to the Legislature, County Executive, and Compliance Committee on the progress of implementation of the Compliance Program.
- Assisting the County Executive, Management, and the Compliance Committee in establishing methods to improve Ulster County's quality of service and to reduce vulnerability to fraud, abuse, and waste.
- Developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the Compliance Program and seeks to ensure that all Affected Individuals, consistent with roles and any associated risk areas, are knowledgeable of, and comply with, pertinent Federal and State standards and Ulster County's Standards of Conduct.
- Ensuring that excluded individuals and entities are not employed or retained by the County.

- Independently investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations (e.g., responding to reports of problems or suspected violations) and any resulting corrective action with all departments, providers, and sub-providers, agents, and, if appropriate, independent contractors.
- Coordinating internal investigations and implementing corrective action(s).
- Developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation.
- Ensuring that the County conducts internal audits to monitor effectiveness of compliance standards.
- Providing guidance to management, medical/clinical program Affected Individuals, and County departments regarding policies, procedures, standards and governmental laws, rules, and regulations.
- Updating the Compliance Plan as changes occur within the County, within the law and regulations, or governmental and third-party payers.
- Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan.
- Coordinating, developing, and participating in the educational and training program.
- Communicating with independent contractors (program services, vendors, billing services, etc.) to promote awareness of the requirements of Ulster County's Compliance Plan.
- Actively seeking up-to-date material and releases regarding regulatory compliance.
- Maintaining a reporting system including an anonymous means to report **(Compliance Hotline 877-569-8777)** and responding to concerns, complaints, and questions related to the Compliance Plan.
- Acting as a resourceful leader regarding regulatory compliance issues.
- Continuing the momentum of the Compliance Program and the accomplishment of its objectives.

II. The Role of the Compliance Committee

Compliance Committee members are appointed by the County Executive. Compliance issues are reported by the Compliance Committee, under the leadership of the Compliance Officer, to the County Executive. The Compliance Committee's purpose is to advise and assist the Compliance Officer with implementation of the Compliance Plan and the responsibilities as outlined in the Compliance Committee Charter.

The role and responsibilities of the Compliance Committee include, but are not limited to:

- Analyzing the regulatory environment where Ulster County does business, including legal requirements with which it must comply.
- Reviewing and assessing existing policies and procedures that address risk areas for possible incorporation into the Compliance Program.
- Reviewing and monitoring Compliance Program training and education to ensure that they are effective and completed in a timely manner.
- Ensuring that the County has effective systems and processes in place to identify Compliance Program risks, overpayments, and other issues and has effective policies and procedures for correcting and reporting such issues.
- Working with departments to develop standards and policies and procedures that address specific risk areas and to encourage compliance according to legal and ethical requirements.
- Coordinating with the Compliance Officer to ensure that the written policies and procedures and Standards of Conduct are current, accurate, and complete.
- Developing internal systems and controls to carry out compliance standards, Standards of Conduct, and policies and procedures.
- Coordinating with the Compliance Officer to ensure communication and cooperation by Affected Individuals on compliance-related issues, internal or external audits, or any other function or activity.
- Developing a process to solicit, evaluate, and respond to complaints and problems.
- Monitoring internal and external audits to identify issues related to non-compliance.

- Implementing corrective and preventative action plans and follow-up to determine effectiveness.
- Ensuring the development and implementation of an annual Compliance Work Plan.
- Advocating for sufficient funding, staff, and resources to be allocated to the Compliance Officer to carry out duties related to the Compliance Program.
- Ensuring that the County has appropriate systems and policies in place that effectively identify risks, overpayments, and other areas of concerns including fraud, waste, and abuse.
- Monitoring and evaluating the County's Compliance Program for effectiveness at least annually and making recommendations for necessary modifications to the Compliance Program as applicable.
- Developing and implementing a Compliance Committee Charter. The Charter will outline the Compliance Committee's duties and responsibilities, membership, designation of a chairperson and frequency of meetings. The Charter will be reviewed and updated annually.

III. Delegation of Substantial Discretionary Authority

Any Affected Individual who holds, or intends to hold, a position with substantial discretionary authority for Ulster County is required to disclose any name changes and any involvement in non-compliant activities including health care-related crimes. In addition, Ulster County performs reasonable inquiries into the background of appropriate Affected Individuals.

The following organizations may be queried with respect to potential and existing Affected Individuals:

- Health and Human Services/Office of Inspector General cumulative sanction report. The URL address is <https://exclusions.oig.hhs.gov/>
- NYS Medicaid Fraud Database. The URL address is https://apps.omig.ny.gov/exclusions/ex_search.aspx
- Licensure and disciplinary record with NYS Office of Professional Medical Conduct (Physicians, Physician Assistants) (the URL address is <https://apps.health.ny.gov/pubdoh/professionals/doctors/conduct/factions/home.action>) and/or New York State Department of Education (other licensed professionals) (the URL address is <http://www.op.nysed.gov/opsearches.htm>).

EDUCATION AND TRAINING

I. Expectations

Education and training are critical elements of the Compliance Plan. All Affected Individuals are expected to be familiar with and knowledgeable about Ulster County's Compliance Plan and have a solid working knowledge of their responsibilities under the Plan. Compliance procedures and standards shall be communicated to all Affected Individuals through required participation in training programs.

Ulster County will maintain an annual training plan. The training plan will, at a minimum, outline the subjects or topics for compliance training and education, the timing and frequency of the training, which Affected Individuals are required to attend, how attendance will be tracked, and how the effectiveness of the training will be periodically evaluated. The training plan will be reviewed by the Compliance Officer and Compliance Committee and updated as needed, but at minimum on an annual basis.

II. Training Topics - General

All Affected Individuals shall participate in training on the topics included but not limited to:

- The role and responsibilities of the Compliance Officer and the Compliance Committee;
- Compliance Plan;
- Federal False Claims Act;
- New York State False Claims Act;
- Whistleblower provisions and protections;
- Communication channels (name of Compliance Officer, reporting mechanisms, Hotline);
- The County's expectations for reporting known or suspected fraud, waste, and abuse; illegal or unethical acts; actual or suspected violations of Federal or State laws and regulations; actual or suspected violations of the Standards of Conduct, the Compliance Program, and the County's policies and procedures; improper acts in the delivery or billing of services; and other wrongdoing (collectively referred to as "compliance concerns")How the County responds to reports of compliance concerns, including the investigation process and corrective actions;

- The County's disciplinary policy and standards for violations of the Compliance Program;
- Prevention of fraud, waste, and abuse; and
- Non-retaliation and non-intimidation policy.

III. Training Topics - Targeted

In addition to the above, targeted training shall be provided to all supervisory Affected Individuals and any other Affected Individuals whose job responsibilities include activities related to compliance topics.

Affected Individuals involved in the delivery and monitoring of health care services, including those at the Department of Mental Health, Department of Social Services, and Department of Health, shall be provided with additional training in service planning, delivery and documentation practices, other program-specific risk areas and enforcement actions.

Department Heads shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Plan to all independent contractors doing business with the County.

IV. Orientation

As part of orientation, all Affected Individuals shall receive a written copy of the Compliance Plan, Compliance Procedures, and Standards of Conduct for Ulster County.

V. Attendance

All education and training relating to the Compliance Plan shall be verified electronically, unless otherwise determined by the County.

Completion of compliance training is mandatory and is a condition of continued employment / contract / appointment / assignment with the County.

LINES OF CONFIDENTIAL COMMUNICATION

I. Expectations

Open lines of communication between the Compliance Officer and Affected Individuals subject to this Plan are essential to the success of the County's Compliance Program and commitment to comply with all applicable laws and regulations and the prevention of Medicaid fraud, waste, and abuse.

All Affected Individuals have an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

Every Affected Individual has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

II. Reporting Procedure

The County shall operate a telephone line, called a Hotline, in order to receive confidential or anonymous notification of Compliance violations.

If any Affected Individual has knowledge of, or is asked to participate in any activities that are potentially in violation of this Compliance Plan, Standards of Conduct, or County procedures they have an affirmative obligation to inform their immediate supervisor or the Compliance Officer. If such an individual instead chooses to report this information anonymously via the Hotline, **(877-569-8777)** they shall keep records to verify having done so (e.g., the date and time the call was made).

Upon receipt of a question or concern, any supervisor, officer, director or Commissioner shall document the Compliance-related question or issue and report it to the Compliance Officer. Any questions or concerns relating to potential non-compliance by the Compliance Officer should be reported immediately to the County Executive. The Compliance Officer shall immediately start an inquiry to determine the merit of the issue and report all concerns to the Compliance Committee, as appropriate, the County Executive. The results of all investigations of compliance concerns will be summarized and provided to the County Legislature.

The Compliance Officer or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If any Affected Individual is seeking information concerning the Compliance Plan or Standards of Conduct or its application, the Compliance Officer or designee shall record the nature of the information sought and respond as appropriate.

III. Protections

The County, in an effort to protect the anonymity of all Affected Individuals who report any complaint or pose questions, shall keep a person's identity confidential unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by Federal, State, or local law enforcement, or disclosure is required during a legal proceeding.

Any threat of reprisal or act of retaliation or intimidation against Affected Individuals who act in good faith pursuant to their responsibilities under this Plan is a violation of the County's Compliance Plan, punishable by discipline, up to and including termination of employment, contract or appointment.

IV. Policy of Non-Retaliation and Non-Intimidation

Ulster County will not take any retaliatory action against an Affected Individual who, in good faith, reports a compliance concern, as defined by this Plan or for good faith participation in the Compliance Program, including but not limited to:

- Reporting potential issues;
- Investigating issues;
- Self-evaluations;
- Audits;
- Remedial actions; and
- Reporting to appropriate officials as provided in sections 740 and 741 of the New York State Labor Law.

Any threat of retribution, retaliation, or intimidation against a person who acts in good faith pursuant to their responsibilities under the Compliance Plan is acting against this Compliance Plan. Discipline, up to and including termination of employment, contract, appointment, or assignment, will result if such retribution, retaliation or intimidation is proven.

Affected Individuals who believe they have been subject to retribution, retaliation and/or intimidation for reporting a compliance concern or for good faith participation in the Compliance Program shall report the actions to the Compliance Officer who shall conduct an investigation into the allegation in accordance with Element 7 of this Compliance Plan (Response to Compliance Issues).

V. Guidance

Affected Individuals may seek guidance with respect to the Compliance Plan or Standards of Conduct at any time by following the reporting mechanisms outlined herein.

DISCIPLINE AND ENFORCEMENT OF COMPLIANCE STANDARDS

I. Background Investigations

The County shall conduct a reasonable and prudent background investigation, including a reference check, as part of the employment application for those Affected Individuals whose costs are reimbursed with health care revenues.

II. Disciplinary Action - General

Affected Individuals who fail to comply with Ulster County's Compliance Program and Standards of Conduct,

When the determination is made that a compliance violation occurred involving a contractor or vendor, the Compliance Officer will notify the County Executive and work collaboratively to determine and execute the appropriate corrective action.

Affected Individuals who fail to comply with the County's Compliance Plan and Standards of Conduct for Ulster County, who have engaged in conduct that has the potential of impairing the County's status as a reliable, honest, and trustworthy service provider, or who, upon investigation, are found to have committed illegal or unethical acts or violations of applicable Federal and State laws and regulations, the Compliance Program, the Standards of Conduct, or the County's policies and procedures, will be subject to appropriate disciplinary action, up to and including termination of employment, contract, assignment, or appointment with the County.

The County will apply progressive discipline consistent with the violation. Examples of the disciplinary action that may be taken in accordance with the nature and scope of the infraction include but are not limited to: (a) verbal counseling or warning; (b) counseling with written warning; (c) retraining; (d) reassignment or demotion; (e) suspension without pay; and (f) termination of employment, contract, assignment, or appointment. The County will consider intentional or reckless behavior as being subject to more significant discipline.

The following actions will result in more significant disciplinary action:

- Authorization of or participation in actions that violate Federal or State laws, regulations, the Compliance Program, Standards of Conduct, or any related policies and procedures;
- Failure to comply with the County's policies governing the prevention, detection, or reporting of fraud and abuse;
- Falsification of records;
- Submitting or causing to submit a false claim;

- Failure to report a violation by a peer or subordinate;
- Failure to cooperate in an investigation; and
- Retaliation/intimidation against an individual for reporting a possible violation or participating in an investigation.

Any discipline shall be appropriately documented in the Affected Individual's file, along with a written statement of reason(s) for imposing such discipline. Such documentation will be considered during an employee's regular and promotional evaluations.

The Compliance Officer shall maintain a written record of all disciplinary actions taken against Affected Individuals related to non-compliance and violations, including verbal warnings, and will reference these records when necessary to ensure consistency in application of disciplinary measures. The Compliance Officer will provide a report on disciplinary actions taken to the Compliance Committee and the Legislature.

III. Performance Evaluation - Supervisory

Ulster County's Compliance Program requires that the promotion of and adherence to, the elements of the Compliance Program be a factor in evaluating the performance of appropriate County employees. They shall be periodically trained in new compliance policies and procedures. In addition, all Department Heads and supervisors shall:

- Discuss with all supervised Affected Individuals the compliance procedures and legal requirements applicable to their function.
- Inform all Affected Individuals that strict compliance with these procedures and requirements is a condition of employment.
- Disclose to all Affected Individuals that the County may take disciplinary action up to and including termination for violation of these procedures and requirements.

IV. Disciplinary Action – Supervisory

Department Heads and supervisors may be sanctioned for failure to adequately instruct subordinates in regard to Compliance Plan procedures and Standards, and for failure to detect noncompliance with such procedures and Standards.

Department Heads and supervisors must exercise reasonable diligence to promote the earliest possible discovery of violations of the County's Compliance Plan, Procedures and Standards of Conduct.

AUDITING AND MONITORING

I. Internal Audits

Because ongoing evaluation is critical to detecting non-compliance and will help ensure the success of Ulster County's Compliance Program, an ongoing auditing and monitoring system, implemented by the Compliance Officer and Compliance Committee, is an integral component of this Plan. This system shall include, but not be limited to the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions;
- Review of Compliance Plan, Procedures and Standards of Conduct; and
- Review of documentation and billing relating to claims made to Federal, New York State, and private payers for reimbursement, performed internally or by an external consultant, at the discretion of the Compliance Officer and Compliance Committee.

An ongoing auditing and monitoring system, implemented by the Compliance Officer and in consultation with the Compliance Committee, is an integral component of Ulster County's auditing and monitoring systems.

On an annual basis, the Compliance Officer, in conjunction with the Compliance Committee, will develop an audit plan based on a risk assessment.

This ongoing auditing and monitoring will evaluate at minimum, the following risk areas:

- Billings;
- Payments;
- Ordered services;
- Medical necessity;
- Quality of care;
- Governance;
- Mandatory reporting;
- Credentialing;
- Contractor, subcontractor, agent, or independent contract oversight;
- Review of contracts and relationships with contractors, specifically those with substantive exposure to government enforcement actions;
- Review of documentation and billing relating to claims made to Federal, State, and third-party payers for reimbursement;
- Compliance training and education;
- Effectiveness of the Compliance Program; and

- Other risk areas that are or should reasonably be identified by the County through its organizational experience.

The audits and reviews shall examine the County's compliance with specific rules and policies through on-site visits, interviews, general questionnaires submitted to appropriate Affected Individuals, and recipient record documentation reviews.

Results of all auditing and monitoring activities will be reported to the Compliance Committee and Legislature.

II. Plan Integrity

Additional steps to ensure the integrity of the Compliance Plan shall include:

- Annual review of records of communications and reports by Affected Individuals kept in accordance with this Plan.
- The Compliance Officer shall be notified immediately in the event of any visits, audits, investigations, or surveys by any Federal or State agency or authority that relate in any way to the County's Compliance Program. The Compliance Officer shall, without unreasonable delay, receive a photocopy of any correspondence from any regulatory agency charged with licensing the County and/or administering a Federal or State-funded program or County-funded program with which the County participates, if it relates to the County's Compliance Program.
- Establishment of a process wherein the Compliance Officer gives notice to all appropriate Affected Individuals of any changes in laws, regulations, or policies, as well as appropriate training to assure continuous compliance.

RESPONSE TO COMPLIANCE ISSUES

I. Violation Detection

Ulster County maintains a formal confidential and anonymous compliance reporting process to encourage the reporting of any compliance concerns. Affected Individuals must promptly report any compliance concerns to Compliance Officer, the immediate supervisor, a member of management, or a member of the Compliance Committee. Service recipients, vendors, and any party conducting business with Ulster County may report compliance concerns to the Compliance Officer through the confidential or anonymous reporting process.

As part of its Compliance Program, Ulster County will ensure that all reports of compliance concerns are immediately and objectively investigated and resolved promptly. Such investigations may be conducted by the Compliance Officer, members of the Compliance Committee, other employees or external parties as indicated or recommended by the Compliance Officer, County Executive or legal counsel.

The Compliance Officer and the Compliance Committee shall determine whether there is any basis to suspect that a violation of the Compliance Plan has occurred.

If it is determined that a violation may have occurred, the matter may be referred to the County Attorney who, with the assistance of the Compliance Officer, shall conduct a more detailed investigation. This investigation may include, but is not limited to the following:

- Interviews with individuals having knowledge of the facts alleged;
- A review of documents; and
- Legal research and contact with governmental agencies for the purpose of clarification.

If advice is sought from a governmental agency, the request and any written or oral response shall be fully documented.

The Compliance Officer will take immediate measures to secure relevant evidence or documentation and will ensure the confidentiality of any information obtained from a report, interview or through an investigation, unless otherwise required by law.

Unless a potential conflict of interest exists, the Compliance Officer will inform the County Executive of any pending investigations.

II. Reporting

The results of the investigation and remedial actions will be communicated confidentially to the County Executive, Legislature, and other employees based on a need-to-know basis. The Compliance Officer shall report to the Compliance Committee regarding each investigation conducted unless conducted under attorney privilege.

At the conclusion of an investigation involving the County Attorney, a report shall be issued to the Compliance Officer summarizing the findings, conclusions, recommendations and an opinion as to whether any violation has occurred. Any additional action shall be on the advice of the County Attorney.

The Compliance Officer shall report to the Compliance Committee, the County Executive and the Ulster County Legislature regarding each investigation conducted.

III. Rectification

If Ulster County government identifies that an overpayment was received from any third-party payer, the appropriate regulatory (funder) and/or prosecutorial (Attorney General/police) authority shall be appropriately notified with the advice and assistance of the County Attorney. It is County policy not to retain any funds which are received as a result of overpayments. Overpayments will be reported and refunded to Medicaid in accordance with the appropriate self-disclosure protocols and any required time frames.

In instances where it appears an affirmative fraud may have occurred, appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.

IV. Record Keeping

Regardless of whether a report is made to a governmental agency, the Compliance Officer shall maintain a record of the investigation, including copies of interview notes, all evidence, and review of documents as part of the investigation file. The Compliance Officer will organize the information so that the County can determine if an infraction occurred. This record shall be considered confidential and privileged and shall not be released without the approval of the County Executive or County Attorney.

Records shall be retained in accordance with applicable standards.

WHISTLEBLOWER PROVISIONS AND PROTECTIONS

The County prohibits acts of retaliation or intimidation for good faith participation in the Compliance Program, including but not limited to reporting potential issues, investigating issues, participating in compliance investigations, self-evaluations, audits and remedial actions and reporting to appropriate official as provided in Sections 740 and 741 of the NYS Labor Law.

I. Provisions

The Federal and New York State False Claims Acts provide protection to qui tam (“Whistleblower”) reporters 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 False Claims Act.

Ulster County shall not take any retaliatory action against employees if the person discloses information about the County’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 County 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 the law or where the reporter asserts, in good faith, that the County is providing improper quality of care.

II. Protections

The employee’s disclosure is protected only if they first brought up the matter with a supervisor and gave the County a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or a patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

Ulster County shall protect qui tam reporters in accordance with Federal and State statutes relative to Whistleblower protections. If the County takes a retaliatory action against the qui tam reporter, the individual may sue in New York State court for reinstatement to the same or an equivalent position, including any lost wages, benefits, attorneys’ fees and special damages sustained as a result of discrimination, intimidation or retaliation.