

CODE OF CONDUCT

East Harlem Council for Human Services, Inc.

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This Code of Conduct sets forth the standards of conduct that all Affected Individuals must adhere to and follow.

I CODE OF CONDUCT: COMMITMENT TO COMPLIANCE

- The East Harlem Council for Human Services, Inc. (EHCHS) was established in 1965 through the efforts of East Harlem residents and their struggle to provide crucially needed services to their community. The board and staff are predominately community residents and users of services who have a strong commitment to providing the highest quality of fully bilingual health and human services to the East Harlem community.
- EHCHS strives to provide high quality services to our clients without regard to age, race, color, sexual orientation, marital status, religion, sex, or national origin. We have a commitment to conduct our business in compliance with all applicable laws, rules and regulations and in accordance with ethical principles. EHCHS expects the same from all Affected Individuals. We do not and will not tolerate any form of unlawful or unethical behavior by anyone associated with EHCHS. We will follow the letter and spirit of applicable laws, rules and regulations, conduct our business ethically and honestly, and act in a manner that enhances our standing in the community.

II CODE OF CONDUCT: SCOPE OF APPLICATION TO AFFECTED INDIVIDUALS

- The Compliance Program - and specifically this Code of Conduct - applies to all Affected Individuals. The term Affected Individuals is defined in this Compliance Manual.
- All Affected Individuals have a responsibility to help create and maintain a work environment in which compliance concerns may be openly raised, and promptly reviewed, discussed and addressed.

III CODE OF CONDUCT: STANDARDS

□ General Standards

- You must be honest and lawful in all of your business dealings and avoid doing anything that could create even the appearance of impropriety.
- You must: comply with the Code of Conduct; refuse to participate in any action you think may be possibly unethical, illegal or in violation of the Code of Conduct, a Compliance Policy and Procedure or the Compliance Program; report compliance issues and any unethical or illegal conduct to the Compliance Officer; cooperate with compliance inquiries and investigations; and work to correct any improper practices that are identified. EHCHS expects and requires your good faith participation in the Compliance Program.

- Acts of retaliation or intimidation for good faith reporting of any suspected violation of, or for other good faith participation in, the Compliance Program will not be tolerated and are themselves a violation of the Compliance Program. ***For more information, see the Non-Retaliation, Non-Intimidation for Good Faith Participation in the Compliance Program Policy.***
- **Standards Related to Quality of Care/Credentialing/Medical Necessity**
 - You are required to protect and promote the rights of all patients, including but not limited to, the right to participate in all decisions about their own care and treatment.
 - You must ensure that patient care conforms to acceptable clinical and safety standards.
 - All professional staff associated with EHCHS will be properly licensed, certified and/or registered as required by applicable laws, rules and regulations. EHCHS will take steps on a regular basis to monitor and ensure such compliance.
 - In addition to the general credentialing process, EHCHS will confirm the identity and determine the exclusion status of all Affected Individuals. In doing so, we will review the following State and Federal databases at least every thirty (30) days: (a) the OMIG Exclusion List; (b) the U.S Department of Health and Human Services Office of Inspector General's (the "OIG") List of Excluded Individuals and Entities (c) the General Services Administration's System for Award Management. Our Contractors are also required to comply with these requirements. The results of such checks will be promptly shared with the Compliance Officer and other appropriate compliance personnel. ***For more information, see our Compliance Reviews for Excluded or Ineligible Individuals/Entities Policy.***
 - EHCHS's Chief Medical Officer will be responsible for overseeing quality of care issues. In consultation with quality improvement personnel, the Compliance Officer (or his or her designee(s)) will ensure that quality assurance reviews are conducted, issues are addressed, and corrective actions are implemented.
 - EHCHS will only submit claims for payment to payers for services that are medically necessary or that otherwise constitute a covered service and are consistent with the payer's applicable policies and requirements.
- **Standards Related to Coding, Billing and Documenting Services**
 - EHCHS will comply with the coding, billing, documentation and submission rules and requirements of all of its payers, including government payers such as Medicare and Medicaid, and commercial payers, as well as all applicable Federal and State laws, rules and regulations governing the coding, billing, documentation and submission of claims. ***For more information, see our Billing, Coding and Documentation Policy.***

- EHCHS is committed to preparing accurate claims, consistent with such requirements. All coding, billing and documentation of services must be accurate and truthful.
- Specifically, among other rules, we follow 18 NYCRR § 521-1.3(d):
- **Risk areas.** The compliance program shall apply to the required provider's risk areas, which are those areas of operation affected by the compliance program and shall apply to: (1) billings; (2) payments; (3) ordered services; (4) medical necessity; (5) quality of care; (6) governance; (7) mandatory reporting; (8) credentialing; (9) contractor, subcontractor, agent or independent contract oversight; (10) other risk areas that are or should reasonably be identified by the provider through its organizational experience.
- You may never misrepresent charges or services to or on behalf of the government, a patient or a payer. False statements, intentional omissions or deliberate and reckless misstatements to government agencies, payers or others will expose those involved to disciplinary action. As but one example, no Affected Individual will knowingly engage in any form of upcoding of any service in violation of any law, rule, regulation or requirement. Among other things, any Affected Individual involved in such activities is subject to potential termination of employment or contract, and potential criminal and civil liability.
- Billing codes - including CPT, HCPCS and ICD diagnostic codes - should never be selected on the basis of whether the given code guarantees or enhances payment. Rather, only those codes that correspond to the actual service rendered and documented should be selected.
- Only those services that are consistent with accepted standards of care may be billed. In this regard, billing and coding must always be based on adequate documentation of the justification for the service provided and for the bill submitted, and this documentation must comply with all applicable requirements.
- We also comply with all associated and applicable Federal and State laws, rules and regulations that relate to the coding, billing and documentation of services including, but not limited to those concerning: the ordering of services; waiving coinsurance or other patient financial responsibility amounts; providing professional courtesy to physicians or their families; obtaining Advance Beneficiary Notices from Medicare patients for non-covered services; and gathering insurance information from patients.
- In accordance with **Federal and New York State** law,¹ EHCHS provides to all Affected Individuals a detailed description of: (i) the Federal False Claims Act; (ii) the Federal Program Fraud Civil Remedies Act; (iii) State civil and criminal laws pertaining to false claims; and (iv) the whistleblower protections afforded under such laws. EHCHS also provides Affected Individuals with detailed provisions regarding our policies and procedures for detecting and preventing fraud, waste, and abuse. The employee handbook also includes specific discussion of the laws

¹ See 42 USC § 1396a(a)(68); 18 NYCRR § 521-1.4(2)(ix).

described above, the rights of employees to be protected as whistleblowers, and EHCHS's policies and procedures for detecting and preventing fraud, waste and abuse.

- EHCHS does not retain any payments to which it is not entitled. EHCHS will timely report, return and explain any identified overpayments in accordance with applicable law, rules, regulations and requirements. ***For more information,*** see “Mandatory and Other Reporting” below; and

For more information, see the Billing, Coding and Documentation Policy; the Waiving/Reducing Coinsurance, Copayment and Deductible Amounts Policy; the Compliance with Anti-Referral Laws Policy; and the Compliance with Federal and State False Claims Laws (Overview of the Laws Regarding False Claims and Whistleblower Protections/Policy).

□ **Standards Relating to Business Practices**

- All business records must be accurate, truthful and complete, with no material omissions.
- EHCHS will forego any business transaction or opportunity that can only be obtained by improper or illegal means, and will not make any unethical or illegal payments to induce or reward the use of our services.
- No Affected Individuals will engage, either directly or indirectly, in any corrupt business practices intended to influence the manner in which EHCHS performs services, or otherwise engages in business practices.

For more information, see the Billing, Coding and Documentation Policy; the Compliance with Anti-Referral Laws Policy; the Compliance with Federal and State False Claims Laws (Overview of the Laws Regarding False Claims and Whistleblower Protections/Policy; the Gifts and Benefits Policy; and the Conflict of Interest Policy).

□ **Standards Relating to Record Retention and Access to Records**

- EHCHS will comply with all applicable laws, rules, regulations and requirements relating to the retention of billing and medical records.
- EHCHS will make available to the New York State Department of Health (“DOH”), the OMIG and the MFCU, upon request, all records demonstrating that we have adopted, implemented and operate an effective compliance program and have satisfied the requirements of 18 NYCRR Subpart 521. Such records will be retained by EHCHS for a period not less than six (6) years from the date the program was implemented, or any amendments thereto were made, in accordance with 18 NYCRR § 521-1.3(b), or for such longer period of time as may be required by applicable laws, rules, regulations or contractual requirement.

- In order to help ensure the effectiveness of the Compliance Program, the Compliance Officer and appropriate compliance personnel will have access to all records, documents, information, facilities and Affected Individuals that are relevant to carrying out their Compliance Program responsibilities.
- **Patient Referrals/Marketing Activities**
 - In general, Federal and State anti-kickback laws prohibit offering, paying, soliciting or receiving any remuneration to induce or reward referrals of items or services that are reimbursed by a Federal health care program (including, but not limited to, Medicare and Medicaid). This includes the giving of any form of remuneration, including virtually anything of value, in return for a referral. The decision to refer patients is a separate and independent clinical decision made by physicians or other appropriate licensed practitioners. In certain situations, there may be exceptions and/or “safe harbors” to the anti-kickback laws. EHCHS does not offer, pay, solicit or receive remuneration to or from physicians, or anyone else, either directly or indirectly, for patient referrals, in violation of applicable laws, rules and/or regulations. ***For more information,*** see our Compliance with Anti-Referral Laws Policy; and our Compliance with Federal and State False Claims Laws (Overview of the Laws Regarding False Claims and Whistleblower Protections) Policy.
 - All marketing activities and advertising by Affected Individuals must be truthful and not misleading, must be supported by evidence to substantiate any claims made and must otherwise be in accordance with applicable laws, rules and regulations. In this regard, our best “advertisement” is the quality of the services we provide. You should never disparage the service or business of a competitor through the use of false or misleading representations.
 - You may not offer, pay, solicit or receive any gifts or benefits to or from any person or entity that would compromise EHCHS’s integrity (or even create an appearance that EHCHS’s integrity is compromised), or under circumstances where the gift or benefit is offered, paid, solicited or received with a purpose of inducing or rewarding referrals or other business between the parties, in violation of applicable laws, rules, regulations or requirements. The guiding principle is simple: Affected Individuals may not be involved with gifts or benefits that are undertaken to influence any business decision in a manner that violates the law. Cash or cash equivalents may not be given or accepted under any circumstances. ***For more information,*** see our Gifts and Benefits Policy; and our Compliance with Anti-Referral Laws Policy.
- **Mandatory and Other Reporting**
 - As part of its commitment to providing high quality care and services, EHCHS complies with all applicable Federal and State mandatory reporting laws, rules and regulations. To this end, EHCHS will ensure that all incidents and events that are required to be reported are reported in a timely manner, and will monitor compliance with such requirements. This includes required reporting to appropriate government agencies or parties.

- EHCHS will also ensure its compliance with the requirement that, upon enrollment and annually thereafter, it certifies that it has met the requirements of New York Social Services Law (*i.e.*, N.Y. Social Services Law § 363-d and 18 NYCRR Subpart 521-1). Further, EHCHS will provide a copy of the certification required by 18 NYCRR § 521-1.3 to each Medicaid Managed Care Organization (including managed care providers and managed long term care plans) (collectively, “MMCO”) for which it is a participating provider upon signing the participating provider agreement with the MMCO, and annually thereafter. As applicable, EHCHS will also comply with other State and Federal certification requirements that are or may become applicable to it.
- EHCHS will ensure that all identified overpayments are timely reported, returned and explained in accordance with applicable laws, rules, regulations and requirements. For example, it is our policy to exercise reasonable diligence in identifying overpayments, not to knowingly retain any funds which are received as a result of overpayments and to report, return and explain any overpayments received from Federal health care programs (including, for example, but not limited to, Medicare and Medicaid) within 60 days from the date the overpayment is identified (or within such time as is otherwise required by law or contract). Any such monies that are improperly collected will be refunded, in accordance with applicable laws, rules, regulations and requirements, to the appropriate party at the correct address. ***For more information, see our Protocols for Investigation and Implementing Corrective Action, Including Discipline Policy.***
- Moreover, in appropriate circumstances (*e.g.*, after an internal investigation confirms possible fraud, waste, abuse or inappropriate claims), EHCHS will utilize the appropriate self-disclosure process and report, as necessary and appropriate, to the OMIG, OIG, the Centers for Medicare and Medicaid Services, or other appropriate payer/agency. In such circumstances, EHCHS may consult with legal counsel or other experts, as needed. ***For more information, see our Protocols for Investigation and Implementing Corrective Action, Including Discipline Policy.***
- **Standards Relating to Confidentiality and Security**
 - In compliance with Federal and State privacy laws, all Affected Individuals will keep patient information confidential and secure.
 - EHCHS has also implemented and maintains a HIPAA Compliance Program that addresses privacy and security. All Affected Individuals must adhere to the standards of the HIPAA Compliance Program.
 - Confidential information acquired by Affected Individuals about the business of EHCHS must also be held in confidence and not used for personal gain, either directly or indirectly, or in any manner that violates applicable laws, rules, regulations or requirements.
- **Government Inquiries**
 - It is EHCHS’s policy to comply with applicable laws, rules, regulations and requirements, and to cooperate with legitimate government investigations or

inquiries. All responses to requests for information must be accurate and complete, and must not omit any material information. Any action by Affected Individuals to destroy, alter, or change any of EHCHS's records in response to a request for such records is strictly prohibited and will subject them to immediate termination of employment or contract and possible criminal prosecution, among other things.

- You may speak voluntarily with government agents, and EHCHS will not attempt to obstruct such communication. It is recommended, however, that you contact the Compliance Officer before speaking with any government agents.
- You must receive authorization from the Compliance Officer before responding to any request to disclose EHCHS's documents to any outside party.
- It is EHCHS's policy to comply with applicable laws, rules, regulations and requirements, and to cooperate with legitimate government investigations or inquiries. All responses to requests for information must be accurate and complete, and must not omit any material information. Any action by Affected Individuals to destroy, alter, or change any of EHCHS's records in response to a request for such records is strictly prohibited and will subject them to immediate termination of employment or contract and possible criminal prosecution, among other things.
- It also is our policy to comply with all lawful directives of the DOH, OMIG or other appropriate government agencies with respect to the adoption, implementation and maintenance of our Compliance Programs pursuant to applicable laws, rules and regulations, including, but not necessarily limited to, 18 NYCRR Subpart 521-1.

For more information, see our Responding to Government Inquires Policy.

□ **Specific Compliance Provisions for Agreements with Contractors**

- It is the policy of EHCHS to ensure that all contracts with our Contractors specify that the Contractor is subject to our Compliance Program, to the extent that the Contractor is affected by our risk areas (within the scope of the contracted authority and affected risk areas). We will follow OMIG's guidance regarding agreements in place prior to the effective date of OMIG's updated compliance regulations. *For more information, see our Contractor Requirements Policy.*
- In addition, such contracts will also include termination provisions for the failure to adhere to our Compliance Program requirements.