

<i>The Arc Chemung-Schuyler</i>		Created On: April 2002	
		Reviewed/Revised: 8/09; 8/19; 8/2020; 9/21, 12/21, 6/23, 6/24, 6/25	
Procedure Number: CC-050 Procedure Title: Corporate Compliance – Detecting & Responding to Violations; Voluntary Disclosure		Position Responsible: Quality & Compliance Director Approved by Chief Executive Officer/Date:	
Regulatory Reference: Affordable Care Act; OMIG; Social Services Law		Audience: <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> All <input type="checkbox"/> Volunteers <input type="checkbox"/> Other (Fill In) _____ </div> <div> <input type="checkbox"/> Staff <input type="checkbox"/> Board Members </div> </div>	

Purpose: This policy and procedure detail the Arc Chemung-Schuyler’s practice of identifying and responding to confirmed noncompliance with federal, state, and local statutes, rules, regulations, Medicaid Program requirements, or the Compliance Program, including reporting and returning obligations.

Policy: It is the policy of Arc Chemung-Schuyler to respond appropriately to violations of federal, state, and local statutes, rules, regulations, Medicaid Program requirements, or the Compliance Program to protect the Arc Chemung-Schuyler and to continue to improve upon the Arc Chemung-Schuyler’s reputation as a reliable and trustworthy organization.

Scope: This policy and procedure are applicable and made available/accessible to all affected individuals unless a specific exemption is noted within this policy.

This policy shall apply to actions taken in response to identification of violations of applicable statutes, rules, regulations and the Arc Chemung-Schuyler Compliance Program.

References: The Arc Chemung-Schuyler is governed by several federal, state, and local statutes, rules, and regulations; however, this policy focuses on participation in and compliance with the Medical Assistance Program (Medicaid and Medicare). Applicable statutes, rules and regulations used to design this policy include New York State Title 18 regulations, specifically those under Part

Detecting & Responding to Violations; Voluntary Disclosure

521 that establishes requirements to adopt and implement programs designed to detect and prevent fraud, waste, and abuse in the Medical Assistance program. Social Services Law Part 363-d which establishes expectations for provider compliance programs, was also used to design this policy and procedure. The Arc New York Chapter Manual also requires that all operating Chapters shall have in effect a plan for corporate compliance that contains all the elements of a corporate compliance plan required by the OMIG (Section III-15.0: Corporate Compliance, Arc New York Chapter Manual) as well as a Compliance Committee that is a committee of the Chapter Board. (Section II-5.1: Model Chapter By-Laws, Article XI, Sections 1 &2)

Provider voluntary disclosures are governed by the Affordable Care Act (ACA) of 2010 §6402, Title 42 of the United States Code (USC) §1320a-7k(d)(1) & (2), SOS § 363-d(6) and (7), Title 18 of NYCRR Subpart 521-3 and the OMIG's Self-Disclosure Program Guidance.

Definitions:

Affected Individuals: all persons who are affected by the required provider's risk areas, including the required provider's employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers. (N.Y. Comp. Codes R. & Regs. tit. 18, § 521-1.2)

Overpayment: any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse, or mistake.

Responsibilities: This policy and procedure are overseen by the Arc Chemung-Schuyler's designated Compliance Officer (CO) and Compliance Committee (CC). The CO and CC are responsible for monitoring implementation of this policy and procedure, reviewing and revising as necessary; but no less frequent than annually.

Procedure:

A. Identification and Response to a Violation

Potential violations of the Compliance Program or an applicable local, state, and/or federal law or regulation may be identified through various avenues, including but not limited to voluntary disclosures by employees; calls to the Compliance Hotline; self-auditing and monitoring; outside investigations by consultants, government agencies or accrediting bodies; and any other means.

Upon learning of a potential violation, the Compliance Officer (CO) initiates activities consistent with the Chapter's Compliance Investigation policy and procedures. The investigation seeks to identify the root cause of the identified overpayment and explores the potential existence of any additional overpayments.

Detecting & Responding to Violations; Voluntary Disclosure

Upon confirmation by the CO, the Compliance Committee (CC) or the Arc Chemung-Schuyler management that violation(s) has occurred, the CO coordinates the Arc Chemung-Schuyler's response by evaluating each alleged violation and promptly implementing action consistent with the following:

- ✓ Development and implementation of a Corrective Action Plan;
- ✓ Prompt notification to the CC of the violation, if they are unaware;
- ✓ Disclosure to state or federal regulatory agencies, if applicable;
- ✓ Making restitution of any overpayments to the appropriate payer (e.g., a commercial health plan, a government payor or an individual or their family)

B. Development of a Corrective Action Plan

The program director provides input to the development of an appropriate Corrective Action Plan; however, final approval is made by the CO, CC, Chief Executive Officer (CEO) and/or Board of Directors depending on the scope and severity of the violation.

Corrective Action Plans will be stated in measurable terms, with progress monitored on regularly (e.g., monthly or quarterly), as appropriate. Language in the Corrective Action Plan should reflect every effort by Arc Chemung-Schuyler to comply with applicable statutes, rules, regulations, and federal healthcare program requirements. The CO is responsible for ensuring that the Corrective Action Plans are followed and that feedback is provided to the area or department manager on the plan progress.

Elements that may be included in a Corrective Action Plan include, but are not limited to, disciplinary action against employees and other affected individuals responsible, revising or developing policies and procedures, systems, or processes in response, or training specific to the violation.

The CO or representatives from affected programs present progress reports on Corrective Action Plans to the CC during regularly scheduled meetings with a copy to the Board of Directors and the CEO. Upon request by the Board of Directors, the CC, or the CEO, more frequent updates may be submitted.

C. Voluntary Disclosure of violations

The CO, in consultation with the CEO and the CC, evaluates the violation to determine if a voluntary disclosure of the violation is appropriate. The CO may consult with The Arc New York State Office and/or internal/external counsel on the notification of relevant government officials, private payors, or other entities in the event of a

Detecting & Responding to Violations; Voluntary Disclosure

violation where voluntary disclosure of the violation may be appropriate. Notification is made within a reasonable period, but no later than 60 days absent waiver by the authorized federal or state agency, after discovering the violation. Repayment of monies paid by the applicable state or federal agency, payor, or other entity is also made as necessary.

Overpayments: Exploration of a potential violation of the Compliance Program or an applicable local, state, and/or federal statute, rule, or regulation may sometimes reveal an overpayment received from a state or federal payor.

All overpayments are reported, returned, and explained in accordance with applicable state and federal statutes, rules, and regulations.

Medicaid overpayments are managed in accordance with the Medicaid self-disclosure program requirements, including procedures and timeframes as directed by Social Services Law 363-d and New York regulations at Title 18, Part 521-3 (Self-Disclosure Program). Specifically, Arc Chemung-Schuyler will report, return, and explain any Medicaid overpayments received within 60 days of identification or by the date any corresponding cost report is due, whichever is later. For the purposes of this policy, ‘identification’ is defined as, “*The Chapter has determined that they have received an overpayment **and** quantified the amount and scope of the overpayment.*”

Guidance on the Office of the Medicaid Inspector General’s (OMIG’s) Self-Disclosure Program can be viewed on their website at: www.omig.ny.gov.

The Chapter may seek support from The Arc New York State Office Compliance Department on matters pertaining to potential violations, including those that may result in voluntary disclosure. The Chapter reports to The Arc New York State Office compliance staff every occurrence or discovery of an internal matter that results in a self-disclosure or referral to a state or federal oversight or regulatory agency or body, including but not limited to, a self-disclosure or referral to the NYS Office of Medicaid Inspector General (OMIG) or the Medicaid Fraud Control Unit (MFCU) of the NYS Attorney General’s Office. The notification to The Arc New York State Office compliance staff is made no later than five (5) business days after the self-disclosure or referral. It includes a copy of the self-disclosure letter or other documentation. If no written self-disclosure document exists, the notification to The Arc New York includes a summary of the events as described to the state or federal agency.