

5.13 CORPORATE COMPLIANCE POLICY

Economic Opportunity Program, Inc. Corporate Compliance Plan March 2020

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Appendix A: Federal & NY Statutes Relating to Filing False Claims CORPORATE COMPLIANCE POLICY

1. It is the policy of Economic Opportunity Program, Inc. (EOP) to comply with all applicable federal, state and local laws and regulations. It is our policy to adhere to the standards of conduct that are adopted by the Board of Directors, the Executive Director and the Corporate Compliance Committee (CCC).
2. We are committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our staff members, contracted practitioners, and vendors to these same standards.
3. All staff members, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the Executive Director or the Corporate Compliance Officer (CCO). Reports may be made anonymously, without fear of retaliation, retribution, or breach of confidentiality. Failure to report known noncompliance or making false reports will be grounds for disciplinary action, including termination. Reports related to harassment or other workplace-orientated issues, will be referred to Human Resources.
4. EOP will communicate its compliance standards and policies through required training initiatives to all staff members, contracted practitioners, and vendors. We are committed to these efforts through distribution of the Corporate Compliance Policy, and our Code of Ethics.
5. EOP is committed to maintaining and measuring the effectiveness of our Corporate Compliance Policies and Standards through monitoring and auditing systems reasonably designed to detect noncompliance by its staff members and agents. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and federal health care program requirements.
6. This Corporate Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to detect noncompliance.
7. Detected noncompliance, through any mechanism, i.e. compliance auditing procedures, confidential reporting, will be responded to in an expedient manner. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent similar violations, including any necessary modifications to the Corporate Compliance Program.
8. EOP will, at all times, exercise all due diligence with regard to background and professional license investigations for all prospective staff members, contractors, vendors, and members of the Board of Directors.

I. Corporate Compliance Policy

A. Code of Ethics

It is the policy of EOP to conduct all business in accordance with uncompromising ethical standards. We are committed to complying with all applicable laws and regulations. We believe integrity and trust are essential to the mission of serving our

consumers. Adherence to such standards will not be traded or compromised for financial, professional or other business objectives.

We ensure that all aspects of consumer care and business conduct are performed in compliance with our mission/vision statement, policies and procedures, professional standards and applicable governmental laws, rules and regulations.

EOP expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. Any whose behavior is found to violate ethical standards will be disciplined appropriately.

Staff members may not engage in any conduct that conflicts or is perceived to conflict with the best interest of the Agency. Staff members must disclose any circumstances where the staff member or his or immediate family member is an employee, consultant, owner, contractor or investor in any entity that (i) engages in any business or maintains any relationship with the Agency; (ii) provides to, receives from, the Agency any consumer referrals; or (iii) competes with the Agency. Staff members may not without permission of the CCO accept, solicit, offer anything of value from anyone doing business with the Agency.

Staff members are expected to maintain complete, accurate and contemporaneous records as required by the Agency. The term record includes all documents, both written and electronic, that relates to the provision of Agency services or provides support for the billing of Agency services. Records must reflect the actual services provided. Any records to be appropriately altered 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 to indicate performance or approval of a program service or other program compliance step. Signature stamps shall not be used except for carefully controlled and appropriately supervised authorized use for appropriate agency cash disbursements, in accordance with agency fiscal procedures. Backdating and predating documents is unacceptable and will lead to discipline up to and including termination.

Any shortcomings are to be reported to supervisors, the CCO or the Executive Director, so each situation may be appropriately dealt with. The CCO may be reached at (607) 734-6174.

B. Reporting Policy

1. Employees are allowed to use any communication channel they deem appropriate to report issues. Retaliation or retribution for reporting issues in good faith is prohibited.
2. The CCO is only responsible for resolving compliance-related issues; however, employees should not be discouraged from using any specific communication channel. Rather employees should be politely redirected, or the CCO should

redirect noncompliance related issues to the appropriated department or individual.

3. The CCO is responsible for the compliance program; therefore, issues related to the operation of the program should be referred directly to the CCO.
4. To the extent practical, or allowed by law, the CCO must maintain the confidentiality or anonymity of an employee when requested.

C. Procedures

1. Employee calls will be handled in accordance with established policies and procedures.
2. Issues received by the CCO will be either referred to the appropriate department or individual or responded to within 30 days.
3. Issues with the potential for legal liability or containing issues of a legal nature will be referred to legal counsel.
4. The CCO should involve various members of the management and employee population when appropriate to resolve issues.
5. For compliance related issues, the CCO will conduct an Initial Inquiry that may include document review, interviews, audits, or other investigative technique. The CCO should:
 - Conduct a fair impartial review of all relevant facts
 - Restrict the inquiry to those necessary to resolve the issues
 - Conduct the inquiry with as little visibility as possible while gathering pertinent facts relating to the issues
6. The CCO should ensure that the following objectives are accomplished:
 - Fully debrief complainant
 - Notify appropriate internal parties
 - Identify cause of problem, desired outcome, affected parties, applicable guidelines, possible regulatory or financial impact
 - Provide a complete list of findings and recommendations
 - Determine the necessary corrective action measures, (e.g., policy changes, operational changes, system changes, personnel changes, training/education)
 - Document the inquiry.
7. All inquiry records should be maintained in accordance with the Compliance Office records management policy.

II. Corporate Compliance Program Oversight

A. The Role of the Corporate Compliance Officer

The Board of Directors of EOP designates the CCO. The Corporate Compliance Officer reports to the Board of Directors and is supervised by the Executive Director. The CCO has direct lines of communication to the Executive Director and the Board of Directors. The name and phone extension of the CCO will be posted throughout the agency.

The CCO is directly obligated to serving the best interests of our agency, consumers and staff members. Responsibilities of the CCO include, but are not limited to:

1. Developing and implementing Policies and Procedures (P&P).
2. Overseeing and monitoring the implementation of the Corporate Compliance Plan (CCP).
3. Manage agency internal audits established to monitor effectiveness of compliance standards.
4. Providing guidance to management, medical/clinical personnel and individual departments regarding P&P and governmental laws, rules and regulations.
5. Updating, periodically, the CCP as changes occur within the Agency, and in the laws and regulations or governmental and third party payers.
6. Overseeing efforts to communicate the CCP.
7. Coordinating, developing and participating in the educational and training programs.
8. Guaranteeing independent contractors (consumer care, vendors, billing services, etc.) are aware of the requirements of the Agency's CCP.
9. Actively seeking up-to-date material and releases regarding regulatory compliance.
10. Maintaining reporting system (hotline) and responding to concerns, complaints and questions related to the CCP.
11. Acting as a resourceful leader regarding regulatory compliance issues.
12. Investigating and acting on issues related to compliance.
13. Coordinating internal investigations and implementing corrective action.

B. The Structure, Duties and Role of the Corporate Compliance Committee (CCC)

The CCC is appointed by the CCO and Executive Director to advise and assist the CCO with the implementation of the CCP.

The roles of the CCC include:

1. Analyzing the environment where the Agency does business, including legal requirements in which it must comply.
2. Review and assessment of existing P&P that address the risk areas for possible incorporation into the CCP.
3. Working with departments to develop standards and P&P that address specific risk areas and encourage compliance according to legal and ethical requirements.
4. Advising and monitoring appropriate departments.
5. Development of internal systems and controls to carry out Corporate Compliance Standards (CCS) and P&P.
6. Monitoring internal and external audits to identify potential non-compliant issues.
7. Implementing corrective and preventive action plans.
8. Developing a process to solicit, evaluate and respond to complaints and problems.

C. Delegation of Substantial Discretionary Authority

Any staff member, prospective staff member, or member of the Board of Directors who holds, or intends to hold, a position with substantial discretionary authority for the Agency, is required to disclose any name changes, and any involvement in non-compliant activities to the Agency. In addition, the Agency performs reasonable inquiries into the background of such applicants.

EOP's Employee Handbook, section (2.7) describes the Agency's process for completion of Background Checks for Criminal History, Child Abuse Registry Checks, Certification/License Verification and Medicare/Medicaid Exclusion Checks. The handbook includes a Conflict of Interest Procedure. The Board of Directors, Executive Director, Leadership Team members and Finance Department staff and all other staff must sign an annual Conflict of Interest Statement.

In addition to general background checks, the websites listed below will be searched for vendor eligibility for all Third Party Vendors, contractors and employees with credentials, licenses and/or whose job is to provide services which will generate Medicaid, Third Party Insurance or other federally funded revenues.

The Agency will remove from direct responsibility or involvement in any federally or state-funded programs any staff member, independent contractor, or member of the Board of Directors with demonstrated non-compliant activities related to the provision of services; actual or proposed exclusion from participation in federally or state-funded programs.

The following organizations will be queried with respect to all pertinent current employees, contractors, vendors and Members of the Board of Directors and will be queried with respect to potential employees, contractors, vendors and Members of the Board of Directors:

- General services administration: list of parties excluded from federal programs. The URL address is <http://www.epls.gov/elps/search.do>
- HHS/OIG cumulative sanction report. The URL address is <http://exclusions.oig.hhs.gov/search.html>
- NYS Disqualified Providers List. The URL address is <http://www.health.state.ny.us/hysdoh/medicaid/dqprvpg.htm>
- Licensure and disciplinary record with NYS Office of Professional Medical Conduct (Physicians, Physician Assistants) The URL address is <http://www.health.state.ny.us/nysdoh/opmc/main.htm> and/or New York State Department of Education (other licensed professionals) (the URL address is <http://www.op.nysed.gov/rasearch.htm#name>)
- OMIG <http://www.health.state.ny.us>
- MMIS <http://www.health.state.ny.us>

These databases will be queried annually for each pertinent employee, and Member of the Board of Directors. All contractors and vendors will be queried for the first three databases, and those applicable, will be queried for the licensure sites and well.

III. Education and Training

Education and training are critical elements of the CCP. Every Board Member, staff member and agent is expected to be familiar and knowledgeable about the Agency's CCP and have a solid working knowledge of his or her responsibilities under the Plan. Corporate Compliance policies and standards will be communicated to all staff members through required participation in training programs.

All administrative personnel and members of the Board of Directors shall participate in training on the topics identified below:

- Government and private payer reimbursement principles.
- Government Initiatives.
- History and background of Corporate Compliance.
- Legal authority.
- General prohibitions on paying or receiving remuneration to induce referrals.
- Prohibitions against submitting a claim for services when documentation of the service does not exist.
- Prohibitions against signing for the work of another staff member.
- Prohibitions against alterations to medical records.
- Prohibitions against performing medical or nursing therapies without a signed physician's order.
- Proper documentation of services rendered.
- Duty to report misconduct.

In addition to the above, targeted training will be provided to all managers and any other staff members who could create exposure to enforcement actions, such as coding and billing personnel. Managers shall assist the CCO in identifying areas that require specific training and are responsible for communication of the terms of this CCP to all independent contractors doing business with the Agency. Managers are responsible for assuring that all contractors abide by the terms of the CCP.

As part of their orientation, each staff member and contractor shall receive a written copy of the Corporate Compliance Policies. All contractors shall receive a copy of the agency procedures for False Claims Act, Code of Conduct, and specific standards of conduct that affect their position.

All education and training relating to the CCP will be verified by attendance and a signed acknowledgement of receipt of the Agency's CCP and standards. Compliance training updates will occur periodically.

Attendance at compliance training sessions is mandatory and is a condition of continued employment.

IV. Effective Confidential Communication

Open lines of communication between the CCO and every staff member and agent subject to this plan are essential to the success of our CCP. Every staff member has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

To report a violation of this CCP:

If you witness, learn of, or are asked to participate in potential non-compliant activities that are a violation of this CCP, you may contact your supervisor, CCO or the Executive Director.

Your identity will be safeguarded to the fullest extent possible and you will be protected against retribution. Report of any suspected violation of this plan by following the above shall not result in any retribution. Any threat of reprisal against a person who acts pursuant to his or her responsibilities under the CCP is acting against the Agency's Corporate Compliance Policy. Discipline, including termination of employment, will result if such reprisal is proven.

Any staff member or agent may seek guidance with respect to the CCP or Code of Ethics at any time by following the reporting mechanisms outlined above.

Upon receipt of a question or concern, any supervisor, officer or director, shall document the issue at hand and report it to the CCO. Any questions or concerns relating to the potential non-compliance by the CCO should be reported immediately to the Executive Director.

The CCO or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If the staff member is seeking information concerning the Code of Ethics or its application, the CCO or designee shall record the facts of the call, the nature of the information sought, and respond as appropriate. The Agency shall, as much as is possible, protect the anonymity of the staff member or contractor who reports any complaint or question.

V. Enforcement of Corporate Compliance Standards

The Agency's Disciplinary Policies (reference Section V Performance and Discipline) encourage good faith participation in the CCP. Agency Policies include:

Sanctions for the following:

- Failing to report suspected problems
- Participating in non-compliant behavior
- Encouraging, directing, facilitating or permitting - either actively or passively - non-compliant behavior

Staff members who fail to comply with the Agency's Compliance Policy and Standards, or who have engaged in conduct that has the potential of impairing the Agency's status as

a reliable, honest and trustworthy human service provider will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the staff member's personnel file, along with a written statement of reason(s) for imposing such discipline. The CCO shall maintain a record of all disciplinary actions involving the CCP and report at least semi-annually to the Board of Directors regarding such actions.

VI. Auditing and Monitoring of Corporate Compliance Activities

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of the Agency's Corporate Compliance program. An ongoing auditing and monitoring system, developed by the CCO, in consultation with the CCC, is an integral component of our auditing and monitoring systems. This ongoing evaluation shall include the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions.
- Compliance audits of P&P and Code of Ethics as stated in the CCP, conducted by the CCO.
- Review of documentation and billing relating to Medicaid claims development and submission performed internally or by an external consultant as determined by CCO and CCC. The audit results shall be documented by the CCO. The Program Director shall prepare a Management Response. The audit results and management response shall together be presented to the CCC.

The audits and reviews will examine the Agency's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires (submitted to staff members and contractors) medical and clinical record reviews to support claims for Medicaid reimbursement, and documentation reviews.

Additional steps to ensure the integrity of the CCP can include:

- Annual review with legal counsel of all records of communications and reports by all staff members or contractors kept in accordance with this CCP.
- Any correspondence from any regulatory agency charged with administering a federally or state-funded program received by any department of the Agency shall be immediately copied and forwarded to the CCO for review and discussion by the CCC.
- Immediate communication with the CCO of any visits, audits, investigations or surveys by any federal or state agency or authority.
- Establishment of a process detailing ongoing notification by the CCO to all appropriate personnel of any changes in laws, regulations or policies, as well as appropriate training to assure continuous compliance.

VII. Detection and Response

The CCO, Executive Director and the CCC shall determine whether there is any basis to suspect that a violation of the CCP has occurred.

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

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

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

At the conclusion of an investigation involving legal counsel, he/she shall issue a report to the CCO, Executive Director, and CCC summarizing his or her findings, conclusions and recommendations and to render an opinion as to whether a violation of the law has occurred.

The report will be reviewed with legal counsel in attendance. Any additional action will be on the advice of counsel.

If the Agency identifies that an overpayment was received from any third party payer, the appropriate regulatory (funder) and /or prosecutorial (attorney general/police) authority will be appropriately notified with the advice and assistance of counsel. It is our policy to not retain any funds which are received as a result of overpayments. In instances where it appears an error 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 errors in the future.

Regardless of whether a report is made to a governmental agency, the CCO shall maintain a record of the investigation, including copies of all pertinent documentation. A Corporate Compliance Log will be kept by the CCO, as described in the Agency's Employee Handbook, to document any corporate compliance concerns and the follow-up taken. This record will be considered confidential and privileged and will not be released without the approval of the Executive Director or legal counsel.

The CCO shall report to the CCC regarding each investigation conducted.

VIII. Code of Conduct

All staff members, contractors, and Board members of EOP are expected to follow this Code of Conduct as well as the Code of Conduct outlined in EOP's Employee Handbook, sections 5.2, 5.12 and 5.15. Each person is expected to sign an Acknowledgement Form for receipt and review of the Code of Conduct.

Supervisors are expected to set a positive example for staff, particularly with respect to the Code of Conduct. We expect supervisors to create an environment where all staff feel free to raise concerns and propose ideas. We expect that supervisors will ensure that staff

has sufficient information to comply with laws, regulations and agency procedures. Supervisors must maintain a culture which promotes the highest standards of ethics and compliance.

EOP has a commitment to:

- **The People We Serve:** We are committed to providing the highest quality of care, in a caring and compassionate manner.
- **The Communities We Serve:** We are committed to understanding the unique needs of the people we serve and to provide our services with cost-effective, quality services.
- **Our Staff Members:** We are committed to a work setting which is safe, which treats all staff with fairness, dignity and respect, which affords all staff an opportunity to grow, to develop professionally, and to work in a team environment where all ideas are considered.
- **Our Third Party Payers:** We are committed to working with our payers in a way that demonstrates our commitment to our contractual obligations and reflects our shared concerns for quality services in an efficient and effective manner. We encourage our payers to adopt their own set of ethical principles that recognize their obligations to the people we serve, as well as the need for fairness between providers and payers.
- **Our Regulators:** We are committed to creating an environment in which compliance with applicable rules, laws and regulations is woven into the fabric of EOP. We accept responsibility to self-govern and monitor adherence to requirements of law and our Code of Conduct.
- **Our Suppliers:** We are committed to fair competition among existing and prospective suppliers. We encourage our suppliers to adopt their own set of standards and ethical practices.

IX. Rules of Conduct

EOP believes that certain rules of conduct must be observed to promote a positive and ethical work environment and pledge to abide by laws, regulations, and Agency procedures, particularly those related to the Agency's CCP.

- As people who are working for, and on behalf of, EOP we have the added responsibility of following specific rules of conduct, as follows:
- To work cooperatively and respectfully with all EOP staff, Board members and agents to provide the highest quality of services.
- To place the interests of the people we serve and their family members first and foremost in all aspects of what we do. This will specifically include the following:
 - Staff shall not engage in any activity that constitutes abuse of the people we serve.
 - The people we serve shall not carry out the duties of staff members.
 - The people we serve shall not be subject to inappropriate exposure to firearms or other weapons in or on the grounds of the agency. Firearms

and other weapons are not permitted to be stored on the grounds of the agency.

- Financial transactions between the people we serve and staff shall be prohibited.
- Staff need to model appropriate behavior to the people we serve.
- To represent EOP positively in the community.
- To conduct all activities in a fiscally responsible manner.
- To work in accordance with applicable laws, regulations, Agency procedures.
- To refrain from distributing, selling, possessing, purchasing or consuming illegal substances or alcohol while at work; this also precludes attending work while under the influence of alcohol, illegal or legal substances, that would impair work performance.
- To seek training and assistance in areas that would strengthen the ability to fulfill responsibilities to the people we serve and EOP.
- To refrain from discriminatory or harassing behaviors for any reason, and to refrain from the use of obscene, abusive or threatening language and gestures, fighting and gambling.
- To avoid conflicts of interest, including acceptance and giving of gifts. This shall include that gifts shall not be offered to potential referral sources, or their families.
- Potential referral sources shall not receive financial benefits to increase the volume of referrals to the agency.
- To conserve resources of EOP by not engaging in wasteful behavior.
- To treat confidential information appropriately and respect the privacy of the people we serve and our staff. Confidential information shall only be utilized in a professional manner.
- To complete tasks in a timely manner and meet the quality expectations of the agency.
- To bill individuals and third party payors accurately.
- To report to a supervisor or to the Corporate Compliance Hotline, any potential violation of applicable laws, regulations and procedures, including the CCP.
- To respect the role of the Board and management staff to fully implement their decisions.
- To consult EOP leadership staff when questions arise regarding the conduct permitted under applicable laws, regulations and policies, including the CCP.

X. False Claims Act and Office of Medicaid Inspector General (OMIG) Certification

EOP is committed to prompt, complete and accurate billing of all services provided. The Agency is also committed to detecting and preventing fraud, waste and abuse in the federal and state programs.

The False Claims Act is a Federal Law. It is part of the Deficit Reduction Act of 2006. The government utilizes it to prevent and detect fraud, waste and abuse in federal health-care programs. Because EOP bills Medicaid, the Agency is expected to uphold the False Claims Act.

The Act states that anyone who knowingly submits false claims to the government is liable for damages up to three times the amount of the erroneous claim plus mandatory penalties between \$5,500 and \$11,000 for each false claim submitted.

Knowingly is defined as the person either:

- Has knowledge of the false claim.
- Acts in deliberate ignorance of the truth or falsity of the information.
- Acts in reckless disregard of the truth or falsity of the information.

The False Claims Act may be violated by the following acts:

- Knowingly presenting or causing to be presented, a false or fraudulent claim for payment or approval by the Federal Government.
- Knowingly making or using or causing to be made or used, a false record or statement to get a false claim paid or approved.
- Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid.
- Knowingly making, using or causing to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay money or transmit property to the Government.

Some examples of actions that violate the False Claims Act include:

- Billing for services that were not actually rendered.
- Charging more than once for the same service.
- Falsifying time records used to bill Medicaid.

A. New York State Laws

1. The NY False Claims Act closely resembles the Federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely recovered. In addition, the false claim filer may have to pay the government's legal fees.
2. Social Services Law 145-c refers to a person who applies for or receives public assistance. If a person intentionally makes a false statement in order to receive services, penalties will be assessed. EOP staff shall assist persons served with anything necessary, in order to assure that persons served are in compliance with the law.
3. Social Services Law 366-b refers to a person who misrepresents services delivered in order to receive a higher payment for service than to what he/she is entitled. He/she shall be guilty of a class A misdemeanor.
4. Penal Law 177 establishes the crime of Health Care Fraud. When a person commits Health Care Fraud - it is a crime. It is punishable with fines and jail time.
5. Labor Law 740 and 741 state that an employer may not take any retaliatory action against a staff member because the staff member:

- Discloses or threatens to disclose to a supervisor or to a public body, an activity, policy or practice of the agency that is in violation of a law or regulation; OR
- Provides information to or testifies before a public body in regard to an employer's violation of a law regulation; OR
- Objects to, or refuses to participate in any act not consistent with a law or regulation.

In Appendix A, please find additional information prepared by the New York Office of the Medicaid Inspector General.

B. Expectations

It is expected that all staff members of EOP will comply with both the Federal and State laws concerned with the filing of false claims. It is also expected that if a staff member becomes aware that anyone else in the Agency is engaging in false billing practices, that the staff member will bring it to the attention of a supervisor or to the CCO.

If a staff member brings an action on behalf of either the Federal Government or New York State, the Government has a period of time to investigate. If the Government joins the lawsuit, the staff may be entitled to 15-25% of the recovery. If the Government elects not to join the lawsuit, and the staff member continues, the staff may be eligible for 25-30% of the recovered amount.

C. Contractors

Contractors are also subject to the False Claims Act. A copy of this procedure shall be attached to all contracts for outside contractors and agents.

D. Board Members

Board Members shall also be made aware of the federal and NYS False Claims Acts as part of the Board Orientation Program.

XI. Disclosures

EOP intends to respond appropriately and swiftly to violations of the law, regulations and/or the Agency's CCP in order to protect the agency and to maintain EOP trustworthy reputation.

If the agency has confirmed that a violation has taken place, then corrective action will be taken. Notification to government officials will be considered with the consult of legal representation.

Identification of a Violation:

If a violation is identified, it will generally be brought to the attention of the CCO. An individual may instead bring the issue to the CCC or the Executive Director, etc. The violation may have been identified through various avenues, including but not limited to conversations between staff and the CCO, calls to the Hotline, internal audits or outside investigations, audits or surveys.

Agency Response to the Violation:

The CCO will verify that a violation of the CCP, or state or federal law or regulation has taken place. The CCO will then (as appropriate) discuss the issue with the Executive Director and legal Counsel. The CCO will then:

- With the appropriate Leadership Team member, develop and implement a Plan of Corrective Action.
- Notify the CCC.
- Resolve any issues of overpayment.
- Consult with Legal Counsel regarding notification of State or Federal Regulatory agencies.

Once the Corrective Action Plan has been developed, it should be approved by appropriate parties. That may include the Executive Director, the CCC and/or the Board of Directors depending on the severity of the violation.

Regular Progress Reports should be presented to the CCC to ensure that the plan is being implemented as designed.

The Agency will make every effort to comply with applicable statutes, regulations and federal program requirements. The Agency shall also document these efforts.

Voluntary Disclosure of Violations:

The CCO, in consultation with the Executive Director, CCC and Legal Counsel, will evaluate the violation to determine if a voluntary disclosure of the violation is appropriate. The disclosure may be to government officials, third party payers, or other entities. Notification shall be made within a reasonable timeframe after discovering the violation. It may include resolution of monies previously paid to the Agency.

XII. Physician Arrangements

The Agency may enter into financial arrangements with physicians in order to meet the needs of the people we serve. All such arrangements must be structured in light of federal and state laws. There are two categories of potential financial relationships with physicians who also act as referral sources:

- Employment Agreements
- Personal Service Agreements

If a program desires to enter into a financial arrangement with a physician (ex. Medical Director), the program shall work with the CCO to ensure that the arrangements meet federal and state laws. All contracts of this nature shall be reviewed by counsel to ensure compliance as well.

All arrangements shall be in writing and include a term of service.

All arrangements must be undertaken without regard to the value or volume of physician referrals and must not include any intention to induce referrals.

Copies of all contracts are to be kept in the central location in the Business Office.

XIV. Whistleblower Protection

The Agency requires its directors, officers, employees, volunteers and contractors to observe the highest standards of business and personal ethics in the conduct of their duties and responsibilities. The purpose of this Policy is to encourage its employees, volunteers, contractors, officers, directors and consumers of services to report any action or suspected action of the Agency's directors, officers, employees, volunteers and/or contractors that may be illegal, fraudulent or contrary to any adopted policy of the Agency by providing a procedure to report such actions and to protect from retaliation any such person who, in good faith, reports suspected improper conduct.

It is intended that this Policy comply with the provisions of Section 715-B of the New York State Not-for-Profit Corporation Law, as added by the Non-Profit Revitalization Act of 2013, as amended, and this Policy shall be interpreted and construed accordingly. This Policy applies to any matter which is related to the Agency's business and does not relate to private acts of an individual not connected to the business of the Agency.

Reporting Encouraged

The Agency encourages reports or inquiries about suspected illegal practices, misconduct or violations of the Agency's policies, including suspected illegal or improper conduct by the Agency itself, by its leadership or by others on the Agency's behalf. These are collectively referred to in this Policy as "Suspected Misconduct." Suspected Misconducts under this Policy include but are not limited to:

- Theft or misappropriation of corporate funds, supplies or other assets;
- Falsification, misrepresentation or deliberate error in the preparation, evaluation, review or audit of any corporate record, including financial statements;
- Failure to adhere to the Agency's internal accounting policies and procedures, including the failure to accurately and fully report on the Agency's financial condition and similar financial improprieties;
- Authorization or receipt of compensation for goods not received or services not performed;

- Authorization or receipt of compensation for hours not worked, or failing to account for un-worked (but paid) hours as vacation, sick leave or other paid time off;
- Violations of the Agency's Conflict of Interest Statement;
- Unauthorized disclosures of confidential information concerning any individual;
- Violation of any law, rule or regulation that creates and presents a substantial and specific danger to any employee or volunteer, any consumer of the Agency's services, or the health or safety of the general public;
- Fraud involving any government agency with which the Agency interacts;
- Any other action that is otherwise illegal or contrary to the goals and mission of the Agency.

Reporting Procedures

- A. Reporting by Employees and Volunteers. Employees and volunteers should, in the first instance, report any Suspected Misconduct to such employee's or volunteer's direct supervisor. The employee's or volunteer's direct supervisor shall report such Suspected Misconduct to the CCO. At the election of the employee or volunteer reporting the Suspected Misconduct, such employee or volunteer may report the Suspected Misconduct directly to the CCO. If the employee or volunteer has knowledge or belief that the direct supervisor has not properly addressed the Suspected Misconduct, such employee or volunteer must report the Suspected Misconduct to the CCO.
- B. Reporting by All Others. Any person other than an employee or volunteer should report any Suspected Misconduct directly to the CCO.
- C. Investigation of Reports. The CCO shall conduct a prompt and thorough investigation of the reported Suspected Misconduct. Such investigation shall be conducted as confidentially as possible under the circumstances, consistent with the need to conduct an adequate investigation, to comply with all applicable laws, and if appropriate, to cooperate with law enforcement authorities.

In order to facilitate the Agency's investigation, employees and volunteers shall be encouraged to disclose their identity when making a report of a suspected impropriety. However, reports submitted on an anonymous or confidential basis will be investigated in the same manner as by reports by employees and volunteers who disclose their identity.

The CCO shall report to the Board of Directors.

In no event may a director who is an employee of the Agency participate in any committee or Board deliberation or voting on any matter relating to the administration of this Whistleblower Policy.

- D. Nonparticipation in Deliberations. In no event may a person who is subject to a whistleblower complaint be present at or participate in board or committee deliberations or vote on the matter of such complaint. Nothing in this section shall prohibit the board or committee from requesting that the person who is the subject of the complaint to present information as background or answer questions at a committee or board meeting prior to the commencement of deliberations or voting relating to such complaint.

No Retaliation

Retaliation against any person who, in good faith, makes a complaint, report or inquiry under this Policy, or who has cooperated in an investigation under this Policy, will not be tolerated by the Agency. Any act of retaliation will itself be subject to disciplinary action, up to and including as appropriate, termination of employment, loss of volunteer privileges or removal from office or from the Board of Directors. Prohibited retaliation includes harassment, threats and adverse employment or volunteer consequences. Prohibited retaliation also includes, with respect to any contractor any loss of business opportunity, and with respect to any consumer of the Agency's services any reduction in or termination of services.

If any person believes that someone who has made a complaint, report or inquiry under this Policy, or who has cooperated in the investigation under this Policy, has been subject to retaliation, that person should follow the same procedures as for reporting a Suspected Misconduct as set forth above.

Dissemination of Policy

This Policy shall be distributed to all directors, officers, employees and to volunteers who provide substantial services to the Agency.