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# THE SCO CORPORATE COMPLIANCE PROGRAM

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## OVERVIEW OF THE SCO CORPORATE COMPLIANCE PROGRAM

### *The Benefits of a Compliance Program*

Until recently, the adoption of a compliance program by providers was voluntary. However, despite the absence of any express legal mandate to establish a Compliance Program, most sizable organizations with Medicaid billing have done so for several reasons:

- ❑ An effective compliance program is a powerful risk management tool that can prevent or remediate improper conduct before it results in the imposition of substantial government sanctions or civil liability on an organization
- ❑ In the event that a government audit or investigation uncovers wrongdoing, the presence of a bona fide Compliance Program is likely to be taken into account by the government when determining the type of sanction to be imposed on the organization
- ❑ The U.S. Sentencing Guidelines expressly provide for a mitigation of criminal penalties against organizations that have established compliance programs meeting certain criteria.

SCO Family of Services has structured its voluntary Compliance Program in accordance with guidance provided by the U.S. Department of Health and Human Services Office of Inspector General. The Office of Inspector General (OIG) has developed compliance guidance documents for different segments of the health care industry, such as hospitals, physician groups and pharmaceutical manufacturers. The principles outlined in the SCO Compliance Program follows the guidance provided to these other types of organizations.

### *The History behind the Compliance Program*

#### **The Deficit Reduction Act of 2005**

Under the Deficit Reduction Act of 2005, the federal government imposed new compliance requirements on any organization that bills the Medicaid program \$5 million or more per year. The Deficit Reduction Act requires each State to amend its Medicaid plan to obligate organizations that meet this billing threshold to:

- ❑ Adopt written policies that provide detailed information about the federal False Claims Act and any comparable State laws, including the remedies and whistleblower protections created under these statutes
- ❑ Include in their written policies detailed provisions regarding the way in which the organization detects and prevents fraud, waste and abuse
- ❑ Incorporate into their employee handbooks provisions governing the False Claims Act, including its whistleblower and non-retaliation provisions
- ❑ Educate employees and contractors about the False Claims Act and the organization's policies for detecting and preventing fraud, waste and abuse.

Although the Deficit Reduction Act does not expressly require organizations to adopt a compliance program meeting all of the criteria recommended by the Office of Inspector General, it does necessitate the development of basic fraud prevention policies and procedures as well

as education of employees and contractors. These obligations track many of the key elements of a full-blown compliance program. The Deficit Reduction Act became effective in New York State on October 1, 2007. Organizations that fail to comply with the Deficit Reduction Act's requirements can be denied Medicaid reimbursement for their services.

Periodically, the State or federal government provides guidance on the content of policies, notices and training materials designed to comply with the Deficit Reduction Act. When such guidance is issued, SCO Family of Services modifies its compliance documents accordingly.

### **Social Services Law § 363-d**

In the 2006 session, the New York State Legislature enacted Section 363-d of the Social Services Law. This statute obligates certain organizations billing the Medicaid program to adopt a comprehensive compliance program. The program must include the following eight (8) elements, which basically track the recommendations set forth in the Office of Inspector General's model compliance guidance:

1. A code of conduct and written compliance policies
2. Appointment of a compliance officer
3. Employee training and education
4. Mechanisms for reporting fraud and abuse, including an anonymous reporting option
5. Employee disciplinary policies
6. Audits and risk assessments
7. Procedures for investigating and responding to compliance problems
8. A policy prohibiting retaliation against employees for reporting fraud or abuse

Section 363-d applies to organizations meeting criteria established by the New York State Office of the Medicaid Inspector General (OMIG). The statute expressly references two factors that the Office of the Medicaid Inspector General considers in its criteria: (1) whether the organization is licensed to provide health care services under state laws such as Article 28 or 36 of the Public Health Law or Article 16 or 31 of the Mental Hygiene Law; and (2) whether Medicaid constitutes a "substantial portion" of the total reimbursement received by the organization.

### **Title 18 of the NYSCRR, Part 521**

This law requires organizations who are: 1) licensed under Article 28 or 36 of the New York Public Health Law or 2) licensed under Article 31 or 16 of the New York Mental Hygiene Law, or 3) entities (or persons) that submit claims for, order, bill for or receive payment for Medicaid-covered services with a value of at least \$500,000 during any 12-month period, to adopt an effective compliance program that must include the same eight (8) elements, cited above, as set forth in the Office of the Medicaid Inspector General guidance documents.

# THE SCO CORPORATE COMPLIANCE PROGRAM



## 1. The Purpose of the SCO Compliance Program

SCO Family of Services has adopted this Compliance Program with the goal of carrying out all of its activities in accordance with the law and the highest ethical standards. The effectiveness of the Compliance Program hinges on the active participation of all personnel in preventing, detecting and appropriately responding to fraud, abuse or other misconduct. Working together, SCO Family of Services continually strives to be a model of excellence and integrity in the community.

The SCO Family of Services Compliance Program is designed to promote SCO's compliance with all applicable federal, State and local laws and regulations as well as government contracts and conditions of participation in public programs. The primary goals of the programs are to:

- ❑ Prevent fraud, abuse and other improper activity by creating a culture of compliance with SCO Family of Services
- ❑ Detect any misconduct that may occur at an early stage before it creates a substantial risk of civil or criminal liability for SCO Family of Services
- ❑ Respond swiftly to compliance problems through appropriate disciplinary and corrective action

The Compliance Program reflects the commitment of SCO Family of Services to operating in accordance not only with the strict requirements of the law, but also in a manner that is consistent with high ethical and professional standards. The Compliance Program applies to the full range of SCO Family of Services activities.

All SCO Family of Services personnel and contractors have a personal obligation to assist in making the Compliance Program successful. Personnel are expected to:

- 1) Familiarize themselves with the SCO Family of Services Code of Ethics and compliance procedures
- 2) Review and understand the key policies governing their particular job functions,
- 3) Report any fraud, abuse or other improper activity through the mechanisms established under the Compliance Program
- 4) Cooperate with SCO audits and investigations
- 5) Carry out their jobs in a manner that demonstrates a commitment to honesty, integrity and compliance with the law

The Compliance Program is regularly reassessed and is constantly evolving to address new compliance challenges and maximize the use of SCO resources. Personnel are encouraged to provide input on how the Compliance Program might be expanded or improved.



## 2. The Elements of the Compliance Program

The SCO Family of Services Compliance Program is based on compliance guidance provided by the United States Department of Health and Human Services Office of Inspector General and the requirements imposed on health care providers under Section 363-d of the New York Social Services law.

The key elements of the SCO Compliance Program, which are discussed in greater detail in the Program references below, are as follows:

- ❑ The SCO Code of Ethics that includes basic standards and references and more detailed policies that guide SCO Family of Services activities (Item 3 of the Compliance Program).
- ❑ The assignment of personnel to oversee the SCO Compliance Program, including the Compliance Officer and Medicaid Compliance Committee (Item 4 of the Compliance Program)
- ❑ SCO Compliance Program training for all personnel (Item 5 of the Compliance Program)
- ❑ Mechanisms for reporting compliance problems, including an anonymous reporting option, and a prohibition on retaliation against personnel (Item 6 of the Compliance Program)
- ❑ Procedures for investigating reports of suspected compliance problems and cooperating in government investigations (Item 7 of the Compliance Program)
- ❑ A system of internal compliance audits and reviews to detect potential fraud, abuse or other improper activity (Item 8 of the Compliance Program)
- ❑ Procedures for taking corrective action in response to identified compliance problems (Item 9 of the Compliance Program)
- ❑ The imposition of disciplinary measures against personnel who engage in misconduct or fail to adhere to the terms of the SCO Compliance Program (Item 10 of the Compliance Program)



### 3. SCO CODE OF ETHICS

The SCO Code of Ethics, which appears in this SCO Compliance Program, also appears in the SCO Administrative Manual in the chapter entitled: Ethical Practices, Rights and Responsibilities, within Item 9: Ethical Conduct which contains several additional items.

The SCO Code of Ethics is a formal statement of the SCO Family of Services commitment to the standards and rules of ethical conduct. It is the expectation that all SCO personnel and contractors function with honesty in their work for the agency and with the people we serve, providers, regulatory bodies, internal and external auditors, vendors and all others with whom SCO does business.

SCO Family of Services is committed to preventing the occurrence of unethical or unlawful behavior, stopping such behavior as soon as possible after discovery, and to discipline personnel who violate the rules of ethical conduct, including personnel who neglect to report a violation.

All personnel must comply with this SCO Code of Ethics, immediately report any alleged violations of wrongdoing, and assist management and compliance personnel in investigating allegations of wrongdoing.

While these standards, addressed in the SCO Code of Ethics, are intended to guide personnel in the course of their day-to-day responsibilities, they do not replace any SCO agency- wide or program specific policies and procedures. There may be instances that are not addressed by the SCO Code of Ethics or existing policies and procedures, or activities that may conflict with these standards. Personnel must seek direction from their supervisor, other Agency management staff or the Compliance Officer in these instances.

#### *Ethics*

It is the policy of SCO Family of Services to observe all laws and regulations applicable to its business and to conduct business with the highest degree of integrity. To accomplish this, all personnel, independent contractors and vendors must obey the laws and regulations that govern their work and always act in the best interest of the children, youth, adults and families we serve, and the Agency.

#### *Billing for Healthcare and other Services*

All SCO staff must comply with the applicable laws, rules, procedures and practices, conditions of participation and interpretive guidance of regulatory and funding agencies related to billing practices with whom SCO works.

Specific to government programs such as Medicaid and Medicare for health care services provided to SCO service recipients and payments received from State

and local government agencies for the provision of other items and services, the submission of accurate bills to government payors is one of SCO Family of Services' key legal obligations.

Among other things, SCO personnel are prohibited from:

- a. Billing for clients who are not actually served
- b. Billing twice for the same service
- c. Billing at a rate in excess of the rate permitted under the applicable program
- d. Billing for services that employee knows are also being billed to the government by another health care provider
- e. Billing the Medicaid program as the primary payor when the service recipient has other public or private health insurance coverage

It is critical that all health care and social services rendered to clients are appropriately documented in SCO Records. This documentation is necessary to ensure that SCO can demonstrate that it has delivered services for which it has billed in the event of a government audit or investigation.

SCO Family of Services complies with all billing rules governing the billing process. All personnel responsible for documenting or billing the government for health care or social services must familiarize themselves with these billing rules.

The failure of an SCO personnel, independent contractor and/or vendor to adhere to all applicable billing rules may subject SCO Family of Services to substantial liability. Among other things, it is a violation of the Federal False Claims Act to knowingly submit a false or fraudulent claim for payment to a federal program such as Medicaid or Medicare. SCO may be subjected to treble damages (i.e., three times the amount of the false claims) and civil monetary penalties of up to \$11,000 per claim under the False Claims Act. Other State and federal laws impose civil and criminal penalties on the agency and its personnel for improper billing activity.

If SCO Family of Services retains a vendor to submit bills on its behalf, SCO Family of Services may still be responsible for improper billing activity by the vendor. Accordingly, personnel involved in delegating this function must provide clear direction to vendors on proper billing procedures and carefully monitor their performance.

□ *Avoiding Kickbacks and Referral Fees*

Under the federal Anti-Kickback Statute, it is illegal for any employee or contractor to knowingly and willfully solicit, receive, offer or pay anything of value to another person in return for the referral of a service recipient, or in return for the purchasing, leasing, ordering or arranging for any item or service reimbursed by a federal health care program such as Medicaid or Medicare. Penalties for violating the Anti-Kickback Statute include imprisonment, criminal fines, civil monetary penalties and exclusion from government health care programs. A similar New York law prohibits the exchange of remuneration for referrals for items or services covered by the State's Medicaid program.

SCO Family of Services has adopted an Anti-Kickback Policy that describes the restrictions imposed under the Anti-Kickback Statute in greater detail. All personnel involved in purchasing items or services from vendors, or managing relationships or conducting business transactions with sources or recipients of service recipient referrals, should familiarize themselves with this policy.

❑ *Avoiding Conflicts of Interest*

Personnel are required to act solely in the best interests of SCO Family of Services when carrying out their job responsibilities and must avoid all activities that constitute or create the appearance of a conflict of interest. Personnel are prohibited from using their position with SCO for personal benefit. For example, personnel are prohibited from accepting gifts of more than \$50 from vendors of SCO or facilitating contracts between SCO and companies in which they have financial interest.

SCO Families of Services has adopted an Employee Conflicts of Interest Policy that contains standards and procedures for avoiding conflicts of interest. All personnel are expected to familiarize themselves with this policy. Personnel involved in procurement or other sensitive job duties are required to submit annual Conflict of Interest Disclosure forms.

Examples of activities that may be construed as a Conflict of Interest may include but are not limited to:

Outside Activities and Employment

- Conducting outside activities during work time
- Representing the Agency in your every day life negatively in the community
- Outside employment or an additional position at SCO Family of Services that conflicts with your responsibilities to SCO Family of Services or its service recipients

Use of Agency Funds and Resources

- Using Agency's assets in ways that do not benefit the Agency and the people we serve. Assets include funds, equipment, inventory and office supplies, but also concepts, business plans and strategies, information about people served, financial information, computer property rights, and other business information about the Agency.
- Using SCO assets for personal gain or giving them to any other persons or entities, except in the ordinary course of business as part of an approved transaction.

SCO Family of Services Directors and Officers are also required to avoid conflicts of interest. Among other things, they are prohibited from voting on or otherwise influencing the implementation of business arrangements between SCO and the Director/Officer or a company in which the Director/Officer has a financial interest.

SCO Family of Services has adopted a Directors and Officers Conflicts of Interest Policy. All Directors and Officers are expected to familiarize themselves

with this policy. Directors and Officers are required to submit annual Conflict of Interest Disclosure forms.

❑ *Conflicts of Interest and Solicitation*

SCO staff must never lend or borrow money, favors or services to or from persons served. Conflicts of interest must be avoided where it may be construed that a staff member or their position in an SCO program can be used to support or enhance private business or enterprise.

An individual employee must disclose their personal purchase and/or use of services or goods from a vendor who they specifically make business decisions with and/or about, as a representative of SCO Family of Services. If an employee chooses to personally use a painter, plumber, etc. or purchase goods from a vendor who they have the authority of doing business with as an SCO representative, disclosure of this relationship to the Executive Director is required.

**Conflict of Interest Policy for Private Practice and Referrals**

❑ *Private Practice*

SCO does not permit private practitioners under contract with SCO or SCO staff to provide services to non-SCO persons on SCO premises.

When an employee leaves SCO for their own private practice, their cases are transferred to other SCO staff to continue the work. SCO employees who leave SCO (are no longer an employee or consultant with SCO) for their own private practice are prohibited from recruiting, soliciting or coercing former or current persons and families they have served into their own practice. (Please refer to pages 49 and 54 of the SCO Personnel Policies Handbook for the full policy.)

❑ *Referrals:*

Staff is prohibited from steering or directing referrals of applicants or persons served to a private practice in which professional personnel, consultants, or their immediate families may be engaged. While family members of personnel and consultants who are in private practice may be placed on a referral list, staff are prohibited from actively directing persons and families served to the practices of these individuals.

Staff are prohibited from steering/directing referrals elsewhere or giving preference to persons who are easier or less costly to serve for the agency or its practitioners.

Staff is also prohibited from accepting payment or other consideration from another provider of services for referring applicants or in making payment for referrals to the agency. (Please refer to pages 49 and 54 of the SCO Personnel Policies Handbook for the full policy.)

❑ *Conducting all Business with Honesty and Integrity*

SCO Family of Services is committed to conducting all of its activities with honesty and integrity. Personnel are expected to act in a manner that promotes the reputation of SCO Family of Services as an agency that exceeds the strict

requirements of the law and operates in accordance with the highest ethical standards.

❑ *Confidentiality of Service Recipient Records*

All records of service recipients must be kept confidential in accordance with applicable privacy laws and regulations. SCO Family of Services is subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") that limits the use and disclosure of protected health information. SCO Family of Services must also comply with special state confidentiality laws governing child welfare, mental health, developmental disabilities, etc. and HIV-related information. SCO Family of Services has adopted a comprehensive privacy compliance program governing the use and disclosure of records of service recipients. All personnel who have access to such records must familiarize themselves with this program's policies and procedures, and adhere to their terms.

❑ *Dishonesty, Fraud and Deception:*

Staff shall not participate in, condone, or be associated with dishonesty, fraud, or deception, for example the falsification of records. SCO staff shall respect the law and not engage in any illegal activity. Staff shall also recognize their responsibility to seek change in those requirements that are contrary to the best interests of the person served. SCO staff must never exploit the vulnerability of the persons whom they serve for personal or financial gratification, gain or benefit.

❑ *Ensuring Equal Opportunity for all Service Recipients, Personnel and Contractors:*

SCO Family of Services is committed to serving all service recipients on an equal basis without regard to race, nationality or ethnic origin, religion, gender, sexual preference, disability or any other personal characteristic with respect to which discrimination is barred by law. Discrimination on these grounds is also prohibited in connection with the hiring and treatment of personnel and contractors. In addition, sexual harassment of personnel or clients will not be tolerated. SCO Family of Services seeks to create an environment in which the dignity of each individual is fully respected.

❑ *Falsification of Documentation:*

The integrity of the case record and the sanctity of original documentation is core to human services and to "Best Practice" at SCO Family of Services. When you submit documentation, the following must always hold true:

- Documentation must be original.

Documentation is anything that you have written and either appears in the record or represents your work on behalf of the agency. It may include but is not limited to progress notes, contact notes, chart notes, written narratives, summaries or reports. It may also include time sheets and billing logs.

Original means that it was written by hand of the person claiming to be the author. Using a copier or the computer's cut and paste function to replicate documentation is unacceptable and can be viewed as

fraudulent, in spite of any honest intention. Documentation must be specific to the event, client and date.

- Signatures submitted are original and signed by the person whose signature is represented.  
Whether it is your own signature, the signature of a service recipient, their parent(s) or legal guardian, an advocate or another party, the signature must be original. It must be signed by the hand of the person whose name appears.

If you are unable to obtain a required original signature, speak to your supervisor or Program Director. Using a copier or other means of replicating a signature will be viewed as fraudulent, in spite of any honest intention.

- Dates must be accurate.  
Actual event dates should not be confused with the dates on which documentation is written and the dates on which documentation is signed.
- Altering Documentation  
Documentation may only be altered by a single line through the passage being altered with the initials of the person who is altering the documentation and the date on which was altered. White-out is prohibited.

SCO Family of Services does NOT ever tolerate any form of falsification. If you are found to be falsifying documentation, this may result in termination. If anyone ever tries to convince you to falsify documentation, you must make a timely report to the HR Director or to the Assistant Executive Director of Quality Improvement and Corporate Compliance. There will never be any form of retaliation for making such a report. If you want to make an anonymous report, please take advantage of the SCO Compliance Hotline at **1-866-350-9213**.

□ *Gift Giving:*

SCO staff shall not receive any gifts in excess of the value of \$50. This includes gifts in the form of money, performing service, loan, travel, entertainment, hospitality, things of promise or in any other form, under any circumstances, in which it could be reasonably inferred that the gift was intended to either influence the recipient into giving special consideration in the performance of official duties or as an award for actions of SCO Family of Services are also unacceptable.

When a gift with a value of under \$50 is accepted, the supervisor must be notified (see notification procedure below).

In addition, gestures of appreciation by persons served to staff should always be discussed in the treatment team.

All employees who are offered a gift from a supplier, contractor, consumer and their families, potential employees, vendors, or any other individual or organization that exceeds \$50 in value must return said gift to the donor. If it is not feasible to return it, the gift must then be utilized for the benefit of a consumer

or program. Examples of such gifts might be: baskets of fruits, food, candies, etc that may arrive during the holidays, at other times of the year when gift giving is traditional, or for otherwise special occasions. Such gifts must be disclosed to the Executive Director and made available to the entire staff to enjoy.

When the gift offered is a free ticket, it is permissible to accept when the ticket is to:

1. a professional or educational program as a guest of the sponsoring organization;
2. a ceremony or function sponsored or encouraged by SCO, subject to the criteria listed below;
3. a public affair of an organization that is made up of representatives of business, labor, professions, or news media or organizations of a civic, charitable, or community nature as a guest of the sponsoring organization; or
4. an occasion or function where the Executive Director has approved the attendance of an employee as being in the interests of SCO.

The following criteria may be helpful in determining whether the gift or free ticket is unacceptable:

Does acceptance of the gift or ticket, or the personal use of a SCO vendor:

1. Have the potential to influence business decisions such as:
  - o awarding of contracts;
  - o hiring/promotion/assignment of employees;
  - o purchase of goods and services;
  - o authorization/monitoring of services to consumers; or
  - o approvals of invoices/timesheets
2. Present the appearance of impropriety.

If the answer to any of these considerations is “yes,” a conflict of interest may exist, and the employee should be advised to return the gift or the ticket or not use the vendor.

#### Notification Procedure

1. All employees shall immediately notify their Supervisor upon receipt of a gift, regardless of value, so that a determination may be made to whom disclosure is required.
2. If it is determined that the value of the gift is less than \$50, the employee may keep the gift, provided receipt is disclosed to their Assistant Executive Director and Chief Program Officer.
3. If it is determined that the gift has a value in excess of \$50, it either must be returned or utilized for the benefit of a consumer or the program and disclosed to the Executive Director.
4. If the gift is a free ticket, it must be immediately disclosed in writing to the employee’s Supervisor, Program Director, Assistant Executive Director and Chief Program Officer, for review by the Executive Director.

5. The Executive Director shall consider the recommendation of the appropriate program personnel in reaching a determination, and shall advise the employee if it is appropriate to accept the ticket.
6. If the employee intends to purchase goods or services from a SCO vendor for personal use, such intent must be immediately submitted in writing to the employee's Supervisor, Program Director, Assistant Executive Director and Chief Program Officer, for review.

Employees who fail to comply with the notification procedure may be subject to disciplinary action.

- ❑ *Illegal Behaviors:*  
SCO staff must not accept or encourage unacceptable or illegal behaviors performed by persons served or fellow staff, such as inappropriate sexual activity, harassment, theft, use or sale of alcohol or illegal drugs, etc.
- ❑ *Informed Consent:*  
Staff has a duty to be knowledgeable about consents, the methods and manner of obtaining consents and to use clear and understandable language to inform persons served of their rights. Staff has a duty to be familiar with protecting, promoting, and safeguarding the rights of persons and families being served. Staff must enlist the full participation of persons and families served in decision-making about their service, care or treatment. Informed consent is particularly important is in the area of psychotropic medications.
- ❑ *Integrity of Decisions:*  
Staff has a duty to assure that the decisions made about service, treatment or care for persons and families served are based on individual and holistic assessments of needs. Staff should not take unfair advantage of any professional relationship or exploit others to further their personal religious, political or business interests.
- ❑ *Internet Usage:*  
All use and access to the Internet must be in support of work-related activities and be consistent with the policies and goals of the agency. Any use of the Internet for personal business, commercial and/or for profit purposes, product advertisement and endorsement of political lobbying and campaigning is expressly prohibited. All communication and information accessible via the Internet shall not be assumed to be private property.
- ❑ *Providing Access to Necessary Services:*  
SCO Family of Services is committed to ensuring that all service recipients under its care receive prompt access to the full range of medically necessary health care services and clinically appropriate services to which the service recipient is entitled under the applicable government program. All services must be ordered and/or delivered by appropriately licensed or qualified personnel. SCO seeks to provide or arrange for high quality care at all times.

Under certain government programs, SCO may receive a fixed per diem rate that covers a specified range of health care services that may be needed by the service recipient. It is particularly important in these programs that personnel not

restrict a client's access to necessary health care or social services to which the service recipient is legally entitled. Any such restrictions are not only unethical, but they may also be subject to liability under the False Claims Act and other laws.

- ❑ *Relationships:*  
Staff shall seek to strengthen relationships among people in a purposeful effort to promote, restore, maintain and enhance the well-being of individuals, families, social groups, organizations and communities. SCO staff shall deal in an honest and trustworthy manner with both the persons they serve and colleagues, and shall follow SCO personnel policies and practices about staff members who are deficient in character or competence, or who engage in fraud or deception.
- ❑ *Submitting Complete and Accurate Reports to Government Agencies:*  
Under certain programs, SCO Family of Services' reimbursement from the government may be based in whole or in part, on SCO costs. In these programs, SCO is usually required to submit regular cost reports, which are used by the government for rate setting purposes. All personnel involved in the process of preparing and submitting cost reports must strive to ensure that these reports are accurate and complete. Expenses reflected on cost reports must have been actually incurred and properly allocated in accordance with program guidelines. The same standards of accuracy and completeness apply to any other reports or data regarding SCO operations submitted to government.
- ❑ *Using Agency Resources Exclusively for Agency Business:*  
Personnel may use SCO Family of Services resources solely for the purpose of carrying out their job responsibilities. SCO facilities, equipment, staff and other assets may not be used by an employee for personal benefit or to engage in any outside business or volunteer activity without the prior approval of the Compliance Officer. This also includes concepts, business plans and strategies, information about people served, financial information, computer property rights, and other business information about SCO Family of Services. Personnel may not use their affiliation with SCO Family of Services to promote any business, charity or political cause. Personnel shall seek reimbursement for expenses only to the extent such expenses have been incurred in the course of carrying out their job duties and in accordance with SCO expense reimbursement policies.
- ❑ *Using Agency Resources Exclusively for Charitable Business:*  
SCO Family of Services is a tax-exempt agency under Section 501(c)(3) of the Internal Revenue Code. This status generally requires SCO Family of Services to engage in only those activities that are within its approved charitable purpose. The primary charitable purpose of SCO Family of Services is the provision of services – social, clinical, etc. – to its service recipients. Personnel may not use SCO resources to engage in any business activity, even if for the benefit of the agency, that is outside the scope of the agency's charitable purpose without the approval of the Executive Director.
- ❑ *Whistleblowers: Protection of Reporters of Suspected Misconduct*  
Staff prohibits employment-related retaliation against staff, consultants or volunteers and others affiliated with the agency who come forward with information about suspected misconduct or questionable practices, and provides

an appropriate confidential channel of reporting such allegations, (Refer to page 57 of the SCO Personnel Policies Handbook for the full policy.)



#### **4. Compliance Oversight Personnel**

##### **A. Compliance Officer**

The Compliance Officer and his or her designee are responsible for overseeing the implementation and modification of the Compliance Program. The Compliance Officer's chief duties include, but are not limited to, the following:

- Developing policies and procedures governing the operation of the Compliance Program
- Managing day to day operations of the Compliance Program
- Periodically reviewing and updating the SCO Code of Ethics and related policies
- Overseeing the operation of the Compliance Hotline, described in the Compliance Program (Item 6)
- Receiving, evaluating and investigating compliance-related complaints, concerns and problems
- Ensuring proper reporting of violations to duly authorized enforcement agencies as appropriate or required
- Working with the Department of Staff Training and Development and others as appropriate to develop Compliance Training, described in the Compliance Program (Item 5)
- Regularly evaluating the effectiveness of and strengthening the Compliance Program

The Compliance Officer reports directly to the Chief Strategy Officer but has direct access to the Executive Director. The Compliance Officer also makes regular reports to the Audit Committee of the Board of Directors on the operations of the Program.

Personnel and contractors should view the Compliance Officer as a resource to answer questions and address concerns related to the Compliance Program or compliance issues. As discussed in the Compliance Program, Item 6, the Compliance Officer maintains an "open door" policy and may be contacted directly by any employee or contractor regarding a compliance-related matter.

Depending on the level of resources available to SCO Family of Services, the Compliance Officer may be assisted by a Coordinator of Medicaid Compliance, Medicaid Compliance Specialist and/or other personnel. The Compliance Officer may delegate certain day-to-day Compliance Program responsibilities to these individuals.

## **B. Medicaid Compliance Committee**

The Medicaid Compliance Committee is comprised of the Assistant Executive Director of Quality Improvement and Corporate Compliance (also the Compliance Officer), the Executive Director, the Compliance Coordinator and any other personnel designated by the Executive Director. The Executive Director, in collaboration with the Compliance Officer, seeks to appoint members to the Medicaid Compliance Committee with varying backgrounds and experience to ensure that the Medicaid Compliance Committee has the expertise to handle the full range of clinical, administrative, operational and legal issues relevant to the Compliance Program.

The Medicaid Compliance Committee's functions include, but are not limited to, the following:

- Receiving regular reports from the Compliance Officer and providing him or her with guidance regarding the Operation of the Compliance Program
- Approving the internal auditing plan carried out under the Compliance Program (Item 7 of the Compliance Program)
- Approving the compliance training program provided to all personnel
- Recommending and approving any changes to the Compliance Program

The Compliance Officer chairs the Medicaid Compliance Committee. The Medicaid Compliance Committee meets no less than quarterly. The Medicaid Compliance Committee has legal counsel available with whom to consult.

## **C. Board of Directors**

The Board of Directors has ultimate authority for the governance of SCO Family of Services, including oversight of SCO's compliance with applicable law. The Board of Directors has delegated this authority to the Audit Committee which has responsibility for overseeing the activities of the Compliance Officer and the Medicaid Compliance Committee as well as the general operation of the Compliance Program.

The Audit Committee of the Board of Directors receives reports on the operation of the Compliance Program directly from the Compliance Officer at least every quarter. The Compliance Officer has the right to bring matters directly to the Audit Committee of the Board of Directors' attention, at any time.



## **5. Compliance Training**

All personnel must attend agency-wide orientation for new personnel for Compliance Program training. This training is offered monthly and it is the expectation of SCO Family of Services that new employees attend within 30 days of hire. This training covers the contents of the SCO Code of Ethics and the key elements to the Compliance Program. Personnel must acknowledge in writing that they have received this training and understand the SCO Code of Ethics. Personnel must also participate in annual refresher training.

Personnel are required to participate in any advanced Compliance Program training organized by the Agency, their Department or Program that is designed to focus on the specific compliance issues associated with functions that help to prevent fraud, waste and abuse. All training activities are conducted in accordance with SCO Family of Services Training Policy.



## 6. Reporting Compliance Problems

### A. Reporting Options

In accordance with its Fraud and Abuse Reporting Policy, SCO Family of Services maintains open lines of communication for the reporting of suspected improper activity. Personnel are expected to promptly report any such activity of which they become aware, in one of the following ways:

- Notifying their supervisor
- Notifying the Compliance Officer
- Notifying any other member of the Medicaid Compliance Committee with whom they feel comfortable
- Filing a report through the Compliance Hotline

### B. Compliance Hotline

The Compliance Hotline may be accessed by telephoning **1-866-350-9213**. To encourage full and frank reporting of suspected fraud or abuse, SCO Family of Services gives personnel the option of filing complaints through the Compliance Hotline anonymously. An outside vendor staffs the Compliance Hotline and forwards reports to the Compliance Officer. The Compliance Officer is responsible for reviewing all Compliance Hotline reports, assessing whether they warrant further investigation and ensuring that any compliance problems are identified and corrected.

Personnel should understand that the Compliance Hotline is designed solely for the reporting of fraud, abuse and other compliance problems. It is not intended for complaints relating to the terms and conditions of employment of personnel. Any such complaints should be directed to the Director of Human Resources.

### C. Non-Retaliation

Personnel who file a report of suspected fraud, abuse or other improper activity in good faith will not be subject to retaliation by SCO Family of Services in any form. Prohibited retaliation includes, but is not limited to, terminating, suspending, demoting, failing to consider for promotion, harassing or reducing the compensation of any personnel due to the intended or actual filing of a report. Personnel should immediately report any such retaliation to the Compliance Officer.



## **7. Investigations**

### **A. Internal Investigations**

All reports of fraudulent, abusive or other improper conduct, whether made through the Compliance Hotline or otherwise, are promptly reviewed and evaluated by the Compliance Officer. The Compliance Officer determines, in consultation with the outside legal counsel and other SCO Family of Services personnel as necessary, whether the report warrants an internal investigation. If so, the Compliance Officer or his or her designee coordinates the investigation, issues a written report of its findings and proposes any corrective action that may be appropriate.

### **B. Government Audits and Investigations**

In accordance with the SCO Family of Services Government Investigations Policy, personnel and contractors are expected to fully cooperate in all government audits and investigations. Any employee who fails to provide such cooperation may be subject to termination of employment.

All subpoenas and other governmental requests for SCO Family of Services documents should be forwarded to the Executive Director and the Compliance Officer who will then forward it to Counsel, who is responsible for reviewing and responding to such requests. Employees are strictly prohibited from destroying, improperly modifying or otherwise making inaccessible any documents that the employee knows are the subject of a pending government subpoena or document request. Employees are also barred from directing or encouraging another person to take such action. These obligations override any document destruction policies that would otherwise be applicable.

If any personnel receives a request from a government investigator to provide an interview, that person should immediately contact his or her supervisor and/or Director, who will inform their Assistant Executive Director, the Chief Program Officer the Executive Director and/or Compliance Officer. In turn, legal counsel will be contacted. Legal counsel will seek to coordinate and schedule all interview requests with the relevant government agency. Personnel are expected to answer all questions posed by government investigators truthfully and completely.



## **8. Compliance Audits and Reviews**

SCO Family of Services seeks to identify compliance issues at an early stage before they develop into significant legal problems. One of the key methods of achieving this goal is the performance of regular internal audits and compliance reviews.

In accordance with the auditing policy at SCO Family of Services, at the beginning of each year, the Compliance Officer oversees the development a work plan by the Medicaid Compliance Coordinator, setting a schedule of internal audits. The Medicaid Compliance Committee approves the work plan. The audits cover aspects of agency operations that pose a heightened risk of non-compliance, including but not limited to, Medicaid billing, cost reporting and access to health care. A written report is prepared summarizing the findings of each audit, recommending any appropriate corrective action.

All employees are required to participate in and cooperate with internal audits as requested by the Compliance Officer. This includes assisting in the production of documents, explaining program operations or rules to auditors and implementing corrective action plans.



## 9. Corrective Action

SCO Family of Services is committed to taking prompt corrective action to address any fraud, abuse or other improper activity identified through internal audits, investigations, and reports by employees or other means. The Executive Director is generally responsible for reviewing and approving all corrective action plans. However, the Compliance Officer is authorized to recommend corrective action directly to the Board of Directors if the Compliance Officer believes, in good faith that the Executive Director is not promptly acting upon such a recommendation. In cases involving clear fraud or illegality, the Compliance Officer also has the authority to order interim measures, such as suspension of billing, while a recommendation of corrective action is pending.

Corrective action may include, but not be limited to, any of the following steps:

- Modifying existing SCO policies, procedures or business practices
- Providing additional training or other guidance to employees or contractors
- Seeking interpretive guidance of applicable laws and regulations from government agencies
- Disciplining employees (See Item 10) or terminating contractors
- Notifying law enforcement authorities of criminal activity by employees, contractors or others
- Returning overpayments or other funds to which SCO Family of Services is not entitled to the appropriate government agency or program
- Self-disclosing fraud or other illegality through established state and federal self-disclosure protocols



## **10. Employee Discipline**

Personnel who engage in fraud, abuse or other misconduct are subject to disciplinary action in accordance with the discipline policy at SCO Family of Services. The Director of Human Resources, in consultation with the Compliance Officer, will carry out any such sanctions in collaboration with the Department Assistant Executive Director and Chief Program Officer. Depending on the nature of the offense, discipline may include counseling, oral or written warnings, modification of duties, suspension or termination.



## **POLICY #11**

### **POLICY ADDRESSING THE FEDERAL FALSE CLAIMS ACT**

#### **Purpose of Policy**

The purpose of this policy is to ensure that SCO Family of Services does not engage in conduct that violates the federal False Claims Act as well as state laws punishing the making of false claims and statements.

#### **Applicable Law**

The False Claims Act is violated if a person knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the federal government. 31 U.S.C. § 3729. The potential penalties for violating the False Claims Act include treble damages (damages equal to three times the amount of the false claims), civil penalties of up to \$11,000 per claim and exclusion from federal health care programs. In addition, the federal government may impose administrative sanctions of up to \$5,500 plus twice the amount of the false claim under the Federal Program Civil Remedies Act of 1986 (31 U.S.C. § 3801).

Several New York State laws also prohibit the making of false claims and statements. Criminal penalties may be imposed for knowingly making a false entry in a business record or filing a false instrument with a government agency (Article 175 of the Penal Law), committing a fraudulent insurance act (Article 176 of the Penal Law) or engaging in health care fraud (Article 177 of the Penal Law).

#### **Definitions**

Claim: Any request or demand for payment submitted to another party if the federal government directly or indirectly covers the cost of any portion of the claim.

Fraud: Any type of intentional deception or misrepresentation made by a person with the knowledge that that the deception or misrepresentation could result in some unauthorized benefit to himself/herself or another person.

Knowing and knowingly: A person, with respect to information (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of a specific intent to defraud is required for a person to act knowingly.

#### **Statement of Policy**

*Types of Conduct Implicating the False Claims Act*

SCO Family of Services may be subject to liability under the False Claims Act for knowingly engaging in the following types of conduct:

- ❑ Submitting claims to the Medicaid program for services not actually rendered or for which SCO Family of Services is not otherwise entitled to reimbursement.
- ❑ Submitting cost reports to Medicaid that are inaccurate or incomplete.
- ❑ Assisting another health care provider in improperly billing Medicaid for health care services for which SCO Family of Services is obligated to pay.
- ❑ Failing to bill Medicare or a private insurer as the primary payor prior to submitting a claim to the Medicaid program.

The above list is intended to be illustrative and not exhaustive. False Claims Act liability exists for any knowing submission of false claims or statements that result in payment by a federal health care program to which SCO Family of Services is not entitled.

All personnel and contractors are strictly prohibited from engaging in any conduct that violates the False Claims Act. Employees and contractors must take all steps specified in this policy to protect SCO Family of Services from False Claims Act liability.

#### *Reporting of False Claims Act Violations by Employees*

Personnel will be expected to report the preparation or submission to Medicaid or any other federal health care program of any claim or report that appears to be false or fraudulent, or any other conduct that appears to violate the False Claims Act. Employees may make such reports through any of the mechanisms described in SCO Family of Services' Fraud and Abuse Reporting Policy. All reports received from employees will be evaluated and investigated as necessary pursuant to such policy. Employees are encouraged to contact their supervisor or the Compliance Officer if they have questions as to whether certain practices violate the Federal False Claims Act.

Personnel have the legal right to file qui tam lawsuits if they become aware that SCO Family of Services has submitted claims for reimbursement to Medicaid or other government programs in violation of the False Claims Act. In a qui tam lawsuit, the employee, referred to as a "relator," files the case under seal and requests that the federal government intervene and take over prosecution of the matter. If the case results in a recovery for the government, the relator may be awarded a portion of the funds recovered. SCO Family of Services will not seek to impede any employee from filing a qui tam lawsuit, through threats of retaliation or otherwise. However, all employees are encouraged to report and attempt to resolve suspected False Claims Act violations through the internal procedures established by SCO Family of Services prior to filing such a case.

#### *Personnel and Contractor Education*

SCO Family of Services provides compliance training to all employees consistent with SCO Family of Services' Personnel Training Policy. This training includes a component addressing the False Claims Act as well as State laws punishing the making of false claims or statements. The Human Resources Director will work with the Compliance Officer to ensure that the SCO Family of Services Personnel Policies Handbook contains information about the False Claims Act and relevant state laws. [See Form #5.] The Compliance Officer will ensure that, in connection with the execution of each contract by SCO Family of Services, the contractor receives a copy of such provisions of the employee handbook.

### *Internal Auditing*

The Compliance Officer will ensure that the periodic compliance audits conducted by or on behalf of SCO Family of Services under its Internal Auditing Policy cover the submission of accurate claims and cost reports to the Medicaid program, as well as any other activities deemed by the Compliance Officer to raise potential risks under the False Claims Act. The Compliance Officer will oversee the development and implementation of a corrective action plan to address any compliance issues identified through such audits.

### *Disclosure of False Claims*

Under the False Claims Act, SCO Family of Services may avoid treble damages and civil penalties if it discloses to the relevant federal health care program any false or fraudulent claims, and makes appropriate restitution of any overpayments, within 30 days of discovery of the false claim. Accordingly, the Compliance Officer will promptly investigate all reports of potential False Claims Act violations to provide SCO Family of Services with an opportunity to make disclosure and restitution within this 30-day period.

### **Enforcement**

Employees who do not comply with this policy will be subject to disciplinary action by SCO Family of Services. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], SCO Family of Services may reprimand, suspend or dismiss any employee who fails to comply with this policy.

#### Note on Legal Framework

This policy is designed to assure compliance with Section 6033 of the Deficit Reduction Act of 2005 (the "DRA"), which requires organizations billing Medicaid \$5 million or more per year to educate their employees and contractors about the FCA and state laws punishing the making of false claims or statements. The DRA also obligates such organizations to inform employees and contractors about the organization's policies and procedures for preventing and detecting fraud, waste and abuse. The specific nature of these policies and procedures is not specified in the DRA. New York does not currently have a false claims law comparable to the FCA but if one is adopted in the future the policy should be modified to reference any such law. Modifications may also be warranted if the state or federal government provides further guidance on the education requirements imposed under the DRA.