Northern Lakes CMH Authority
Compliance Plan

Updated January 2014

Northern Lakes CMH Authority Compliance Plan

Introduction

A compliance program helps to establish and promote an awareness of applicable regulations, and will help to define the standard of Northern Lakes Community Mental Health Authority (NLCMH) values regarding regulatory compliance and ethical business practices. These elements are key in combating fraud and abuse while establishing accountability and responsibility. The Compliance plan for NLCMH is designed to assist with preventing, identifying, investigating, and reporting questionable practices, contractual non-compliance, and regulatory non-compliance; and to assist in clarification of Medicaid requirements and inappropriate use of Medicaid dollars or services. This compliance plan applies to NLCMH as a community mental health service provider, and as a member of Northern Michigan Regional Entity (NMRE).

A Compliance Program is a set of processes instituted by the organization to regulate its internal processes and educate employees and contract providers so they are fully informed about applicable state and federal regulations which govern NLCMH. A well-structured compliance program has a written document, identified as a compliance plan that defines the means by which an organization will conform to specific regulations to achieve and maintain compliance with a focus on legal requirements of qualitative and quantitative documentation of services provided. The compliance plan emphasizes accountability to legal requirements and standards; it defines standards, describes the methods of monitoring standards, and identifies corrective action and performance improvement processes.

Purpose of the Compliance Program Plan

A compliance plan provides parameters and benchmarks in specific areas as well as identifying vulnerabilities. The plan sets forth responsibilities and accountability at all levels. Additionally, the plan establishes continuous quality monitoring which demonstrates the organization's commitment to compliance and ensures the integrity of the program. One of the primary commitments to compliance is in meeting the objective of providing quality service provision which includes documentation of the service provided, as well as reimbursement for the service provided. A commitment to compliance is to protect its employees and contract providers through a compliance plan, and to address regulatory issues likely to be of most consequence to its operations. Regulatory issues include accurately following the government's rules on Medicaid billing system requirements and other regulations.

A compliance program is a self-monitoring system of checks and balances to ensure that an organization consistently complies with applicable laws relating to its business activities. The compliance program and plan described in this document is intended to establish a framework for legal compliance by employees and contract providers. It is not intended to set forth all of the substantive programs and practices that are designed to achieve compliance. A working compliance program is having a commitment to meeting requirements, and does demonstrate that the organization exercised due diligence in seeking to prevent and detect questionable conduct by employees and other agents.

Elements of the Compliance Program

The following elements have been identified by the Medicaid Alliance for Program Safeguards as being essential to an effective compliance program:

Standards and procedures – the organization must have written policies, procedures, and standards of conduct that articulate the organization's commitment to comply with all applicable Federal and State standards.

High level oversight and delegation of authority – the CMH must designate a compliance officer and a compliance committee.

Employee training – the CMH must provide for effective training and education for the compliance officer and the organization's employees.

Communication - Effective lines of communication must be established between the compliance officer and the organization's employees.

Monitoring and auditing – The organization must have taken reasonable steps to achieve compliance with its standards by utilizing reasonably designed monitoring and auditing systems.

Enforcement and disciplinary mechanisms – Standards must be enforced through well-publicized disciplinary guidelines.

Corrective actions and prevention – After an offense *(non-compliance)* has been detected, the organization must take reasonable steps to respond appropriately to the offense and to develop corrective action initiatives and performance improvement. This includes follow-up monitoring and review to ensure the performance improvement plan is effective.

Northern Lakes Community Mental Health Authority has incorporated the above into this plan.

Application of the Compliance Plan

Northern Lakes CMH (NLCMH) is a Community Mental Health Services Program consistent with the Michigan Mental Health Code. NLCMH is also a member of the Northern Michigan Regional Entity (NMRE) and performs delegated managed care functions as specified in its contract with the NMRE. It is the intent of NLCMH that the scope of all compliance policies and procedures should promote integrity, support objectivity and foster trust. This plan applies to all NLCMH operational activities and administrative actions, and includes those activities that come within federal and state regulations relating to health care providers. Of particular concern to NLCMH are the areas of marketing materials and personnel, underutilization and quality of care, data collection and submission processes, anti-kickback statute and other inducements, and emergency services.

NLCMH directly provides and contracts services for adults and children with mental illness, developmental disabilities, and co-occurring mental health and substance abuse disorders within six counties (Crawford, Grand Traverse, Leelanau, Missaukee, Roscommon, and Wexford counties).

The NLCMH compliance plan applies to NLCMH employees, all contract providers and subcontractors receiving payment from NLCMH. NLCMH employees are subject to the requirements of this plan as a condition of employment. All aspects of this plan that address "provider organizations" shall also apply to the service divisions of NLCMH.

General Overview of the Compliance Plan

Efforts to maintain compliance must be organization-wide and must be ongoing. In order to assure compliance efforts are sustained, compliance activities are developed from a performance improvement perspective. NLCMH recognizes that for services to be of the highest quality, needs must be assessed, a plan to meet the identified needs must be in place, services provided must be documented, and reimbursed in accordance with applicable regulations. Assuring this compliance, both prospectively and retrospectively, is best done through a focus on improvement, utilizing objective data, systems analysis, participant input, and continuous feedback.

The compliance plan is a means to communicate the organization's commitment to compliance to staff and contract providers. It also conveys that NLCMH supports organizational standards of integrity in reporting inappropriate conduct, fraudulent activities, and abusive patterns. The compliance plan creates accountability for receiving regulatory information, implementing regulatory requirements, and monitoring performance against standards.

The compliance plan identifies specific processes to meet regulatory statutes and establishes standards in accordance with the specific regulations. Additionally, the compliance plan establishes a consistent process for analyzing and interpreting the organizational impact of regulations. The plan provides a process to assess NLCMH performance against regulatory requirements and established internal performance standards. The plan provides guidance and standards for monitoring compliance activities, as well as assessing the impact of processes for performance improvement.

Furthermore, the compliance plan provides a process of intervention for wrongdoing and prohibited behavior, such as questionable practices, contractual or regulatory non-compliance, inappropriate use of Medicaid service/dollars, as well as not following specific requirements. The compliance plan provides a structure for the formation and implementation of corrective measures and performance improvement.

The Compliance Plan has the following key features:

- Designation of compliance officials responsible for directing the effort to enhance compliance, including implementation of the plan;

- Incorporation of standards and policies that guide personnel and others involved with operational practices and administrative guidelines;
- Identification of legal issues that may apply to business relationships;
- Development of compliance initiatives/requirements at the program level;
- Coordinated training of clinical and administrative staff regarding compliance requirements and policies, and for contract providers ensure availability of information with regard to applicable requirements;
- A uniform mechanism for employees and contract providers to raise questions and receive appropriate guidance concerning operational compliance issues;
- Regular review and audit to assess compliance, to identify issues requiring further education and to identify potential problems;
- A process for employees and contract providers to report possible compliance issues and for such reports to be fully and independently reviewed;
- Enforcement of standards through publicized disciplinary guidelines and policies addressing dealings with individuals not meeting required standards and requirements;
- Formulation of corrective action plans to address any compliance problems that are identified;
- Regular reviews of the overall compliance effort to ensure that operational practices reflect current requirements and that other adjustment are made to improve operations.

Administrative Responsibility of the Compliance Plan

Primary responsibility for implementing and managing NLCMH compliance effort shall be assigned to the NLCMH Compliance Officer. The position of Compliance Officer will directly report to the Chief Executive Officer of NLCMH who will have supervisory responsibility; and indirectly, as required, to the governing body of NLCMH.

The Compliance Officer will perform the following activities *(See "Attachment A" for additional details)*:

- Serve as the primary NLCMH liaison with outside governmental agencies charged with enforcement of health care laws and regulations.
- Direct and be accountable for the operation of the NLCMH compliance program.
- Provide leadership to compliance activity and consultative support to the NLCMH Executive Team.
- Serve as co-chair (as the NLCMH Privacy Officer) of the NLCMH Privacy and Security Committee.
- Establish and implement methods to ensure that employees are aware of the Code of Conduct policies and the Compliance Plan and understand the importance of compliance.
- Review and amend, as necessary, the Code of Conduct that includes a code of ethics and ethical standards.
- Assist in the review, revision, and formulation of appropriate policies to guide any and all activities and functions that involve issues of compliance.
- Assist in developing and delivering educational and training programs.
- Receive and investigate instances of suspected compliance issues.
- Conduct compliance reviews, audits, and investigations that result in data based factual reports that objectively measure the performance improvement and success of the NLCMH compliance program in detecting and determining compliance.
- Develop appropriate performance improvement plans to facilitate corrective actions where non-compliance is identified. Identify necessary changes to the NLCMH compliance program (including, without limitation, program priorities, the scope, method and frequency of auditing and monitoring activities and new or amended compliance policies and standards) as necessary to increased effectiveness.

- Direct all compliance aspects of NLCMH's relationships with providers, including contractual relationships.
- Promote a culture of compliance across all NLCMH operations.
- Prepare Annual Compliance Program report.
- Prepare Annual Compliance Work Plan.
- Prepare proposed revisions to the Compliance Plan as needed, with a review at least annually.

The NLCMH's Compliance Officer has primary responsibility for ensuring that behavioral health services (and the documentation thereof) provided directly by NLCMH (or by providers under contract to NLCMH) for which payment may be made by a federally-funded health care program or by MDCH under the Michigan Mental Health Code meet all applicable legal, regulatory and clinical standards. This shall include the development of and active participation in maintaining a comprehensive and effective corporate compliance plan that promotes a culture that encourages employees, contract providers, and volunteers to conduct business with integrity and in compliance with accepted standards of practice, state and federal laws, and the NLCMH Code of Conduct.

Compliance Oversight and Structure

The designated NLCMH's Compliance Officer has primary responsibility for oversight and implementation of the compliance plan. The NLCMH's Compliance Officer is given sufficient authority to promote and enforce compliance program issues.

The Compliance Officer will work with a Compliance Committee (the NLCMH Executive Team serves in the role) . The committee as a whole will benefit from varying perspectives such as operations, finance, human resources, information systems, quality assurance/ improvement, finance, utilization review, and so forth. The Compliance Committee shall meet at a regularly scheduled time at least quarterly.

The compliance committee has many functions in addition to aiding and supporting the NLCMH's Compliance Officer. They include: assisting in analyzing legal requirements and specific risk areas; regularly reviewing and assessing applicable policies and procedures, assess effectiveness of internal systems related to standards, policies, and procedures; assist in defining the appropriate strategy to promote compliance; evaluate the system to solicit, evaluate, and respond to complaints and problems.

Written certification by the Compliance Officer that he or she has never been convicted of any crimes (other than traffic-related offenses); has never had a professional license revoked or suspended and has never been sanctioned, whether personally or through an entity, by the Medicare or Medicaid programs. This requirement applies to all staff participating in the "providing of" training relating to compliance issues and Compliance Committee members.

The Compliance Officer also must certify that he or she is committed to ensuring the success of the Compliance Program. Such certification *(Attachment B)* is also required of certain other individuals, including: Board members, Chief Executive Officer, Chief Administrative Officer, Chief Financial Officer, Chief Population Officer, Director of Quality Management, Human Resource Officer, Medical Director, Recipient Right's Officer, Compliance Committee Member, staff providing compliance related-training and other positions as applicable.

Additionally, the Human Resource Officer, or designee will routinely access and check the National Practitioner Data Bank (NPDB), the OIG List of Excluded Individuals/ Entities, the GSA Excluded party List, the MSA Sanctioned Providers (Michigan), and License/Registration Verification. This is to assure that authority is not delegated to any individual whose name appears in this database. The Network Management Committee can also be utilized in this process.

The responsibility for compliance and the compliance program does not rest solely with the NLCMH's Compliance Officer. Every employee and/or agent, provider and subcontractor receiving Medicaid payment through NLCMH is responsible for compliance with regulations. Participation in these activities, and commitment to the goals of this plan, are required for all employees, agents, providers, and subcontractor.

The Compliance Office will maintain a record of each employee's, agents, contract providers, and subcontractor's participation in the Compliance Plan *(Attachment C)*. This record will include documentation of related training, acknowledgment of receipt of pertinent documents, details of any non-compliance and the actions taken, and evidence of participation in compliance related activities.

Participation in, and acceptance of, this plan is a condition of employment for Northern Lakes CMH employees. For providers, by way of agreement, or under contract to NLCMH for which payment may be made by federally-funded health care program or by MDCH under the Michigan Mental Health Code participation in, acceptance of this plan is required. Each employee, agent, contract provider, and subcontractor bears responsibility for compliance. This responsibility needs to include:

1. Read the Compliance Plan.
2. Be familiar with, and use, the compliance requirements.
3. Pay attention to correspondence, both by paper and by electronic mail and return acknowledgement statements promptly when required.
4. Attend training sessions.
5. Contact the Compliance Officer as needed.
6. Periodically review the Compliance Plan.
7. Report immediately when and if you become aware of any violation of this Compliance Plan, or related policies and procedures. Failure to report a violation is itself, a violation and therefore subject to disciplinary action.
8. Cooperate with all compliance-related efforts.
9. Submit any suggestions you may have for improvement of the Compliance Plan.
10. Refer ALL inquiries relating to compliance efforts and results to the NLCMH's Compliance Officer, or NLCMH Chief Executive Officer.

Policy Guidelines for Compliance

Policies specific to the NLCMH's operational practices will be reviewed on an annual basis and revised as necessary. The Code of Conduct will guide all business activity. This Code reflects good common sense and ethical behavior. All new hires receive and acknowledge the Code of Conduct as a requirement of employment. The Code is reviewed and acknowledged annually thereafter.

Clinical and Administrative Plans

NLCMH shall appoint an individual to serve as the Compliance Leader for each geographic location. The compliance leaders will coordinate compliance activities with the NLCMH's Compliance Officer. There should be regular contact between the Compliance Leaders and the NLCMH's Compliance Officer about matters of common interest.

Each provider organization is responsible for the development and implementation of a plan to address compliance efforts, the NLCMH Compliance Plan can be adopted as the organizations plan. These plans shall, at a minimum, include the following features:

A. Written polices and procedures for operational activities undertaken by organization personnel, including any specialty specific standards that may be relevant to regulatory compliance;

B. Educational and training programs to address operational issues of particular importance to the organization;

C. A program for ensuring and documenting that all new personnel receive training regarding operational compliance issues;

D. A process for routine "spot checks" of compliance activities, with the results of such reviews being reported to the Compliance Officer;

E. A system that tracks operational compliance issues that have been raised within NLCMH and the resolution of those issues; and

F. An annual review of the existing compliance plan in order to identify the need for changes and to identify specific compliance objectives (annual work plan) during the succeeding year.

Provider organizations may wish to consult with the NLCMH's Compliance Officer prior to engaging any outside consultants concerning compliance issues. This may present an opportunity for efficiency and sharing of information.

Communication, Education, Training

A Compliance Plan cannot be successful as a static, written document. It requires a dynamic implementation process that provides ongoing communication, education and training to all participants. This includes the governing body, direct employees, and contract agents. The plan is intended to be "the way we do business" and, as such, be second nature to all employees and agents. The compliance plan provides an internal process to clarify, educate, and train staff in contractual and regulatory requirements, and appropriate use of Medicaid and General Fund dollars. This section describes the communication, education and training efforts utilized to achieve this goal.

Communication – The success of this plan is largely dependent upon the ability of NLCMH to sustain the efforts identified within the compliance plan. As with any improvement effort, sustaining the plan requires regular communication to employees and agents. This communication includes applicable laws and regulations; monitoring efforts; training efforts; improvement activities; and achievements. The Compliance Officer, as well as other managers, is responsible for this communication.

Education and Training – The compliance plan will identify three categories of education/training.

1. *Initial Training* – Training is provided to all employees upon implementation of this plan; and thereafter provided to all new employees during employee orientation. The NLCMH Compliance Officer, in cooperation with the Human Resources, is responsible for developing and assuring this training occurs. This training will address the substantive legal standards and the processes identified in the compliance plan. Completion of this training will be documented.

   Each employee will receive a Compliance Plan at orientation, along with a compliance plan acknowledgement form (Attachment C). Each employee, upon receipt of the plan, will have one week to read the plan and acknowledge acceptance of its principles, as evidenced by signing the acknowledgement form. It is essential that all employees understand the compliance plan requirements and processes. It is the responsibility of the employee to assure that he or she understands the plan.

   A copy of this Compliance Plan will be provided to all agents, contract providers, and subcontract providers that receive payment under NLCMH. It is expected that a Compliance Plan Acknowledgment Form (Attachment C) will be completed and returned to the NLCMH Compliance Officer.

2. *Focus Training* - In addition to the initial training for all employees, specific training developed for targeted positions and functions. The Compliance Officer, in coordination with the compliance committee, will identify those positions requiring additional targeted training due to the particular tasks for which they are responsible. Focus training, during the first year of this plan, will address, at a minimum, those areas identified as initial potential risk areas. These includes contracting, documentation, coding, and person centered planning. These Focus Trainings will be conducted as determined by the Compliance Officer. Attendance by staff in the target positions will be mandatory and will be documented.

3. *Ongoing Training* - The Compliance Officer and the compliance committee will routinely review available data to identify emerging trends and training needs relating to compliance issues. Data sources include, but are not limited to: monthly indicator report, question/answer or the reporting of compliance concerns to the compliance officer, record audit results (see Ongoing Monitoring and Reporting), external site review findings data, as well as Michigan Mission Based Performance Indicator System (MMBPIS) reports.

Training Personnel – All staff participating in providing training related to compliance issues, will be required to certify, in writing, that he or she has never been convicted of any crimes (other than traffic related offenses); has never had a professional license revoked or suspended; and has never been sanctioned, whether personally or through an entity, by the Medicare or Medicaid programs. The Compliance Officer is responsible for verifying the competency of training staff.

Compliance training will be incorporated in the organization's annual training requirements. This annual training will have two objectives: review the Compliance Plan and efforts, and address emerging needs as determined through monitoring and data analysis. All ongoing training, whether annual or targeted, will be documented. Attendance at annual compliance training will be required for all employees. Attendance at targeted trainings will be required for those staff identified by the Compliance Officer. Some examples of what compliance training can be: improved awareness of Medicaid changes or requirements; orientation to reporting requirements; record documentation requirements, re-education on duty to report non-compliances, re-education of Whistleblower's or False Claims Act requirements. Ongoing training occurs as well through correspondence and communication from the Compliance Officer to various staff or programs.

Ongoing Monitoring

Compliance activities are developed from a performance improvement (PI) perspective. To meet the objective of high quality service in accordance with applicable regulations, the service must be provided, documented, and be reimbursable. Assuring compliance is best done through a PI focus on improvement, utilizing objective data, systems analysis, participant input, and continuous feedback.

Errors in compliance may be rooted in a number of causes. Frequently, the source of difficulty may be traced to deficiencies in the systemic processes used by staff. Consistent with NLCMH's commitment to the principles of performance improvement, the Compliance Officer participates in appropriate quality committees (such as the NLCMH Quality Improvement Committee, NMRE Compliance Committee) and will, as appropriate, coordinate system improvement efforts through that group.

When compliance errors or lapses are determined to be rooted in individual behavior, the quality improvement process will likely not be appropriate. Such errors may be the result of insufficient information and training, individual carelessness, or willful acts. Each of these causes requires a different response. It is essential that the Compliance Officer conduct sufficient investigation to determine the source and cause of errors prior to determining the response.

The monitoring and reporting processes are designed to facilitate continuous improvement and to identify errors and wrongdoing. This is accomplished through routine review of records and through input from staff.

Audits - The Compliance Officer will conduct or coordinate quarterly audits of the compliance plan. This includes, but is not limited to:

1. Clinical record audits
2. Reviewing the sufficiency and completeness of training
3. Reviewing staff training records
4. Auditing the response to employee/agent questions or comments to the Question and Answers or reports through the non-compliance reporting system
5. Reviewing the response to any finding during the past quarter
6. Review of adherence to policies and procedures relating to contracting, and
7. Verification of employee/agent credentials and background as appropriate.

Audits of other contract providers will be as defined in the contractual agreement.

At least once in each three calendar year period, it shall be arranged for an external audit of agency records. The Compliance Committee will actively participate in the process of selecting an external audit provider. This audit shall focus on compliance issues regarding record keeping practices, clinical documentation, and coding. The results of this audit shall be reported to the Compliance Officer and NLCMH Chief Executive Officer. This information will then be promptly reported to the Board. As appropriate, information gathered from this process will be used in the performance improvement process to address systemic issues.

Annually, the Compliance Officer will review this plan and the activities carried out pursuant to this plan. The review will be designed to assess the effectiveness and current applicability of each aspect of the Compliance Plan. Appropriate changes will be made and submitted to the Compliance Committee, and/or Board (based on the significance of the changes) for review. Upon approval of the changes, the revised Compliance Plan will be distributed to all employees and agents. Distribution can be done through electronic means such as e-mail. Employees will be required to sign acknowledgement form pertaining to the changes, and as applicable participate in training.

On-going Reporting

Reporting – The Compliance Plan addresses two types of reporting. The first type of reporting involves the obligation to and avenues for, employees and agents reporting non-compliance. The non-compliance reporting process is identified, in detail, in Attachment D of this plan. The second type of reporting involves the regular reporting of data and information pertinent to the compliance activities of NLCMH to the Northern Michigan Regional Entity (NMRE).

Reporting Compliance Data and Results - Accurate and complete monitoring of the compliance plan requires the use of a variety of objective data sources. Information used in this monitoring process will be routinely reported. The Compliance Officer will establish a regular reporting schedule which will minimally include:

- Quarterly reports of record audits
- Quarterly reports of Non-compliance reporting system (*e-mail/voicemail/fax/Hotline)*
- Quarterly analysis of Michigan Mission Based Performance Indicator System (MMBPIS) reports, key Indicators, and activity data
- Annual review of the Compliance Plan
- Annual summary of Compliance activities, including number of investigations, summary of results of investigations, number of staff trained, and summary of disciplinary actions.

Non-compliance Reporting by Employees and Agents - If an employee or agent becomes aware of any wrongdoing under this plan (whether intentional or unintentional) by that employee or another employee, he or she is obligated to report the wrongdoing to the Compliance Officer through one of the methods described in Attachment D of this plan. Individuals reporting anonymously must follow-up within a few days via voice mail or e-mail to answer follow-up questions. Availability of non-compliance reporting systems:

a. **Hotline** - The reporting hotline access system is accessible 24-hours per day.

b. **Voice Mail, E-mail or Fax** – This means of reporting will be responded to during regular business hours 8:00 a.m. – 5:00 p.m. Monday – Friday, excluding holidays. The reporter will be considered anonymous, unless they chose to provide identifying information.

c. **Postal or Interagency mail** – This method of reporting is to be directed to the Compliance Officer, and should be marked “Confidential or Personal”.

d. If an employee chooses to submit a report anonymously, he or she may do so. In this case, the time and date must be clearly stated on the report, and this information will be used to identify follow-up questions. If an employee submits an anonymous report, he or she must check back the following Monday and Tuesday to see if the Compliance Officer has follow-up questions.

e. The Compliance Officer will check each non-compliance reporting system (*email/voicemail/ fax/mail/hotline)* each business day. Upon receiving a call or e-mail, the Compliance Officer will ask questions, listen to or read e-mail report, and complete a written report of the contact.

f. If further inquiry or investigation is warranted, the Compliance Officer shall conduct the inquiry or investigation. As appropriate, the Compliance Officer shall consult with the NLCMH Chief Executive office and/or Chief Administrator Officer to assess additional actions to be taken.

g. As needed, the Compliance Officer shall ask additional questions of the employee making the report. If the individual chooses to make the report anonymously, the Compliance Officer shall make arrangements for the individual to call back at specified times, or e-mail, for follow-up questions or communication.

h. The employee must answer those follow-up questions via electronic mail, voice mail, or Hotline. Anonymity may be maintained to the limits of the law.

i. Whatever the method of reporting, when the Compliance Officer receives a report alleging wrongdoing, he or she shall take the following response steps:

   - The Compliance Officer shall determine whether the alleged wrongdoing is a violation of federal or state law, contract requirements, this Compliance Plan, or other organizational standard or policy, or in some way jeopardizes, or puts at risk, the organization’s operations or reputation. As necessary, the Compliance Officer shall consult with the NLCMH Chief Executive Officer, or seek other appropriate guidance.

- If the alleged wrongdoing is a violation, the Compliance Officer shall take action commensurate with the gravity of the allegation to determine the veracity of the allegation. As appropriate, the Compliance Officer shall consult with the NLCMH Chief Executive Officer, or seek other appropriate guidance.
- If, upon investigation, the allegation is proven by the preponderance of evidence to be true; the Compliance Officer shall immediately report this to the NLCMH Chief Executive Officer, with recommendations regarding appropriate disciplinary and corrective action.
- If the situation constitutes a potential pay back or self disclosure, the Compliance Officer, and NLCMH Chief Executive Officer shall consult to determine the appropriate course of action.
- If, upon investigation, the allegation is proven by the preponderance of evidence to be true; a full and complete written report of the allegation, investigation, determination and actions shall be written by the Compliance Officer. This report is to be submitted to the NLCMH Chief Executive Officer, and maintained in a secure location.
- If systemic corrections are indicated, the Compliance Officer shall submit accurate information to the appropriate committee, such as NMRE Compliance Committee or NLCMH Quality Improvement Committee. (*Accurate information includes that which is necessary to institute a quality action team process while protecting the confidentiality of the people involved to the extent appropriate and necessary*.) The selected committee will establish an action team consistent with PDCA model (Plan/Do/Check/Act - Shewart model). Final results of the action team will be submitted to the Compliance Officer for review and incorporation into the Compliance Plan, as appropriate.

j. Under no circumstances will NLCMH tolerate retribution against any employee or agent simply for making a "good faith" report to the Compliance Officer. However, intentionally erroneous reports will be subject to disciplinary action. Similarly, if an employee or agent intentionally minimizes a wrongdoing when making a report, either to protect themselves or a co-worker, appropriate disciplinary action may be taken. If any supervisor or employee is determined to be retaliating against an employee for making a report, that supervisor or employee will be subject to harsh disciplinary action.

Responding to Non-compliances

Instances of non-compliance will receive quick and certain responses.

A. When systemic issues are determined to be the cause, in part or in full, a committee such as the NMRE Compliance Committee or the NLCMH Quality Improvement Committee will act quickly to address the systems involved.

B. When individual action is determined to be the cause, in part or in full, quick and appropriate disciplinary action will be taken. Intentional wrongdoing WILL NOT be tolerated and will be subject to immediate disciplinary action up to and including termination of employment and reporting to federal or state authorities.

Performance Improvement to Prevent or Correct Non-compliance

Compliance, when possible, should be a proactive process. In other words, the surest way to assure that NLCMH maintains the highest level of compliance with applicable laws and regulations is to develop systems and processes to facilitate and incorporate compliance from the beginning. This is the essence of performance improvement and the reason for developing this Compliance Plan from a performance improvement perspective.

- There are a number of sources of data that will be utilized to monitor and improve the systemic processes necessary for compliance. These include: audit results, MMBPIS reports, Key Indicators, QI Performance Indicators, staff activity reports, and employee input processes.
- The Compliance Officer or appropriate committee will review information from these various sources on a regular basis. When trends are suspected or identified, they will be discussed with the appropriate groups and additional data will be sought as needed.

- The Compliance Officer, or any other employee, may request that the NMRE or QIC, depending on issue identified, consider the review of a process.
    1. When such a review is indicated by either objective or sufficient anecdotal information, the selected committee will establish an Action Team to study and make recommendations regarding the process in question.
    2. All action teams will utilize the Plan/Do/Check/Act (Shewart model), as described in the Quality Assessment Performance Improvement Program (QAPIP) for improving performance.

Annual Regulatory Compliance Review

On or before the end of each fiscal year, the Compliance Officer will arrange for a review of NLCMH's current compliance and regulatory operations. The purpose of the review, which should include probe samples, as the Compliance Officer considers advisable, to ascertain whether the compliance operations of NLCMH are within standards. A written report describing the results of the audit should be prepared on or before December 30th.

Annual Report and Work Plan

On or before January 30th, the Compliance Officer should prepare and distribute to the NLCMH Chief Executive Officer and the governing body a report describing the compliance efforts during the preceding fiscal year and a proposed work plan for next fiscal year. The report should include the following elements:

1. A summary of the general compliance activities undertaken during the preceding fiscal year, including any changes made to the Compliance Plan;
2. A summary of the non-compliance reporting activities for the preceding fiscal year;
3. A summary of the preceding fiscal year's compliance reviews/audits;
4. A description of actions taken to ensure the effectiveness of the training and education efforts;
5. A summary of actions to ensure compliance with NLCMH's policy on dealing with excluded persons;
6. Recommendations for changes in the Compliance Plan that might improve the effectiveness of NLCMH's compliance effort; and
7. A propose work plan for the next fiscal year; and
8. Other reportable information as applicable to compliance activities.

Revisions to the Plan

This Compliance Plan is intended to be flexible and readily adaptable to changes in regulatory requirements and in the health care system as a whole. The Compliance Plan should be regularly reviewed to assess whether it is working. The Compliance Plan should be changed as experience shows that a certain approach is not effective or suggests a better alternative

Excluded Persons Policy

Northern Lakes Community Mental Health Authority confirms the importance of compliance with 42U.S.C.1320a-7b(b), which imposes penalties for "arranging or knowing (by employment or otherwise) with an individual or entity that the person knows or should know is excluded from participation in a Federal health care program for the provision of items or services for which payment may be made under such a program."

A. Accordingly, prior to employing or contracting with any provider for whom NLCMH intend to fund through a Federal health program, NLCMH will take appropriate steps to confirm that the provider has not been excluded. Those steps will include 1) checking the provider's name against the HHS/OIG Cumulative Sanctions List, 2) the GSA Debarred Bidders List, as well as 3) coordinate with the Network Management Committee.

B. The NLCMH's Compliance Officer will provide training to employees with responsibility for personnel functions about how to access those lists. If any member of the affiliation learns that a prospective provider (either as an employee or contractor) is excluded, the provider will not used or hired.

C. Prior to the initiation of the original or updated Compliance Plan, NLCMH will confirm that none of the providers that it currently employs appear on either the HHS/OIG Cumulative Sanctions or the GSA Debarred Bidders lists.

D. If NLCMH learns that any of its current providers (either as employees or contractors) has been proposed for exclusion or excluded, it will remove such providers from any involvement in or responsibility for Federal health insurance programs until such time that it has been confirmed that the matter has been resolved.

Reference Resources:

Northern Lakes Community Mental Health Authority Policy Manual, *Part 102, Program Integrity, Subpart A, B, and C*

Northern Lakes CMH approved and published documents

Guidelines for Constructing a Compliance Program for Medicaid Managed Care Organizations and Prepaid Health Plans - A product of the Medicaid Alliance for Program Safeguards - May 2002

Title 28, Part III, Chapter 58, Section 994(a) – Duties of the Commission

2013 Federal Sentencing Guideline Manual, Chapter Eight – Sentencing of Organizations, *Part* B, Section 8B2.1, Effective Compliance and Ethics Program

42CFR438, Part II, Subpart C, Section 438.106 – Liability for Payment

42CFR438, Part II, Subpart H, Section 438.608, Subsections (a) and (b) – Program Integrity Requirements

42CFR438, Part III, Subpart 1, Section 438.700, subsection (a), (b), (c), and (d) – Basis for Imposition of Sanctions

Medicare/Medicaid Managed Care Manual, Chapter 11 – Application Procedures and Contract Requirements, Revised 2/17/06

Corporate Responsibility and Corporate Compliance, A Resource of Health Care Boards of Directors, A product of "the Office of Inspector General of the US Dept. of Health and Human Services – and – The American Health Lawyers Association"

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Position Specific Essential Functions *(excerpt from the Compliance Officer Position Description)*

1. Serve as the primary NLCMH liaison with outside governmental agencies charged with enforcement of health care laws and regulations.
2. Direct and be accountable for the operation of the NLCMH compliance program.
3. Serve as co-chair (as NLCMH Privacy Officer) of the NLCMH Privacy and Security Committee.
4. Ensure effective systems are in place by which actual or suspected compliance violations may be reported, anonymously and by other means.
5. Establish and implement statistically valid auditing and monitoring protocols designed to detect and deter compliance violations. Ensure service adjustments are made in accordance with findings of each audit. Additionally, ensure that NLCMH recoups funds paid to providers and vendors for service claims determined to be ineligible for payment. As instances dictate, impose and monitor compliance through corrective actions, and a required performance improvement plan.
6. Review all reports of actual or suspected compliance violations received by NLCMH from any source and determine whether and how to respond.
7. Establish and maintain an electronic database for all reported actual or suspected compliance violations which database includes incident categories, relative risk and the disposition thereof;
8. Conduct (or direct) and document all compliance investigations and maintains detailed investigative files.
9. Prepare and deliver to the CEO (or to the Governing Body of NLCMH in the event the CEO is a subject of the investigation) a factually written report of each compliance investigation, which report contains findings of fact, a determination as to whether an individual or entity has committed a compliance violation and, if so, recommendations for corrective and disciplinary action.
10. Ensure proper reporting of substantiated compliance violations to MDCH to the extent required by law and the MDCH contracts.
11. Ensure that non-compliant Medicaid encounters are not reported to MDCH (or, if previously reported, are rescinded) and that the Medicaid program is made financially whole through pursuit of restitution.
12. Establish criteria for and, not less than annually, objectively measure the success of the NLCMH compliance program in detecting and deterring compliance violations.
13. Not later than two weeks prior to the regularly scheduled October meeting of the governing body, submit to the CEO and the NLCMH governing body a detailed written Compliance Report covering the fiscal year just ended and containing the following:
    - A summary of historical trends in the frequency, nature and severity of substantiated compliance violations;
    - A statement of significant modifications or additions to the compliance program and the reason therefore;
    - An objective assessment of the effectiveness of the compliance program;
    - A Compliance Work Plan for the current fiscal year reflecting new or modified goals for the compliance program, modifications made to the list or priority of targeted compliance risks and significant changes to program structure or operating procedures; and
    - Any other information deemed relevant by the Affiliation's Compliance Officer to improving the effectiveness of the compliance program.
14. Coordinate with NMRE and NLCMH quality improvement, utilization management and recipient rights programs. Participates as assigned on the Executive Team.
15. Monitor changes in federal and state health care laws and regulations applicable to NLCMH operations.

16. Establish curricula, teaching methodologies and competence measures for no less than annual compliance training (including Deficit Reduction Act training) for NLCMH and provider workforce members and governing bodies.
17. Disseminate role-specific compliance information to provider workforce members and governing bodies.
18. Provide non-legal technical assistance and advice to NLCMH and provider workforce members and governing bodies and their respective workforce members with respect to whether proposed conduct is consistent with NLCMH compliance standards;
19. Identify necessary changes to the NLCMH compliance program (including, without limitation, program priorities, the scope, method and frequency of auditing and monitoring activities and new or amended compliance policies and standards) as necessary to increased effectiveness.
20. Direct all compliance aspects of NLCMH's relationships with providers, including contractual relationships.
21. Promote a culture of compliance across all NLCMH operations;
22. Engage in continuing education appropriate to compliance officers.
23. Maintain a working knowledge of legislative and technological developments as they pertain to compliance, including in particular the implementation of local, regional and national intra-operable electronic medical records, encounter coding and other HIPAA standardized transactions.

Attachment B

COMPLIANCE PLAN

Required Compliance Certification

My signature below is my certification that I have never been convicted of any crimes (other than traffic related offenses); have never had a professional license revoked or suspended and have never been sanctioned, whether personally or through an entity, by the Medicare or Medicaid programs. _____
Initials

Additionally, my signature is certification that I am committed to ensuring the success of the Northern Lakes CMH Compliance Program. _____
Initials

This certification is provided in my capacity as: *(initial by the applicable discipline)*

_____ Governing Board member
_____ Chief Executive Officer
_____ Chief Administrative Officer
_____ Chief Financial Officer
_____ Chief Population Officer
_____ Director of Quality Improvement
_____ Medical Director
_____ Human Resource Officer
_____ Compliance Officer
_____ Compliance Leader
_____ Recipient Rights Officer
_____ Staff providing compliance related training
_____ Compliance Committee Member
_____ Other: _____

I, _____ affix my signature as certification of the above.
Print Name

_____
Signature

NOTE: Additionally, the Human Resources Director will routinely access and check the National Practitioner Data Bank (NPDB), the OIG List of Excluded Individuals//Entities, the GSA Excluded party List, the MSA Sanctioned Providers (Michigan), and License/Registration Verification. This is to assure that authority is not delegated to any individual whose name appears in this database.

Attachment C

COMPLIANCE PLAN

Compliance Plan Acknowledgement Form

On _____ I received orientation or training pertaining to the
Today's Date Compliance Plan.

I received a copy of the Compliance Plan _____
Initials

I understand that I am to read the Compliance Plan within one week from today. I understand that participation and acceptance of this compliance plan is required. _____
Initials

I understand that if I have any questions pertaining to the Compliance Plan I can contact the Northern Lakes CMH Compliance Officer for clarification by calling (231) 935-4099. _____
Initials

Within the next seven days I will return this form signed as my acknowledgement of acceptance of the compliance plans principles. I _____ have read and accept the compliance plan principles.
Print Name

My signature is acknowledgment of the above: _____
Signature and Date

The agency I work for is: _____

Return the completed and signed Compliance Plan Acknowledgement form to the Compliance Officer. This acknowledgement form can be return by interagency mail; or by mailing to 105 Hall Street, Suite A, Traverse City, MI 49684; or Faxed to (231) 933-4924

Attachment D

NON-COMPLIANCE REPORTING

The purpose of this process is to provide an internal method for the referral and monitoring of questionable practices, contractual non-compliances, regulatory non-compliances, or inappropriate use of PIHP Medicaid services or dollars. The intent is to facilitate and assist in detecting and deterring non-compliances so that performance improvement and corrective action can be consistently initiated. All individuals are responsible for compliance with regulatory requirements and are encouraged to report non-compliances; this includes Board members, all staff employed by Northern Lakes CMH and all subcontractors. Non-compliances, questionable practices, contractual non-compliances, regulatory non-compliances, or inappropriate use of Medicaid services or dollars are to be reported to the Compliance Officer, Chief Executive Officer, or Chief Managed Care Officer. Non-compliance reporting can be done by voice mail, e-mail, fax, or the Ethics Hotline (1-800-624-6689). This disclosure can be anonymous.

Overview

The Office of Inspector General (OIG) in Washington D.C. published a detailed self-disclosure protocol in October 1998 as a part of the pilot voluntary disclosure program. An open letter to Health Care Providers from the OIG, dated March 9, 2000 followed up on various aspects of the October 1998 letter, and notified providers of the responses from providers on self-disclosure. Additionally, the Deficit Reduction Act of 2005 (DRA) provides detailed information about the False Claims Act and penalties for false claims and statements; as well as the rights and protections of Whistleblower's.

When fraud is uncovered by the OIG they will look to see whether NLCMH took appropriate steps to prevent and detect the misconduct and whether there is a likelihood that the same or similar abuse of the Medicaid services will reoccur. Consideration is given to the following:

- seriousness and extent of the underlying misconduct;
- the nature and resources of the provider;
- the providers existing capabilities;
- the risk of recurrence; whether the case resulted from a self-disclosure;
- and the degree of the provider's cooperation during the disclosure verification process.

The outcome of any case identified by the OIG will be impacted by NLCMH's ability to point to tangible, positive outcomes stemming from its own compliance efforts. Evidence that NLCMH's compliance program is operating effectively includes the following:

1. Problematic conduct, such as questionable practices, health care waste, or inappropriate use of Medicaid service dollars, is identified.
2. Appropriate steps are taken to remedy and prevent the conduct from recurring.
3. When misconduct appears to be a violation of the law, a full and timely disclosure of the violation of law is made to Medicaid.
4. That matters of overpayment or errors that do not suggest a violation of law, are dealt with promptly by the individuals responsible for claims processing and payment. (The entity accountable and responsible for the Prepaid Health Plan Medicaid dollars.)
5. An internal process for non-compliance reporting is an active part of the Regulatory Compliance Program.

Errors in compliance may be rooted in a number of causes. Frequently, the source of difficulty may be traced to deficiencies in the systemic processes used by staff. When compliance errors or lapses are determined to be rooted in individual behavior, the quality improvement process will likely not be appropriate. Such errors may be the result of insufficient information and training, individual carelessness, or willful acts. Each of these causes requires a different response. It is essential that sufficient investigation be conducted by

NLCMH Compliance Officer to determine the source and cause of errors prior to determining the response. The monitoring and reporting processes are designed to facilitate continuous improvement and to identify errors and wrongdoing. This is accomplished through routine review of records and through input and reporting of non-compliance from individuals.

The Compliance Plan addresses two types of non-compliance reporting. The first type of reporting involves the obligation to and avenues for, employees and agents reporting non-compliance. The second type of reporting involves the regular reporting of data and information pertinent to the compliance activities of the NMRE.

Under no circumstances will NLCMH tolerate retribution against any employee or agent simply for making a "good faith" report to the Compliance Officer.

However, intentionally erroneous reports will be subject to disciplinary actions.

Similarly, if an employee or agent intentionally minimizes a wrongdoing when making a report, either to protect themselves or a co-worker, appropriate disciplinary actions will be taken.

If any supervisor or employee is determined to be retaliating against an employee for making a report, that supervisor or employee will be subject to harsh disciplinary action.

What to Report

Health care waste, questionable practices, contractual or regulatory non-compliances, or inappropriate use of the Medicaid services or dollars can be identified in varied aspects of the service delivery process. The following examples are provided as a point of reference when completing a non-compliance report. Non-compliance reporting can include: claims and reimbursement - clinical services - contractual requirements - information system - data collection and regulatory compliance - marketing – credentials - performance improvement requirements or lack there of - quality of care – utilization management - recipient Right's – safety - staff training - supervisory practices – service delivery.

Who Reports Non-compliance

If an employee or agent becomes aware of any wrongdoing, whether intentional or unintentional, by that employee or another employee, he or she must report the wrongdoing to the Compliance Officer. Non-compliance reporting can be done by voice mail, e-mail, fax or the Ethics Hotline (1-800-624-6689). The disclosure can be anonymous.

How are Non-compliances to be Reported

Non-compliance reporting can be done by voice mail, e-mail, fax or telephone. The disclosure can be anonymous.

Voice mail reporting – Call (231) 935-4099 and leave a voice message of all required reporting information.

E-mail all required reporting information to jane-swartout@nlcmh.org

Fax all required reporting information to (231) 933-4924

Or call the Ethics Hotline (1-800-624-6689)

Information to Include in Non-compliance Reporting

Regulatory compliance is an on-going process facilitated by NLCMH"s Compliance Officer.

Reporting information is to include:

- Reporting date
- Name of the provider – and -if consumer specific, Medicaid ID#
- County where provider located **and**

- Detailed description of the provider's questionable practice(s) **or** Detailed description of the contractual non-compliance **or** Detailed description of the regulatory non-compliance **or** Detailed description of the provider's inappropriate use of Medicaid service dollars **and**

- Description of any actions that may have been previously done to resolve the issue in question
- If available, supporting documentation
- Identify who is submitting the report – or – the report can be done anonymously.

To facilitate the non-compliance reporting process a form is available (NON-COMPLIANCE REPORTING FORM - **Attachment E**). This form can be completed and submitted, or used as a resource for reporting non-compliance by voice mail, e-mail or fax.

When Non-compliance is Reported

The Compliance Officer will maintain a tracking mechanism of all non-compliance's reported that includes findings and final determination for each report. Whatever the method of reporting, when the Compliance Officer receives a report of non-compliance he or she will investigate as follows:

- Determine whether the alleged wrongdoing is a violation of federal or state law, contract requirements, NLCMH's compliance plan, or other organizational standards or policy, or in some way jeopardizes, or puts at risk, the organization's operations or reputation. As necessary, the Compliance Officer will consult the Chief Executive Officer or seek other appropriate guidance.
- If the alleged wrongdoing is a violation, the Compliance Officer will take action equal with the seriousness of the allegation to determine the truth of the allegation. As appropriate, the Compliance Officer will consult with the Chief Executive Officer and/or legal counsel.
- If, upon investigation, the allegation is proven by the examination of facts to be true, the Compliance Officer shall immediately report this to the Chief Executive Officer with recommendations regarding appropriate disciplinary and corrective action.
- If the situation constitutes potential pay back or self-disclosure, the Compliance Officer, Chief Executive Officer, and Chief Managed Care Officer shall determine the appropriate course of action.
- If the alleged wrongdoing is a violation, the Compliance Officer will write a full and complete written report of the allegation, investigation, determination and actions. This report is to be submitted to the NLCMH Chief Executive Officer, and maintained in a secure location.

If systemic corrections are indicated, the Compliance Officer will submit appropriate information to the Quality Oversite Committee (QOC) or Quality Improvement Committee (QIC). The issue identified will determine which committee is appropriate to take action on it. The QOC or QIC will establish an action team consistent with the PDCA model. Final results of the action team will be submitted to the Compliance Officer for review and incorporation into the Compliance Plan.

Responding to Non-compliance

Instances of non-compliance will receive quick and certain responses. When systemic issues are determined to be the cause, in part or in full, the QOC or QIC will act quickly to address the systems involved. When individual action is determined to be the cause, in part or in full, quick and appropriate disciplinary action will be taken. Intentional wrongdoing WILL NOT be tolerated and will be subject to immediate disciplinary action up to an including termination of employment and reporting to federal or state authorities.

Definitions

Abuse – Provider practices that are inconsistent with sound fiscal, business or medical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid program (42 CFR § 455.2).

Contractual Non-compliance – Contractual non-compliance is when the provider does not follow specific criteria stated in a contract.

Fraud – Intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law (42 CFR § 455.2).

Health Care Waste -Health care waste is providing services longer than medically necessary.

Inappropriate use of Medicaid service dollars – Inappropriate use of Medicaid services dollars is the intentional deception or misrepresentation of deliberate and improper billing. Some examples of fraudulent use are claims submitted for the following:

- Billing amounts greater than usual and customary charges.
- Billing for services not provided or not fully provided.
- Billing higher paying procedures than the ones actually provided.
- Billing multiple procedures rather than comprehensive procedures.
- Billing unnecessary, inappropriate or harmful services.
- Billing non-authorized services, by using an authorized procedure code.

Non-compliance reporting – reporting of health care waste, questionable practices, or fraudulent use of Medicaid service dollars to NLCMH Compliance Officer.

Regulatory Non-compliance – Regulatory non-compliance is when a provider does not meet standard stated in Federal Law or State Rule/Regulation

Questionable Practices -Questionable practices are practices inconsistent with generally accepted business or behavioral health care practices and that fail to meet professionally recognized standards for behavioral health care. Some examples of questionable practices (might involve **unintentional** actions by providers, but involve unacceptable practices) are:

- The provision of inappropriate services.
- Providing services that are of inferior quality.
- Inadequate clinical record documentation.
- Poor communication and coordination of treatment/services.

COMPLIANCE ISSUE/CONCERN REPORTING

Date completing form: _____

Issue/Concern Identified:

Non-compliance Concern:

Preliminary Interventions prior to Compliance Officer Involvement:

Actions to be taken:

Additional Information to be gathered: Yes____ No ____ Inquiry to be initiated: Yes ____ No ____

Investigation to be initiated: Yes ____ No ____ Other action: _____

Additional Comments:

Name of individual providing information: _____ Date: _____
(Note: information can be provided anonymously)
Signature of Regulatory Compliance Personnel Receiving Information _____
Form Date 2013