

# **Northern Michigan Regional Entity**

## **Regulatory Compliance Plan – FY 2014**

### **Introduction**

It is the policy of Northern Michigan Regional Entity (NMRE), to obey the law and to follow ethical business practices. NMRE has a commitment to ensure employees and contract providers are fully informed about applicable laws and regulations so that they do not inadvertently engage in conduct that may raise compliance issues. The legal requirements relating to the quantitative and qualitative documentation of professional services, fee billing and reimbursement are primary concerns. The NMRE recognizes that its business relationships with other providers, vendors, and clients are subject to legal requirements and accountability standards.

### **Purpose**

To ensure, to the fullest extent possible, compliance with laws and regulations; that ethical business practices are followed; and that contractual and legal requirements are met. Further, to meet the objective of high quality service in accordance with applicable regulations through service provision, documentation of the service provided, and reimbursement for the service.

To further the organization's commitment to compliance and to protect its employees and contract providers, emphasis is placed on this compliance plan to address those regulatory issues likely to be of most consequence to its operations.

Compliance is 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.

### **Application**

Northern Michigan Regional Entity (NMRE) is a regional entity created by AuSable Valley Community Mental Health, Manistee-Benzie Community Mental Health (a.k.a. Centra Wellness Network), North Country Community Mental Health, Northeast Michigan Community Mental Health, and Northern Lakes Community Mental Health, under the authority of Section 204b of the Michigan Mental Health Code. The NMRE is a Medicaid specialty prepaid health inpatient plan (PIHP). It is the intent of NMRE that the scope of all compliance policies and procedures should promote integrity, support objectivity and foster trust.

The NMRE has a contract with Michigan Department of Community Mental Health (MDCH) as the Medicaid specialty PIHP for a twenty-one area (Region 2 in the State of Michigan). The NMRE Compliance Plan applies to providers and subcontractors receiving Medicaid payment under the prepaid health plan through the Northern Michigan Regional Entity or any of the five CMHSPs within the twenty-one county area.

This plan shall apply to all NMRE 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 the Northern Michigan Regional Entity are compliance with respect to human resources practices and training, under or over utilization of services, quality of care, data collection and submission processes, appropriate service authorization and documentation, and proper medical coding.

The primary provider network for the NMRE is comprised of the five CMHSPs. These comprehensive service providers offer services for adults and children with mental illness, developmental disabilities and co-occurring mental health and substance abuse disorders. All employees of the NMRE are subject to the requirements of this plan as a condition of employment. All aspects of this plan that addresses “provider organizations” shall also apply to the participating CMHSPs named above.

### **General Overview**

It is acknowledged that efforts to maintain compliance must be organization-wide and must be ongoing. In order to assure that these efforts are sustained, compliance activities are developed from a performance improvement perspective. The Northern Michigan Regional Entity believes that for services to be of the highest quality, they must be provided, 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 has the following key features:

- Designation of NMRE 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 unit level;
- Coordinated training of clinical and administrative staff and contract providers concerning applicable compliance requirements and policies;
- 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 well publicized disciplinary guidelines and development of policies addressing dealings with sanctioned individuals;
- 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 Responsibilities**

Primary responsibility for implementing and managing NMRE's compliance effort shall be assigned to the Regulatory Compliance Coordinator. The position of Compliance Coordinator will directly report to the NMRE CEO and indirectly, as required, to the governing body of NMRE. As appropriate, compliance program findings will be reported to the Operations Committee. The Compliance Coordinator will, with oversight of the NMRE CEO and the assistance of NMRE legal counsel where appropriate, perform the following activities:

- 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.
- Develop methods to ensure that employees are aware of the Code of Conduct and Policies and understand the importance of compliance.
- Develop methods to ensure that provider organization Code of Conduct and compliance standards are on par with the NMRE and that the CMHSPs can verify that their staff understand the importance of compliance.
- Assist in developing and delivering educational and training programs.
- Coordinate compliance reviews and audits, as required.
- Receive and investigate instances of suspected compliance issues, as set forth in this Plan.
- Develop appropriate corrective actions, as set forth in this Plan.
- Prepare Annual Compliance Review, as set forth in this Plan.
- Prepare Annual Corporate Compliance Work Plan, as set forth in this Plan.
- Prepare proposed revisions to the Compliance Plan as needed, with a review at least annually.
- Provide other assistance as directed by the CEO.

### **Compliance Oversight and Structure**

The designated Compliance Coordinator has primary responsibility for oversight and implementation of this plan. The Compliance Coordinator is given sufficient authority to promote and enforce compliance program issues.

The Compliance Coordinator will work with a Regional Compliance Committee as established by the PIHP. The Committee membership may include, but not be limited to, the following representatives:

- Compliance Leader from each Member Board
- Human Resources
- Information Systems

- Quality Assurance/improvement
- Finance/Reimbursement

The committee activities will include:

- Assist in implementation of the compliance program
- Evaluate and redirect the Compliance Coordinator
- Analyze the external business environment
- Conduct risk analysis and assessment
- Determine overall strategy or approach to promoting compliance and/or detecting violations of regulation
- Develop, approve and evaluate compliance policy and guidance
- Participate in compliance training
- Audit Compliance Plan

The responsibility for this program does not rest solely with the NMRE Board or the Compliance Coordinator. Every PIHP employee and/or agent, as well as those of the participating CMHSP organizations are responsible for compliance with regulations. Participation in these activities and commitment to the goals of this plan, are required for NMRE employees and agents.

The Compliance Office will review each CMH's system of recordkeeping (either manual or electronic) for each employee's participation in this plan and maintain documentation of participation for all NMRE staff. 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 NMRE. For providers contracted with the PIHP participation in, and acceptance of this plan is required. Each employee and agent bears responsibility for compliance. This responsibility includes:

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. Participate training sessions
5. Utilize the Compliance Access System as needed
6. Review, periodically, this Compliance Plan
7. Report immediately when and if you become aware of any violation of this Compliance Plan, or related policies and procedures. Reports can be made to the Compliance Coordinator, or the Compliance Leader of the member CMH Boards. 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 this plan
10. Refer ALL inquiries relating to compliance efforts and results to the NMRE's Compliance Coordinator, or Chief Executive Officer

11. Submit evidence of compliance attestation annually, acknowledging that all potential non-compliance issues have been reported. (see Attachment C)

### **Policy Guidelines**

Policies specific to the NMRE's operational practices will be reviewed on an annual basis and revised as necessary. The Code of Conduct will guide in 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**

Each CMHSP provider operation shall appoint a representative to serve as the compliance leader for that organization's activities. The CMHSPs compliance leaders will coordinate compliance activities with the NMRE's Compliance Coordinator and have regular contact with each other about matters of common interest.

Each CMHSP provider organization is responsible for the development and implementation of a plan to address compliance efforts. These plans shall, at a minimum, include the following features:

- A. Written policies 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 program for routine "spot checks" of compliance activities, with the CMHSP Compliance Leader sharing the results of such reviews with the NMRE's Compliance Coordinator;
- E. A system that tracks operational compliance issues within the CMHSP and NMRE that have been raised within the organization 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 during the succeeding year.

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

### **Communication, Education and 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 NMRE 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 PIHP employees and agents. This same rigor would apply to CMHSP organizations.

The compliance plan provides an internal process to clarify, educate, and train staff in contractual and regulatory requirements, and appropriate use of the CMH Prepaid Medicaid 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 the NMRE to sustain the efforts identified within this plan. As with any improvement effort, sustaining this plan will require regular communication to employees and agents. This includes communication regarding applicable laws and regulations; monitoring efforts; training efforts; improvement activities; and achievements. The Compliance Coordinator, as well as all supervisors, is responsible for this communication.

Education and Training – The compliance plan identifies three categories of education/training to meet all state and federal requirements. They are as follows:

1. *Initial Training* - The NMRE and member CMHSP are responsible for developing and assuring that initial training is provided to all employees during their orientation. This training will address the substantive legal standards and the processes identified in this manual. Completion of this training will be documented.

Each employee will receive a Compliance Plan at orientation, along with a Compliance Plan Acknowledgement Form (Attachment A) and the Compliance Attestation Form (Attachment C). Each employee, upon receipt of this plan, will have one week to read the plan and acknowledge acceptance of its principles and obligation to report fraud, abuse or waste of public funding, as evidenced by signing the acknowledgement form and the attestation form. Evidence of acknowledgement and attestation must be submitted to the PIHP at least annually.

Employees are encouraged to actively participate in this training process and to ask questions. It is essential that all employees understand these requirements and processes. It is the responsibility of the employee to assure that he or she understands this plan.

2. *Focus Training* - In addition to the initial training for all employees, specialized training will be developed for targeted positions and functions. The NMRE Compliance Coordinator, in coordination with the NMRE Provider Network Manager, will identify those positions requiring additional, targeted training due to the particular tasks for which they are responsible. This would include, but not be limited to; NMRE CEO, CFO, CIO and MIS staff.
3. *Ongoing Training* - The Compliance Coordinator and the Provider Network Manager will routinely review available data to identify emerging trends and training needs relating to compliance issues and this plan. Data sources include, but are not limited to: indicator report, question/answer or reporting via *e-mail/voicemail/website/mail (\*access systems)*, record audit results (see Ongoing Monitoring and Reporting), MDCH report and staff activity reports, as required.
  - As training opportunities and needs are identified, either for targeted staff or all staff, the Compliance Coordinator will develop and implement appropriate training. Training may be provided by NMRE staff or be arranged through outside sources.
  - Compliance training will be incorporated in the organization’s annual training requirements. This annual training will have three objectives: (1) provide detailed information regarding false claims recovery under the federal and State False Claims Act, various protections under the

Whistleblower Protections Act and other regulations as they apply, (2) review the Compliance Plan and efforts, and (3) address emerging needs as determined through monitoring and data analysis. Member CMHSPs are required to assure similar training occurs within their organizations.

- All ongoing training, whether annual or targeted, will be documented.
- Ongoing training occurs as well through correspondence and communication from the Compliance Coordinator. The Compliance Coordinator will use the question/answer and hot-line reporting system as a tool for identifying and promptly responding to staff questions and requests.

Training Personnel - All staff participating in providing training relating 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 Coordinator is responsible for verifying the competency of training staff. The Compliance Coordinator will also review the content information for compliance training done via webinars or e-learning systems.

### **Ongoing Monitoring and Reporting**

Compliance activities are developed from a performance improvement (PI) perspective. This approach uses the objective of providing a high quality service. 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 the NMRE's commitment to the principles of performance improvement, the Compliance Coordinator and Compliance Leaders will work with quality improvements when possible and appropriate.

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 Coordinator 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 Coordinator may conduct audits of the NMRE compliance plan and the compliance plans of participating CMHSPs. 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 access 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. Monthly verification that no employee/agent of Northern Regional Entity is listed on any federal or state sanctioned providers list.

At least once in each three calendar year period, the Compliance Coordinator shall arrange for an external audit of the compliance plan. This audit shall focus on the integrity of the NMRE compliance system. The results of this audit shall be reported to the Compliance Coordinator and the CEO. This information will then be reported to the NMRE Board, as well as the Operations Committee. As appropriate, information gathered from this process will be used in the performance improvement process to address systemic issues.

Annually, the Compliance Coordinator 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 and will incorporate input from appropriate NMRE Committees. Appropriate changes will be made and submitted to the NMRE Board for review. Upon Board approval, the changes will be distributed to all employees and agents. Changes to the Regulatory Compliance Plan will be included in the annual compliance training and employees will be required to sign an acknowledgement form.

**Reporting** - This plan addresses two types of reporting. The first type of reporting involves the obligation to and avenues for, employees and agents reporting noncompliance. The second type of reporting involves the regular reporting of data and information pertinent to the compliance activities of the NMRE and its five CMHSP providers.

1. **Reporting by Employee 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 must report the wrongdoing to the Compliance Coordinator, or the designated Compliance Leader at the member CMHSP Board through one of the methods described below (*e-mail/voicemail/website/mail - access system*). Individuals reporting anonymously must follow-up within a few days via voice mail or e-mail to answer follow-up questions. Specific elements to include in a report are addressed in "Non-compliance Reporting".
  - a. **Hotline** - Reporting can be done by e-mail or voicemail or postal or interagency mail, and a web based reporting. The reporting hotline access system is operated by the Compliance Coordinator and/or CMHSP Compliance Leader during regular working hours.
  - b. **Voice Mail or E-mail** - The Compliance Coordinator/Leader shall maintain a voice mailbox and e-mail address for compliance reporting. The outgoing message on the voice mail shall instruct the caller regarding compliance reporting, anonymity, and reporting obligations.
  - c. **Postal or Interagency mail** - This method of reporting is to be directed to the Compliance Coordinator/Leader, and marked "Confidential – Personal".
  - d. **Web-based reporting** - The NMRE website (nmre.org) and other electronic medium may have a confidential method for reporting compliance issues.



- e. **Anonymous Reporting** - 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 within three business days of the original report to see if the Compliance Coordinator/Leader has follow-up questions.
- f. The Compliance Coordinator/Leader will check each reporting system (*e-mail/voicemail/website/mail - access system*) each business day. Upon receiving a call or e-mail via the reporting Hotline, the Compliance Coordinator/Leader will ask questions, listen to (or read e-mail) the report, and complete a written report of the call.
- g. If further investigation is warranted, the Compliance Coordinator/Leader shall conduct the investigation. As appropriate, the Compliance Coordinator/Leader shall consult with the CEO, Executive Director or legal counsel.
- h. As needed, the Compliance Coordinator/Leader shall ask additional questions of the employee making the report. If the individual chooses to make the report anonymously, the Compliance Coordinator/Leader shall make arrangements for the individual to call back at specified times, or e-mail, for follow-up questions or communication.
- i. 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.
- j. Whatever the method of reporting, when the Compliance Coordinator/Leader receives a report alleging wrongdoing, he or she shall take the following response steps:
  - The Compliance Coordinator will initiate an inquiry within 3 business days after receiving any report alleging wrongdoing.
  - The Compliance Coordinator/Leader 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 Coordinator shall access legal counsel, consult the CEO, or seek other appropriate guidance.
  - If the alleged wrongdoing is a violation, the Compliance Coordinator/Leader shall take action commensurate with the gravity of the allegation to determine the veracity of the allegation. As appropriate, the Compliance Coordinator/Leader shall consult with the CEO, Director and/or legal counsel.
  - If, upon investigation, the allegation is proven by the preponderance of evidence to be true, the Compliance Coordinator/Leader shall immediately report this to the CEO, with recommendations regarding appropriate disciplinary and corrective action.
  - If the situation constitutes a potential removal of MDCH posting of any activity, the Compliance Coordinator/Leader and CEO shall consult with legal counsel to determine the appropriate course of action, if any. Removal of activity posting must be completed within 60 days after discovery.

- A full and complete written report of the allegation, investigation, determination and actions shall be written by the Compliance Coordinator or CMHSP Compliance Leader. This report is to be submitted to the NMRE CEO and CMHSP Director and maintained in a secure location.
  - If systemic corrections are indicated, the Compliance Coordinator shall submit appropriate information (*Appropriate information includes that necessary to institute a quality action team process while protecting the confidentiality of the people involved to the extent appropriate and necessary.*) to the appropriate quality improvement body (NMRE Quality Improvement, Regional Compliance, Quality Oversight Committee, or NMRE Quality Improvement). The Committee will conduct the review consistent with PDCA (Plan, Do, Check, Act) model, make final recommendations, and communicate recommendations to the Compliance Coordinator, as appropriate.
  - If there is any knowledge of potential fraud and or abuse allegations within any program, the Compliance Coordinator must inform the CEO, who will then report allegations directly to the Michigan Department of Community Health, Office of the Health Services Inspector General, following protocols outlined in the current contract between MDCH and the PIHP, Section 10.
  - The Compliance Coordinator will prepare a report at the end of each fiscal year of all suspected fraud and/or abuse reports made and their status to MDCH Office of Health Services Inspector General. This report will be submitted to the CEO no later than December 31<sup>st</sup> of each year. In addition to the number of complaints of fraud and abuse made, the report will include the following elements for each complaint:
    - Name of individual investigated
    - Patient ID number
    - Source of complaint
    - Type of provider
    - Nature of complaint
    - Approximate dollars involved, and
    - Legal and Administrative disposition of the case.
- k. Under no circumstances will Northern Regional Entity tolerate retribution against any employee or agent simply for making a “good faith” report to the Compliance Coordinator.
- However, intentionally erroneous reports will be subject to disciplinary action.
  - Similarly, if an employee or agent intentionally minimizes their own involvement 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 disciplinary action.
2. *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. Compliance Leaders from member CMH Boards will provide information to the Compliance Coordinator regarding any reports (of non-compliance) they

have received, at least quarterly. The Compliance Coordinator will establish a regular reporting schedule which will minimally include:

- Quarterly reports of record audits
- Quarterly reports of Hotline access system (*e-mail/voicemail/ website/land-mail*)
- 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.

### **Responding to Non-compliance**

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, the NMRE QI Committee, or the Regional Quality Oversight 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 non-compliance 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.
- C. See Non-compliance Reporting, Attachment B

### **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 the NMRE 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 may include: audit results, MMBPIS reports, Key Indicators, QI Council Indicators, staff activity reports, and employee input processes.
- The Compliance Coordinator or NMRE QIC 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 Coordinator, Compliance Leader from member CMH Boards, any member of the NMRE Team, or of the Regional QOC, or any other employee, may request that the NMRE QIC consider the *review of a process*.
  1. When such a review is indicated by either objective or sufficient anecdotal information, the Committee will review the issue and make recommendations regarding the process in question.
  2. The NMRE QIC 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 Coordinator will arrange for a review of the NMRE's current compliance and regulatory operations. The purpose of the review, which should include probe samples, as the Compliance Coordinator considers advisable, is to ascertain whether the compliance operations of the NMRE are within standards. A written report describing the results of the audit should be prepared on or before December 1.

### **Annual Report and Work Plan**

On or before December 1, the Compliance Coordinator should prepare and distribute to the CEO and the NMRE 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 copy of the Hotline access system log for the preceding fiscal year;
3. A copy of the preceding fiscal year's Compliance Review;
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 the NM RE's policy on dealing with excluded persons;
6. Recommendations for changes in the Plan that might improve the effectiveness of the NMRE - NMRE's compliance effort; and
7. A copy of the proposed work plan for the next fiscal year.

### **Revisions to this 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 Plan should be regularly reviewed to assess whether it is working. The Plan should be changed as experience shows that a certain approach is not effective or suggests a better alternative

### **Excluded Persons Policy**

The NMRE confirms the importance of compliance with 42U.S.C.1320a-7(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." CMHSP providers are expected to comply with all of the following, as well as the NMRE:

- A. Accordingly, prior to employing or contracting with any provider for NMRE, NMRE 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, and 2) the GSA Debarred Bidders List and (3) the State of Michigan Sanctioned Providers List.
- B. The NMRE's Compliance Coordinator will provide training to employees with responsibility for human resources functions about how to access those lists, if required. If the NMRE learns that a prospective provider (either as an employee or contractor) is excluded, NMRE will not hire or use that provider.
- C. Additionally, the Regulatory Compliance Coordinator representative will access and check the OIG List of Excluded Individuals//Entities, the GSA Excluded party List, the MSA Sanctioned Providers (Michigan), every 30 days. Evidence of this check will be forwarded to the Compliance Office every month. This is to assure that no name of any individual hired, under contract, or appointed as a board member appears in these databases
- D. If the NMRE learns that any of its current providers (either as employees or contractors) has been proposed for exclusion or excluded, it will remove such individuals from any involvement in or responsibility for federal health insurance programs until such time that NMRE has confirmed that the matter has been resolved. In the event that NMRE learns that one of its Board Members has been proposed for exclusion or excluded, it will ask that the Board Member step down from any responsibility relating to federally funded programs until such time as the matter is resolved.
- E. If an individual has been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; had a professional license revoked or suspended, or has been sanctioned, whether personally or through an entity, by the Medicare or Medicaid programs after being hired, contracted or appointed, they must report such to the CEO within 3 (three) business days of such action. Failure to provide such notification will result in disciplinary action, up to and including immediate termination of employment, contract or appointment.

## REFERENCES

- *PIHP Contract with MDCH Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program FY 14*
- *Department of Health and Human Resources, Centers for Medicare and Medicaid Services, 42CFR438, Part II, Subpart I, Section 438.700, Subsections (a)(b)(c) and (d), Basis for Imposition of Sanctions*
- *Department of Health and Human Resources, Centers for Medicare and Medicaid Services, 42CFR438, Part II, Subpart H, Section 438.608, Subsections (a) and (b), Program Integrity Requirements*
- *Department of Health and Human Resources, Centers for Medicare and Medicaid Services, 42CFR438, Part II, Subpart C, Section 438.106, Subsection (a), (b), and (c), Liability for Payment*
- *Federal Register/Vol. 63, No. 243/Friday, December 18, 1998/Notices – Department of Health and Human Services, Office of Inspector General, "Publications of the OIG Compliance Program Guidance for Third-Party Medical Billing Companies"*

- *Center for Medicare and Medicaid (CMS) State Medicaid Director Letter, June 12, 2008 regarding Medicaid provider requirements for monthly verification of excluded individuals and entities.*
- *Office of Inspector General (OIG) Special Advisory Bulletin on the Effect of Exclusion from Participation in Federal Health Care Programs - Issued May 8, 2013*
- *Office of Inspector General (OIG) News Release, April 7, 2013 – “Provider’s Self Disclosure Protocols”*
- *Federal Sentencing Guidelines, Section 8 Sentencing of Organizations, as amended November 1, 2011*
- *Centers for Medicare and Medicaid (CMS) State Medicaid Director Letter, September 1, 2010 regarding Additional Medicaid Integrity Program Provisions of the Affordable Care Act 2010, Section 6507*

REVISED:

REVIEWED:

APPROVED: \_\_\_\_\_

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 Dave Schneider  
 Chief Executive Officer  
 Northern Michigan Regional Entity

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 Date

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 Joe Stone  
 Northern Michigan Regional Entity Board Chair

\_\_\_\_\_  
 Date

NORTHERN REGIONAL ENTITY

**Regulatory Compliance Plan**

**Compliance Plan Acknowledgement Form**

On \_\_\_\_\_ I received orientation and training pertaining  
Today's Date to the Regulatory Compliance Plan.

I received a copy of the Regulatory Compliance Plan \_\_\_\_\_  
Initials

I understand that I am to read the Regulatory 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 Regulatory Compliance Plan I can  
contact: Christine Taylor, Regulatory Compliance Coordinator for clarification. She can be  
reached at NMRE – Northern Michigan Regional Entity, 1420 Plaza Drive, Petoskey, MI  
49770. Phone: (231)439-1278, E-mail: ctaylor@nmre.org. \_\_\_\_\_  
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

Agency I work for: \_\_\_\_\_

\_\_\_\_\_  
Date

*Evidence of initial training (either manual or electronic version) must be maintained by the employer.*

**Northern Michigan Regional Entity  
Northern Regional Entity**

**Prepaid Health Plans – Mental Health  
Regulatory Compliance**

**REGULATORY NON-COMPLIANCE REPORTING**

**Purpose:** To provide an internal process for the referral and monitoring of contractual non-compliance, regulatory non-compliance, or inappropriate use of community mental health Prepaid Medicaid service dollars.

**Intent:** To facilitate reporting of health care waste, questionable practices, or inappropriate use of Medicaid service dollars.

**Who can report:** All individuals affiliated with Northern Regional Entity are responsible for compliance with regulations and contracts – this includes Board members, all staff employed by North Country CMH, AuSable Valley CMH, or Northeast Michigan CMH services and all subcontractors.

**Who is it reported to:** Christine Taylor, Regulatory Compliance Coordinator, or Compliance Leader from member CMH Boards

**How is it reported:** Regulatory non-compliance reporting can be done by voice mail, e-mail, web access, or in writing. The 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 and March 24, 2009 followed up on various aspects of the October 1998 letter, and notified providers of the responses from providers on self-disclosure.

When fraud is uncovered by the OIG they will look to see whether the NMRE 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.

The outcome of any case identified by the OIG will be impacted by the NMRE's ability to point to tangible, positive outcomes stemming from its own compliance efforts.



Evidence that the NMRE's regulatory 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 the NMRE's Compliance Program 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 NMRE's 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 the NMRE tolerate retribution against any employee or agent simply for making a "good faith" report to the Compliance Coordinator.**
- 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 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.

Health care waste, questionable practices, contractual or regulatory non-compliances, or inappropriate use of the Medicaid Service dollar can be identified in varied aspects of the service delivery process. The following are provided as a point of reference when completing a non-compliance report:

Non-compliance reporting can include:

- a. Administrative processes
- b. Billing Practices
- c. Clinical services
- d. Contractual requirements
- e. Information system and data collections

### **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 Coordinator, or the Compliance Leader at the member CMH Board. Regulatory non-compliance reporting can be done by voice mail, e-mail, web access, or in writing. The disclosure can be anonymous.

### **How are Non-compliances to be Reported**

Non-compliance reporting can be done by voice mail, e-mail, web access, in person or in writing. *The report can be anonymous.*

#### **Compliance Coordinator at Northern Michigan Regional Entity – Christine Taylor:**

- Voice mail reporting – Call (231) 439-1278 and leave a voice message of all required reporting information.
- E-mail all required reporting information to Christine Taylor at [ctaylor@nmre.org](mailto:ctaylor@nmre.org)
- Web Access - Go to [nmre.org](http://nmre.org), click on Compliance Resources, select Report Compliance Issue, enter summary of issue in the text box. To maintain anonymity, use a non-identifying email address (example Hotmail, Gmail or other email account)
- Send written non-compliance reports to the attention of Christine Taylor at 1420 Plaza Drive, Petoskey, MI 49770

#### **Compliance Leader at North Country CMH – Christine Gebhard:**

- Voice mail reporting – Call (231)439-1229 and leave a voice message of all required reporting information.
- E-mail all required reporting information to Christine Gebhard at [cgebhard@norcocmh.org](mailto:cgebhard@norcocmh.org)
- Send written non-compliance reports to the attention of Christine Gebhard at 1420 Plaza Drive, Petoskey, MI 49770

#### **Compliance Leader at North East Michigan CMH – Ed LaFramboise:**

- Voice mail reporting – Call (989)358-7604 and leave a voice message of all required reporting information.
- E-mail all required reporting information to Ed LaFramboise at [elaframboise@nemcmh.org](mailto:elaframboise@nemcmh.org)
- Send written non-compliance reports to the attention of Ed LaFramboise at 400 Johnson St., Alpena, MI 49707

#### **Compliance Leader at AuSable Valley CMH – Diane Pelts:**

- Voice mail reporting – Call (989)747-3003 and leave a voice message of all required reporting information.
- E-mail all required reporting information to Diane Pelts at [diane.pelts@avcmh.org](mailto:diane.pelts@avcmh.org)

- Send written non-compliance reports to the attention of Diane Pelts at 1199 W. Harris Ave., P.O. Box 310, Tawas City, MI 48764

**Chief Operations Officer at Centra Wellness – Ingemar Johansson:**

- Voice mail reporting – Call (231)309-1721 and leave a voice message of all required reporting information.
- E-mail all required reporting information to [ijohansson@centrawellness.org](mailto:ijohansson@centrawellness.org)
- Send written non-compliance reports to the attention of Ingemar Johansson at 310 Glocheski Dr, Manistee, MI 49660

**Compliance Leader at Northern Lakes CMH – Jane Swartout**

- Voice mail reporting – Call (231)935-4099 or 1-800-624-6689 and leave a voice message of all required reporting information.
- E-mail all required reporting information to Jane Swartout at [jane.swartout@nlcmh.org](mailto:jane.swartout@nlcmh.org)
- Send written non-compliance reports to the attention of Jane Swartout at 105 Hall St, Suite A, Traverse City, MI 49684

**Information to Include in Non-compliance Reporting**

Regulatory compliance is an on-going process facilitated by Northern NMRE's Compliance Coordinator.

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 alleged wrongdoing **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 (Form R-1 NON-COMPLIANCE REPORTING FORM). This form can be completed and submitted, or used as a resource for reporting non-compliance by voice mail or e-mail.

**When Non-compliance is Reported**

The Compliance Coordinator/Leader 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 Coordinator/Leader receives a report of non-compliance he or she will initiate an investigation within three (3) business days of the report. The Compliance Coordinator/Leader will investigate as follows:

- Determine whether the alleged wrongdoing is a violation of federal or state law, contract requirements, the NMRE'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 Coordinator/Leader will access legal counsel, consult the NMRE CEO, or seek other appropriate guidance.
- If the alleged wrongdoing is a violation, the Compliance Coordinator/Leader will take action equal with the seriousness of the allegation to determine the truth of the allegation. As

appropriate, the Compliance Coordinator/Leader will consult with the NMRE CEO and CMH Executive Director and legal counsel, if required.

- If, upon investigation, the allegation is proven by the examination of facts to be true, the Compliance Coordinator/Leader shall immediately report this to the NMRE CEO with recommendations regarding appropriate disciplinary and corrective action.
- If the situation constitutes potential pay back or self-disclosure, the Compliance Coordinator/Leader and NMRE CEO shall consult with legal counsel to determine the appropriate course of action.
- The Compliance Coordinator/Leader will write a full and complete written report of the allegation, investigation, determination and actions. This report is to be submitted to the NMRE CEO maintained in a secure location.
- If systemic corrections are indicated, the Compliance Coordinator/Leader will submit appropriate information to the Quality Oversight Committee or NMRE QI Committee. The QOC or NMRE QIC will establish an action team consistent with the PDCA model. Final results of the action team will be submitted to the Compliance Coordinator 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 appropriate committee 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 and 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 the Regulatory Compliance program of the Northern Regional Entity.

**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.

### Resources

*Northern Michigan Regional Entity – Northern Regional Entity Compliance Plan*

PIHP Contract with MDCH Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program FY 2014

*Department of Health and Human Resources, Centers for Medicare and Medicaid Services, 42CFR438, Part II, Subpart I, Section 438.700, Subsections (a)(b)(c) and (d), Basis for Imposition of Sanctions*

*Department of Health and Human Resources, Centers for Medicare and Medicaid Services, 42CFR438, Part II, Subpart H, Section 438.608, Subsections (a) and (b), Program Integrity Requirements*

*Department of Health and Human Resources, Centers for Medicare and Medicaid Services, 42CFR438, Part II, Subpart C, Section 438.106, Subsection (a), (b), and (c), Liability for Payment*

*OIG News Release, April 7, 2013 – “Provider’s Self Disclosure Protocols”*

**Northern Michigan Regional Entity  
Northern Regional Entity**

**Regulatory Compliance**

**NON-COMPLIANCE REPORTING FORM**

Date of reporting: \_\_\_\_\_ (use back of sheet or additional pages as needed)

Name of the provider reporting about: \_\_\_\_\_

If consumer specific, provide name and/or consumer identification number \_\_\_\_\_

County where provider located: \_\_\_\_\_

Describe (in detail) the alleged Medicaid fraud, waste or abuse issue:

Describe any actions that may have been previously done to resolve the issue in question.

Send to Christine Taylor, Regulatory Compliance Coordinator, Northern Michigan Regional Entity, 1420 Plaza Drive, Petoskey, MI 49770, or fax: 231-487-9059, or attach to email: [ctaylor@nmre.org](mailto:ctaylor@nmre.org), or report via nmre.org click on Compliance Resources and select Report Compliance Issue.

Print Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Signature: \_\_\_\_\_

**Note:** This report can be submitted anonymously. If reported anonymously, must call or email within 3 business days of original report for follow-up questions or information by the Compliance Coordinator.

Office Use Only - Date Report received at Regulatory Compliance: \_\_\_\_\_ Initials of person receiving report \_\_\_\_\_  
Mode of Contact: \_\_\_\_\_ Type of Issue: \_\_\_\_\_

## Northern Michigan Regional Entity Compliance Attestation

I, \_\_\_\_\_, as an employee of \_\_\_\_\_ CMH, a member of Northern Michigan Regional Entity recognize and acknowledge my obligation to report any incidence of fraud, abuse or waste of public funding to the organization.

I understand that this obligation is explained in the Northern Michigan Regional Entity Regulatory Compliance Plan. This plan gives guidance on what is reportable, where to direct questions, and how to report.

As of this date, I am not aware of any reportable incident, or I have reported any incidence of non-compliance of which I am aware and it has been objectively reviewed and I have received a response from the organization. Should I become aware that a situation is potentially a violation of the False Claims Act, or an otherwise reportable occurrence, I will report immediately, as specified in the Regulatory Compliance Plan.

Compliance Training Date: \_\_\_\_\_

My signature below is my certification that I have never been convicted of or had a civil judgment rendered against me for commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or destruction of records, making false statements, or receiving stolen property; have never had a professional license revoked or suspended and have never been sanctioned, whether personally or through an entity, by Medicare or Medicaid programs.

I also understand that I am under obligation to report to the CEO, within three business days, any convictions of or civil judgment rendered against me for any of the above offenses.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date