



# **CORPORATE COMPLIANCE PLAN**

(Reviewed annually, updated as needed)

2/12, 02/13, 11/14, 01/16, 01/17, 10/17, 1/19, 2/20, 02/22, 10/23, 01/2024

Approved by OnPoint Board January 16, 2024

## Introduction

Having a compliance plan is important for many reasons beyond the most obvious — it's required by law. An effective compliance plan is crucial for preventing fraudulent claims, erroneous billing, preparing for potential audits, and avoiding ethical conflicts in business operations and services delivered to persons served.

Additionally, if noncompliance with the law results in a Department of Health and Human Services' Office of Inspector General (DHHS-OIG) complaint and investigation, the consequences can be significant. Not understanding the law or failing to provide compliance training for staff is not an excuse when violations occur.

The range of possible penalties that the government can impose for submitting fraudulent or erroneous claims or violating state or federal fraud and abuse laws include exclusion from Medicare and Medicaid, civil and criminal penalties, and/or the loss of a professional licenses.

The Corporate Compliance Plan is a most crucial part of the overall OnPoint Corporate Compliance Program (see OnPoint Policy 901). The Compliance Plan provides a formal statement of OnPoint's intention to conduct itself ethically in regard to business operations, government regulations, and conduct services and care; and it includes the required seven fundamental elements of an effective compliance plan, which provides the overall strategy on how the agency will address fraud, waste, and abuse.

## Key Definitions and Terms

- Abuse. Practices that are inconsistent with sound fiscal, business, or clinical practices, and result in unnecessary costs to the Medicaid and Medicare programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care (42CFR 455.2).
- Fraud (Federal Claims Act). An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some authorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act (42CRF 455.2).
- Fraud (per Michigan statue and case law interpretation). Under Michigan law, a finding of Medicaid fraud can be based upon evidence that a person "should have been aware that the nature of his or her conduct constituted a false claim for Medicaid benefits, akin to constructive knowledge." Errors or mistakes do not constitute "knowing" conduct necessary to establish Medicaid fraud, unless the person's "course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present."
- Waste. Over utilization of services or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.
- Other terms related to compliance can be found within policy attachment 901.5 Compliance Related Definitions.

## Legal Basis for Compliance Plan

The legal basis for the OnPoint Corporate Compliance Plan centers around five key laws and statutes:

1. The Federal False Claims Act.  
This Act (31 U.S.C. §§ 3729–3733) applies when an agency or individual knowingly presents or causes to be presented a false or fraudulent claim for payment; knowingly uses or causes to be

used a false record or statement to get a claim paid; conspires with others to get a false or fraudulent claim paid; or knowingly uses or causes to be used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Federal Government or its entity. In addition to the Federal False Claim Act, the Michigan False Claims Act prohibits fraud in the obtaining of benefits or payments in conjunction with the Michigan Medical assistance program; to prohibit kickbacks or bribes in connection with the program to prohibit conspiracies in obtaining benefits or payments, and to authorize the Michigan Attorney General to investigate alleged violations of this Act.

2. The Anti-Kickback Statute.

This Act (42 U.S.C. § 1320a-7b(b)) prohibits the offer, solicitation, payment or receipt of remuneration, in cash or in kind, in return for or to induce a referral for any service paid for or supported by the Federal government or for any good or service paid for in connection with the delivery of services.

3. Exclusion Statute

Under the Exclusion Statute (42 U.S.C. § 1320a-7), HHS-OIG must exclude individuals or entities from participation in all federal healthcare programs when certain offenses are committed.

Examples of criminal offenses that will result in exclusion include:

- Medicare or Medicaid fraud
- Abuse or neglect
- Felony convictions for other healthcare-related fraud, theft, or other financial misconduct
- Felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances

4. Affordable Care Act

This ACT requires agencies to have a written and operable compliance program capable of preventing, identifying, reporting and ameliorating fraud, waste, and abuse. All OnPoint employees and provider network are within the scope of the OnPoint Compliance Plan.

5. Civil Monetary Penalties Law

The Civil Monetary Penalties Law (42 U.S.C. § 1320a-7a) allows HHS-OIG to seek civil monetary penalties and/or exclusion for many offenses. In 2017, an adjustment went into effect allowing for increases in civil monetary penalty ranges due to annual inflation. Penalties can range from several hundred to multimillion dollars based on the violation(s) cited.

The Federal government agencies responsible for enforcing these laws are the U.S. Department of Justice, HHS-OIG, and the Centers for Medicare & Medicaid Services (CMS). In addition, the Michigan Attorney General's Office has responsibilities in Michigan for enforcement.

New or revised regulations or requirements can represent potential high risk for non-compliance. As these changes become effective, the Corporate Compliance Committee may determine that a special focus and/or plan are needed to become compliant in the given area.

There are numerous laws and regulations that affect the OnPoint Compliance Program and Plan. For a more extensive list of compliance related laws and regulations see the list of Federal and Michigan Laws under "References" of Policy #901 Corporate Compliance Program.

## Seven Fundamental Elements of an Effective Compliance Plan

The HHS-OIG has declared that the elements described in Chapter 8 of the 2015 *United States Sentencing Commission Guidelines Manual* are the seven fundamental elements of an effective compliance plan. These fundamental elements are stated within the OnPoint Corporate Compliance Plan as:

1. [Compliance Standards and Procedures](#). The development and distribution of written Employee Code (standards) of Conduct/Ethics, as well as written policies and procedures that promote the agency's commitment to aggressively addressing potential fraud, waste, and/or abuse.
2. [Compliance Program Oversight](#). The designation of a Compliance Officer, Compliance Committee, and other oversight designees who are responsible for the operation authority of the compliance program.
3. [Credentialing and Due Diligence](#). Credentialing, criminal history checks, sanction checks and conducting due diligence on employees, potential employees and contractors helps to ensure the integrity of the workforce and contractors.
4. [Effective Education and Communication](#). The development and provision of regular, effective training for all employees and the development of communication mechanisms between the Compliance Officer and/or Compliance Committee with employees and provider agencies, while assuring an anonymity process and protection from retaliation.
5. [Reporting, Response and Prevention](#). The development and revision of policies, procedures and processes that address the detection of offenses, corrective actions, and the reporting to government officials when appropriate.
6. [Monitoring, Auditing and Assessment of Risk](#). The use of investigations and internal monitoring to assist in identifying areas of concern and opportunities for improvement.
7. [Enforcement and Discipline](#). The development of disciplinary practices that are consistently communicated and enforced.

Each of these elements are further described in the following pages.

### Element 1 - Compliance Standards and Procedures

An effective compliance program is dependent on written policies, procedures, and code of ethical conduct. The overview of the OnPoint compliance standards and practices are outlined in policy 901, Corporate Compliance Program and this document, the OnPoint Corporate Compliance Plan *901.1*. Other compliance policies, procedures and standards are found in section 9 on the OnPoint policy and procedure manual.

As part of policy and procedure, OnPoint has established its Employee Code of Conduct/Ethics. The Employee Code of Conduct/Ethics has been established using the following six principles:

1. *Honesty* – we will be truthful in all our endeavors, to be honest and forthright with one another and with persons served, service providers and community partners.
2. *Respect* – we will treat one another with dignity and fairness, appreciating the diversity within our community and the uniqueness of each individual. Staff will use language that communicates respect.
3. *Trust* – we will build confidence through teamwork and open, candid communication at all levels of the organization.
4. *Responsibility* – we will speak up and allow others to speak without fear of retribution and report concerns within the organization, including any violation of law, regulation, ethical standard, and OnPoint policy.
5. *Citizenship* – we will obey the laws of the land, work to make our community more productive, and act with pride and confidence as a representative of OnPoint.
6. *Competency* – we will have and maintain the required competencies and credentials for carrying out job responsibilities.

The Employee *Code of Conduct/Ethics* is provided in Attachment *901.2*. Each staff member must sign an

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attestation that they have read, understood, and adhere to the Employee Code of Conduct/Ethics at the time of hire and annually thereafter.

### **Element 2 – Compliance Program Oversight**

OnPoint has designated two key roles, the OnPoint Compliance Officer, and the Compliance Committee, for the primary oversight and administration of the Compliance Program. The Compliance Officer:

- Reports directly to the Executive Director and has a direct line of report to the OnPoint Board.
- Must be very familiar with the operational practices and compliance activities.
- Is the chairperson and member of the Compliance Committee.

The Compliance Committee is a multidisciplinary committee that reports directly to the Management Team and the Executive Director. The Compliance Officer and Compliance Committee are jointly responsible for:

- Reviewing and updating compliance policies and procedures.
- Developing and revising, as needed, the compliance program and plan and the risk assessment plan.
- Monitoring and reviewing the effectiveness of the compliance program and plan.
- Conducting and overseeing compliance investigations.

For more information on the roles of the Compliance Officer and Compliance Committee, refer to Attachment 901.3 *Compliance Structure and Oversight*.

### **Element 3 – Credentialing and Due Diligence**

OnPoint conducts thorough background checks on all new employees and periodic background checks on existing employees. The practice verifies that employees have not engaged in illegal activities and are not on the exclusion list of Medicaid or Medicare providers.

A number of activities are carried out to ensure that all staff and contract provider employees have the necessary competencies and are free from criminal convictions that would impair their ability to work with or care for persons served. Depending on the type of position, these activities may include:

- Office of Inspector General Database for sanction inquiry.
- State Licensing Database.
- Privileging.
- Credentialing.
- Competency reviews within agency training records.
- Reference and criminal checks at hire.

New employees are hired through a detailed pre-employment screening and hiring process Credentialing and re-credentialing of all staff and provider organizations is conducted. Other due diligence is conducted in the hiring and periodic assessment of employees.

Verification that all employees and volunteers transporting persons served have a valid driver's license as well as a safe driving record.

Other due diligence is conducted when hiring or contracting with providers and other vendors where indicated.

### **Element 4 – Effective Education and Communication**

The fourth core element is effective training and education to ensure there is an adequate understanding of the expectations set forth in the compliance plan and employee code of conduct/ethics.

Compliance training is mandatory for all employees as well as Board members. The initial training provides a comprehensive review of the OnPoint Compliance Plan and Employee Code of Conduct/Ethics. Thereafter, an annual review training highlights the Compliance Plan and any changes or new developments as well as re-emphasizes the OnPoint Employee Code of Conduct/Ethics. Additional training may be required for employees involved in specific areas of risk. Successful completion of training is considered a condition of employment and failure to comply will result in disciplinary action up to and including termination.

Open lines of communication between the Compliance Officer and OnPoint employees and its provider agencies are essential to staff's knowledge and awareness of compliance issues, to the successful implementation of the Compliance Plan, and minimizing noncompliance. The Compliance Officer will communicate compliance messages via informal training methods, such as posters, newsletters, and Intranet communications.

### **Element 5 – Reporting, Response and Prevention**

All employees, contract providers, and board members of OnPoint have the responsibility of ensuring the effectiveness of the agency's compliance efforts by adhering to the Corporate Compliance Plan and Employee Code of Conduct/Ethics and reporting suspected violations.

Any suspected illegal, unethical, or improper activities need to be reported. Some examples of suspected violations include:

- Billing for services, assessments or medical tests that were never performed.
- Performing inappropriate or unnecessary procedures to increase reimbursement.
- Upcoding or inflating a bill by using diagnosis codes that increase the reimbursement for that particular condition.
- Double billing or billing twice for the same service.
- Unbundling a service to submit multiple claims.
- Billing without reporting payments received from other sources such as Medicare.
- Inflating the actual work performed or billing for the highest level of service when in actuality a lower level of service was delivered.
- Reporting inaccurate dates and/or times of services provided.
- Billing for services that are not included in the individual's plan for services.
- Stealing cash or other OnPoint assets, such property or supplies.
- Falsifying timesheets or workers comp claims.
- Falsifying expense reimbursements.
- Outside employment appears to conflict with OnPoint employment.
- Violations of the OnPoint Employee Code of Conduct/Ethics.
- Purposefully falsifying financial statements.
- HIPAA Privacy or Security violation issues.
- Falsifying records or statements to get a claim paid or approved.

OnPoint will not take disciplinary or retaliatory action against a person for reporting what the person reasonably believed to be a potential compliance violation. However, an employee will be subject to disciplinary action up to and including termination if it is concluded that the employee knowingly fabricated, exaggerated, or minimized a report of wrongdoing to either injure someone else or to protect himself/herself or others. Also, an employee whose report contains admissions of personal wrongdoing

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will not be guaranteed protection from discipline. Retaliation for reporting an alleged compliance violation is strictly prohibited and may lead to disciplinary action up to and including termination.

Employees, contract providers, persons served, or board members may choose any of the following methods for reporting suspected compliance violations and may report anonymously if desired.

- Electronic Mail – Suspected compliance violations can be sent electronically by email to the following address: [cofficer@onpointallegan.org](mailto:cofficer@onpointallegan.org). When emailing, staff may complete the form entitled “Compliance Reporting Form” (Refer to 901.7) or may specifically outline the details of their concerns within the content of an e-mail. For providers or individuals who do not have a [@onpointallegan.org](mailto:@onpointallegan.org) email address, no PHI is to be included in any unsecured emails.
- Mail Delivery – Suspected compliance violations can be mailed to the Compliance Officer at: OnPoint Compliance Officer 540 Jenner Drive Allegan, MI 49010. When mailing, the form entitled “Report of Suspected Violation of Misconduct” may be used or the concerns may be submitted in any written format.
- In Person – Suspected compliance violations can be made in person to any member of the OnPoint Compliance Committee.
- By Phone – Suspected compliance violations can be communicated to any Corporate Compliance Committee member.
- If preferred, suspected violations may be reported directly to the Corporate Compliance Officer for the Lakeshore Regional Entity - <http://www.lsre.org/contact-us> .

The OnPoint Corporate Compliance Committee will ensure that any problem identified through an investigative report, audit report, or data findings are analyzed and have the appropriate follow-up. (Refer to policy *903 Compliance Inquiry and Investigations* for additional information.)

The Compliance Officer will work in collaboration with the LRE Compliance Officer if/when allegations of fraud, waste, and abuse of Medicaid dollars indicate the need for formal investigation. This will include the reporting of any governmental agency as necessary.

Where violations are substantiated, appropriate corrective action will be initiated, which may include making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, staff education, repayment of overpayments, and disciplinary action against responsible employees.

When a credible report of a violation is received, the OnPoint Compliance Committee will immediately protect any relevant information that may be needed to perform a thorough investigation. All document disposal practices will be stopped immediately. If reasonable suspicion exists that employees might destroy or remove documents, the employees may be suspended or removed from sensitive areas.

For identified compliance related issues that do not require a formal investigation, the Compliance Officer or Compliance Committee member will document the reported incident and the outcome.

Refer to the policy *903 Compliance Inquires & Investigations* for additional information in this area.

### **Element 6 –Monitoring, Auditing and Risk Management**

OnPoint has created systems for monitoring and auditing the effectiveness of the Corporate Compliance Program and Plan as well as identifying compliance risks.

Monitoring includes reviewing policies and procedures to gauge whether they are working as intended and following up on recommendations and corrective action plans to ensure they have been implemented.

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Auditing ensures compliance with statutory and CMS requirements and includes routine evaluations of the compliance program to determine the program’s overall effectiveness.

Monitoring and auditing of the agency’s operations are critical to ensure compliance with the Compliance Plan, Employee Code of Conduct/Ethics, and related policies and procedures. Monitoring and auditing can also identify areas of potential risk and those areas where additional education may be needed. The Compliance Officer will oversee the development and processes associated with the agency’s Risk Management Plan. The Management Team will offer input into the Risk Management Plan.

**Element 7 - Enforcement and Discipline**

The following Corrective Action Plan Guidelines will be used, as indicated by contract with the Lakeshore Regional Entity (LRE). All compliance investigations are reported to the LRE quarterly and the Office of Inspector General (OIG) as needed.

<b>Violation</b>	<b>Possible Disciplinary Action</b>
Knowingly and willfully committing fraud and/or violation of a federal or state billing or documentation practice(s). Knowingly and willfully providing false or misleading information in a compliance context to OnPoint, governmental agency, person served, or MDHHS. (e.g. billing for services not performed, forging documentation or signatures, upcoding, kickbacks, bribes)	<ol style="list-style-type: none"> <li>1. First Offense – Termination of employee.</li> <li>2. Claims adjustments - identification of any False Claims to a third-party payor; remuneration will occur.</li> </ol>
Unknowingly violating federal or state billing of documentation practice(s).	<ol style="list-style-type: none"> <li>1. First Offense – Written notice of noncompliance, Correction Action Plan by the staff to the OnPoint Compliance Officer, Correction Action Plan to the LRP Compliance Director by the OnPoint Compliance Officer. May receive probationary period. Related individual(s) potentially could be barred from Medicaid service provision or administrative activity.</li> <li>2. Claims adjustments - identification of any false claims to a third-party payor; remuneration will occur.</li> <li>3. Second Offense – Possible termination.</li> </ol>
Knowingly violating policies and/or procedures as set forth in the Compliance Program/Plan.	<ol style="list-style-type: none"> <li>1. First Offense – Written notice of noncompliance, Correction Action Plan by the staff to the OnPoint Compliance Officer, Correction Action Plan to the LRP Compliance Director by the OnPoint Compliance Officer. May receive probationary period. Related individual(s) potentially could be barred from Medicaid service provision or administrative activity.</li> <li>2. Second Offense – Possible termination.</li> </ol>
Detection of, but failure to report or failure to detect substantive violations of federal and state mandates in duties where a reasonable person could be expected to detect violation(s).	<ol style="list-style-type: none"> <li>1. First Offense – Written notice of noncompliance, Correction Action Plan by the staff to the OnPoint Compliance Officer, Correction Action Plan to the LRP Compliance Director by the OnPoint Compliance Officer. May receive probationary period. Related individual(s) potentially could be barred from Medicaid service provision or administrative activity.</li> <li>2. Second Offense – Possible termination.</li> </ol>



**Conclusion**

Compliance is a complex topic when providing mental health and substance use disorder services as it involves numerous regulations and layers of oversight. However, at its core, compliance is intended to promote ethical conduct and business practices. By developing and adhering to an effective compliance plan and educating staff, OnPoint practices can prevent fraudulent activity, promote ethical behavior and business practices, and support quality care and services.



**Employee/Provider/Contractor/Board Corporate Compliance Attestation**

1. I acknowledge that today I received training on OnPoint’s Corporate Compliance Program, which provides an overview of OnPoint written compliance policies, standards, procedures, structure and standards of conduct/ethics.
2. I understand that I am responsible for participation and successful completion of future compliance training and understand that failure to do so may result in disciplinary action, up to and including termination of my employment or contract.
3. I have received and understand the Corporate Compliance Plan and Employee Code of Conduct/Ethics. I pledge to act in compliance with and abide by the Plan and Employee Code of Conduct/Ethics.
4. I understand the processes for reporting potential violations and accept my responsibility to report any suspected compliance violations. I understand that failure to report may result in disciplinary action, up to and including termination of my employment or contract.
5. If I have questions concerning appropriate actions that I may need to take in order to comply with the requirements, I will seek advice from a member of the OnPoint Compliance Committee.

\_\_\_\_\_  
Employee/Provider/Contract/Board Name (please print)

\_\_\_\_\_  
Organization (please print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date