



POLICY AND PROCEDURE NOTICE: PPPN-019 ANTI-KICKBACK, FRAUD, WASTE, ABUSE

Summary and Purpose of PPN: To guide the administration of the Ryan White Part A Program to provide demonstrated structured and ongoing efforts to avoid fraud, waste and abuse (Mismanagement) in any federally funded program.

Authority: Anti-Kickback Statute [42 USC 1320a 7b (b)]. Ryan White Contract.

Policy and Procedure:

1. Subrecipients shall participate in structured and on-going efforts to avoid fraud, waste and abuse (mismanagement) in any federally funded program.
2. Subrecipients shall have in place an “Employee Code of Ethics” and Board Bylaws and business conduct practices which includes provisions covering:
 - Conflict of Interest
 - Prohibition on use of property, information or position without approval or to advance personal interest
 - Fair dealing – engaged in fair and open competition
 - Confidentiality Protection and use of company assets
 - Compliance with laws, rules, and regulations
 - Timely and truthful disclosure of significant accounting deficiencies
 - Timely and truthful disclosure of non-compliance
 - Prohibition of employees (as individuals or entities), from soliciting or receiving payment in kind or cash for the purchase, lease, ordering, or recommending the purchase, lease, or ordering, of any goods, facility services, or items
 - Proof of employee background checks for staff who will be handling purchasing transactions and financial management systems
3. For Medicare and Medicaid subgrantees, a Corporate Compliance Plan as required by CMS must be in place.
4. Subrecipients shall have policies and procedures prohibiting employees (as individuals or entities), from soliciting or receiving payment in kind or cash for the purchase, lease, ordering, or recommending the purchase, lease, or ordering, of any goods, facility services, or items.
 - Subrecipients shall have adequate policies and procedures to discourage soliciting cash or in-kind payments for:
 - Awarding contracts
 - Referring clients

- Purchasing goods or services and/or
 - Submitting fraudulent billings
5. Subrecipients shall have policies that discourage:
- The hiring of persons who have a criminal record relating to or are currently being investigated for Medicaid/Medicare fraud.
 - Large signing bonuses
6. Final Invoice (Cumulative Contract Expenditure Report) shall include a certification signed by the official authorized to legally bind Contractor (subrecipient) as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of this contract. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).” 45 CFR 75.415(a)

7. Subrecipients shall provide notice to all employees of the Inspector General’s hotline re: fraud, waste, or abuse:

The DHHS Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential and callers may decline to give their names if they choose to remain anonymous. Contact: Office of Inspector General, Department of Health and Human Services, Attention: HOTLINE, 330 Independence Avenue Southwest, Cohen Building, Room 5140, Washington, D. C. 20201, Email: Htips@os.dhhs.gov or Telephone: 18004478477 (1800HHSTIPS)

Verification:

Review file documentation of:

- Corporate Compliance Plan (required by CMS if providing Medicare- or Medicaid-reimbursable services)
- Personnel Policies
- Code of Ethics or Standards of Conduct
- Bylaws and Board policies
 - File documentations of any employee or Board Member violation of the Code of Ethics or Standards of Conduct
 - Documentation of any complaint of violation of the Code of Ethics or Standards of Conduct and its resolution

- For not-for-profit organizations, ensure documentation of subgrantee Bylaws, Board Code of Ethics, and business conduct practices
- Contracts, MOU, agreements
- Recruitment policies and procedures that discourage signing bonuses
- Conflict of interest
- Prohibition of exorbitant signing packages
- Policies that discourage the use of two charge masters, one for self-pay clients and a higher one for insurance companies.
- Proof of employee background checks
- Purchasing policies that discourage kickbacks and referral bonuses
- Records indicating employees have been notified of the Inspector General’s hotline re: fraud, waste, or abuse.

Approved: August 2016

Last Reviewed: January 2021