Compliance

What Is it?

What Does it Mean to Me?

Purpose of This Session

To provide an understanding of the regulatory environment in which UConnectCare operates

To provide an overview of Compliance and understanding of UConnectCare's Compliance Program

To provide an understanding of your responsibilities

Laws and Regulations

- Employment and discrimination
- Governance, licensing, and certification
- Fraud prevention and detection
- Protection from abuse
- Health and safety
- Confidentiality
- IT Security
- Physical environment
- Service provision
- Billing and reimbursement

Fraud, Waste, and Abuse Laws

False Claims Act

- Federal False Claims Act
- New York False Claims Act

Deficit Reduction Act

Affordable Care Act

Whistleblower Act

Fraud, Waste, and Abuse

Fraud: An intentional deception or misrepresentation of information made by a person with the knowledge that the deception results in unauthorized benefit to herself or himself or another person.

Waste: The mismanagement of resources, including incurring unnecessary costs because of inefficient or ineffective practices or systems.

Abuse: Having practices that are inconsistent with generally accepted business or medical practices.

Federal False Claims Act

- Enacted during the Civil War, revised in 1986 and 2009.
- Prohibits “knowingly” submitting a false claim or making a false statement in order to secure payment of a false or fraudulent claim from the Federal Government.
- “Knowingly” means a person knew or should have known the claim or statement was false.

The False Claims Act Penalties

- Up to triple damages and civil penalties of $11,000–$22,000 for each false or fraudulent claim presented for payment.
- Provider entities or individuals can face criminal or civil prosecution.
- Keeping funds that you are not entitled to may be "reverse false claim" under 2009 revisions.

NYS False Claims Act

- Enacted in 2007.
- Intentionally modeled after the Federal False Claims Act.
- Makes it illegal to submit a claim for payment to the state government a person knows, or should know, is false.
- Fines of up to $12,000 per claim.
- Double to triple damages.
- Provider entities or individuals can face criminal or civil prosecution.

Examples of False Claims

- Claiming for a service that the person knows or should know is false;
- Submitting a claim for services not provided as claimed;
- Upcoding or using the wrong code to receive a higher payment;
- Double billing;
- Billing for a service that was not authorized or medically necessary;
- Billing for services by an unqualified provider;
- Contracting or employing with someone excluded from a Federal healthcare program; and
- Giving inducements for referrals or to recipients of service.

Whistleblower Protections

- Under both the Federal and NY False Claims Act, private persons file on behalf of the government. The *qui tam* relator (whistleblower) is entitled to 15%-25% of the amount if the government proceeds in the case, or 25%-30% of proceeds if the government does not proceed.
- Whistleblowers are protected from adverse actions or retaliation for reporting.

New Implications for False Claims Actions

- **Patient Protection and Affordable Care Act** – signed in March 2010 – an overpayment must be reported and returned by the later of:
  - 60 days after the date on which the overpayment was **identified**; or
  - the date on which any corresponding cost report is due, if applicable.
- **Fraud Enforcement and Recovery Act** – signed in May 2009 – expands False Claims Act liability for the retention of overpayments, even where there is no false claim.

Deficit Reduction Act of 2006

- Increased enforcement of State Medicaid laws and regulations.
- Requires education and training in False Claim Act and fraud, waste, and abuse.

What is Compliance?

Doing the Right Thing;

Even When No One is Looking

What is a Compliance Program?

Our Compliance Program

- Adopted by UConnectCare's Board of Directors and Management
- UConnectCare-wide system
- To ensure that we comply with the laws and regulations
- To ensure that we conduct business ethically and with integrity

Compliance Plan

Is the framework for **UConnectCare's** Compliance Program

Communicates commitment to comply with all applicable laws and regulations

Defines the seven elements of the Compliance Program

Defines responsibilities of persons who work for or conduct business with UConnectCare.

Purpose

The Compliance Plan applies to all employees, directors, Board members, and contractors and vendors who conduct business with **UConnectCare.**

It is designed to **Prevent**, **Detect,** and **Respond** to:

- Unethical or illegal behavior;
- Non-compliance with Federal and State laws and regulations;
- Non-compliance with **UConnectCare**'s policies and procedures; and
- Fraud, waste, and abuse in Federal and State healthcare programs, such as Medicaid and Medicare.

Compliance Program

1. Policies & Procedures and Standards of Conduct
2. Compliance Program Oversight
3. Training and Education
4. Lines of Communication
5. Disciplinary Standards
6. Auditing and Monitoring
7. Response and Corrective Actions

1. Written Policies and Procedures

- Based on Laws, Regulations, and our practices
- Provides direction and guidance
- Must be familiar with them and adhere to them
- If you are unsure, seek guidance from Management
- Report non-compliance with policies and procedures

Standards of Conduct

It is important that you understand the Standards of Conduct and follow them

- May not address all situations; if you are unsure, always seek guidance from your supervisor, Management, or the Compliance Officer
- Written policies and procedures that address key points in the Standards of Conduct
- Failure to follow Standards of Conduct will result in disciplinary action
- Failure to report known or suspected violations of Standards of Conduct will result in disciplinary action

2. Compliance Program Oversight

- Compliance Officer
- Compliance Committee
- Board of Directors

Compliance Officer

- Appointed by, and reports to, the Chief Executive and Board of Directors.
- Overall responsibility for the operation of the Compliance Program.
- Ensures that Compliance Program requirements are in place and effective.
- Has effective lines of communication for confidential reporting of unethical behavior or violations of laws, regulations, policies and procedures, and Standards of Conduct.
- Monitors risk areas; oversees auditing and monitoring activities.
- Investigates violations, non-compliance, and other wrongdoing.
- Ensures that appropriate corrective actions, including discipline, are taken.

Compliance Committee

Members of Management work closely with the Compliance Officer to ensure that the seven elements of Compliance Program are in place and working effectively.

- Ensures that policies and procedures are current and followed.
- Ensures that **UConnectCare** complies with laws, regulations, policies and procedures, and Standards of Conduct.
- Ensures that risks are identified, prevented, or corrected.
- Ensures that actual or suspected unethical behavior or violations of laws, regulations, policies and procedures, and Standards of Conduct are reported and investigated.

3. Training and Education

- Is mandatory and occurs regularly.
- Includes:
  - Content of the Compliance Plan and Standards of Conduct.
  - An overview and importance of compliance.
  - Department specific risk areas.
  - Summary of fraud, waste, and abuse laws.
  - How to report non-compliance.
  - Confidentiality and non-retaliation for reporting.

4. Lines of Communication

- "Open Door Policy" by Management and Compliance Officer to address issues and concerns; ask questions.
- Methods to report confidentially to:
  - Directly to member of Management,
  - Member of the Compliance Committee,
  - Compliance Officer, or
  - Anonymously 877-343-2070
- Requirement to report illegal or unethical behavior; violations of laws, regulations, policies and procedures, or Standards of Conduct; and fraud, waste, and abuse.
- **UConnectCare** prohibits retaliation or intimidation for "good faith" reporting of actual or suspected non-compliance.

What Should I Report?

Any known or suspected non-compliance or wrongdoing, such as:

- Unethical behavior or activities.
- Illegal behavior or activities.
- Violations of the Standards of Conduct or the Compliance Program.
- Violations of laws and regulations.
- Violations of **UConnectCare**'s Policies and Procedures.

What Should I Report?

- Falsification of records or documents.
- Improper acts in delivery or billing of services.
- Suspected fraud, waste, or abuse.
- Any misuse or misappropriation of **UConnectCare's** funds, information, equipment, facilities, or other assets / resources.
- Any act of retaliation or intimidation for reporting concerns or participating in an investigation.

Whistleblower Protections

Whistleblower Protection and Non-Retaliation Policy

- Zero tolerance for “good faith” reporting of actual or suspected non-compliance.
- “Good faith” means the person has good reason to believe the non-compliance occurred.
- Retaliation includes threats, harassment, intimidation, demotion, reassignment, isolating/mocking, false accusation of poor performance, etc.
- Retaliation must be reported to Compliance Officer.

5. Disciplinary Standards

- Disciplinary action will be taken for non-compliance with laws, regulations, **UConnectCare** policies and procedures, Standards of Conduct, Compliance Program, and service provision and billing requirements.
- Disciplinary action will be taken for failing to report actual or suspected non-compliance.
- Discipline may include oral warning, written warning, suspension, or termination. May be escalated based on the non-compliance.
- More significant level of discipline will be taken for intentional or reckless behavior.

6. Auditing and Monitoring

- Routine auditing and monitoring activities are conducted as part of Compliance Program.
- Tests compliance with laws, regulations, and its policies and procedures.
- Based on identified risk areas established by the Compliance Officer and Compliance Committee.

6. Auditing and Monitoring

- All audits and reviews by external entities are reviewed for risk and incorporated into the Compliance Program.
- Results of all internal and external audits are reported to the Compliance Committee and the Board of Directors.
- Corrective Action Plans are required for deficiencies.

7. Response and Corrective Action

- All reports of actual or suspected non-compliance are investigated.
- Any non-compliance or risk identified as result of internal auditing and monitoring is investigated.
- Thorough investigations are conducted and documented.
- Findings are reported to the Compliance Committee and the Board of Directors.
- Corrective action(s) are promptly implemented to prevent reoccurrence. Corrective actions can include; training, policy/procedure revision, discipline, self-reporting and refund of any overpayments, if applicable.
- Follow-up reviews of effectiveness of corrective action(s).

The Framework for Compliance

The Compliance Program is designed to prevent, detect, and respond to non-compliance and suspected fraud, waste, and abuse.

Prevent	Policies and Procedures Standards of Conduct Training Risk Assessment
Detect	Internal Reporting Auditing Monitoring
Respond	Investigate Communicate findings Corrective actions

Important Compliance Policies

- **Standards of Conduct** – Expectations for conduct on behalf of **UConnectCare.**
- **Whistleblower Protections and Non-Retaliation Policy –** Protects persons who report activities believed to be illegal, dishonest, unethical, or otherwise improper from retaliation.
- **Reporting and Investigation of Compliance Concerns Policy –** Describes what must be reported and how to report.
- **False Claims Act and Whistleblower** – Includes a summary of Federal and NY laws addressing false claims and reporting non-compliance; describes employee protections; **UConnectCare'**s fraud, waste, and abuse prevention practices are defined.

Your Responsibilities

- Become familiar and comply with **UConnectCare**'s Standards of Conduct and Compliance Program Policies and Procedures.
- Promptly report any issues of potential fraud, waste, or abuse, and any known or suspected known or suspected non-compliance or wrongdoing.
- Report any retaliation or intimidation to the Compliance Officer.
- Attend all required compliance trainings.
- Know how to report compliance concerns.

Doing The Right Thing

Compliance is **EVERYONE'S** responsibility!

If something doesn't feel right, it probably isn't.

If something doesn't look right, it probably isn't.

When in doubt, **REPORT** it!

Questions/Discussion

Service Delivery, Documentation, and Billing

Objectives

- To gain an understanding of fraud, waste, and abuse risks related to service provision and billing for reimbursement.
- Understand **UConnectCare**'s expectations for compliant documentation and billing practices.

Fraud, Waste, and Abuse

Fraud – intentional deception or misrepresentation that one knows, or should know, to be false, or does not believe to be true, and makes, knowing the deception could result in some unauthorized payment.

- To purposely bill for services that were not provided
- Misrepresenting who provided the services
- To bill for a service that has a higher reimbursement than the service provided
- Altering claim forms, electronic claim records, or service documentation

Fraud, **Waste**, and Abuse

Waste – overutilization of services or other practices that, directly or indirectly, result in unnecessary costs to the healthcare system, including the Medicare and Medicaid programs.

- Providing services that are not medically necessary

Fraud, Waste, and **Abuse**

Abuse – practices that may results in unnecessary costs to Medicaid and Medicare programs.

- Practices are inconsistent with sound fiscal, business or medical/clinical practices
- Services are not medically necessary
- Services fail to meet professional recognized standards for health care
- Billing for a non-covered service
- Coding does not comply with coding guidelines
- Service is not billed as rendered
- Inappropriately allocating costs on a cost report

Common Risks

- Billing for a service that was not provided
- Billing for service not authorized or ordered
- Billing for days the person was absent
- Billing twice for the same service; overlapping service time
- Billing for service provided by an unqualified staff (education, experience, licensure, certifications)
- Falsification of service or billing documents

Common Risks

- Documentation is false or inaccurate
- Service is not medically necessary; or necessity is not documented in the record
- Service is not in accordance with Treatment Plan, Service Plan, or Care Plan
- Service is not documented adequately; one or more required elements of documentation missing
- Coding errors; upcoding
- Start and end time inaccurately recorded

Common Risks

- Errors in rate or unit
- Keying or inputting errors
- Discovery of an employee or contractor on the Federal or State exclusion lists
- Damaged, lost, or destroyed records.

Coding and Billing Risks

- Submitting claims without complete documentation to support the service
- Submitting claims with incorrect:
  - Billing codes,
  - Diagnostic codes,
  - Units of service,
  - Procedure codes,
  - Rate codes,
  - Dates of service, or
  - Service providers.

Errors

- No civil or criminal penalties.
- Provider must return the funds erroneously claimed.
- Prosecution would require *criminal intent to defraud* (criminal) or actual *knowledge of the claim being false*; *reckless disregard* or *deliberate ignorance* of the false claim (civil).

Errors

Honest Mistakes and Innocent Errors Happen

- Internal controls are designed to ensure compliance and prevent errors.
- Must be promptly reported once identified to prevent additional errors.
- Procedures are in place for returning funds, once errors are found.

Medicaid Reimbursement

Provider agrees to:

(a) Prepare and maintain contemporaneous records demonstrating their right to receive payment…and keep, for 6 years from date care/service furnished, all records necessary to disclose the nature & extent of the service furnished and all information regarding claims for payment by, or on behalf of, the provider…

NYCRR Title 18, Section 504.3

Medicaid Reimbursement

Provider agrees:

(e) To submit claims for payment only for services actually furnished and which were medically necessary…

(h) That the information provided in relation to any claim for payment shall be true, accurate and complete; and

(i) To comply with the rules, regulations and official directives of the department.

NYCRR Title 18, Section 504.3

Standards for Reimbursement

- All service documentation, records, and reports are prepared timely, accurately, and honestly;
- All documentation supporting claims for service is complete and maintained in accordance with regulatory requirements and the UConnectCare's policies;
- All claims submitted to any government or private health care program are accurate and comply with all Federal and State laws and regulations and payer requirements and **UConnectCare**'s policies;

Standards for Reimbursement

- Claims are only submitted for medically necessary services provided by eligible providers.
- All claims are properly documented and accurately coded; and
- Billing errors are promptly identified, and any payments received in error are promptly returned to the payer.

Standards for Service Documentation

- Services must be documented “contemporaneously” with service delivery (at the same time or in close proximity)
- Documentation must include required elements
- Documentation must be permanent and legible (able to be read by a reviewer)
- Backdating and predating documents is unacceptable

I made an error. What do I do?

Permanent entries in **UConnectCare's** records must not be altered.

Any records to be appropriately altered must reflect:

- the date of the alteration,
- the name, signature, and title of the person altering the document, and
- the reason for the alteration, if not apparent.

If in doubt, seek guidance from your supervisor or the Compliance Officer.

Your Responsibilities

Become familiar and comply with **UConnectCare's** Standards of Conduct and Compliance Policies and Procedures.

- Comply with laws, regulations, and **UConnectCare's** policies/ procedures/practices for service provision and billing.
- Provide and document services promptly, accurately and honestly.
- Report problems or mistakes you see that might lead to inaccurate billing.
- Promptly report any issues, concerns, or possible violations.

Questions?

Please reach out directly to Liz Riter, Compliance Officer at 585-815-1842 or lriter@uconnectcare.org or compliance@uconnectcare.org.

Anonymous Hotline - 1-877-343-2070