



Developmental Disabilities Services

Medicaid Compliance Plan Guidance for Division of Developmental Disabilities Services Providers

Under the Affordable Care Act, section 6401(a)(7) Compliance Programs, “On or after the date of implementation determined by the Secretary under subparagraph (C), a provider of medical or other items or services or supplier within a particular industry sector or category shall, as a condition of enrollment in the program under this title, title XIX, or title XXI, establish a compliance program that contains the core elements established under subparagraph (B) with respect to that provider or supplier and industry or category.” (Services)

Services, C. f. (n.d.). *Medicaid Program Integrity Education Podcasts*. Retrieved from Centers for Medicare and Medicaid Services:
<https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/Downloads/podcast-Establish-Compliance-Program-transcript-%5bNovember-2015%5d.pdf>

As of 7/1/18 DDDS required all contracted service providers to develop a Medicaid Compliance Plan (MCP) with an implementation deadline of 6/30/19 (FY19 Contract, Appendix A, 4.17).

DDDS has created this guidance document for contracted providers to outline the essential elements of a Medicaid Compliance Plan and provide some resources for providers to utilize in the creation of a MCP. Providers must create a MCP that meets their individual circumstances and needs to specify how their organization will maintain compliance with Medicaid requirements and regulations. DDDS does not authorize, approve or in any other way endorse any providers' specific Medicaid Compliance Plan.

7 BASIC ELEMENTS OF A COMPLIANCE PROGRAM

1. Standards of conduct
2. Designated Compliance Officer
3. Effective education and training
4. Audits and other evaluation techniques
5. Internal reporting processes
6. Disciplinary mechanisms
7. Investigation and remediation



DDDS Essential Elements for a Medicaid Compliance Plan:
1. Written policies and procedures that set forth compliance expectations; provide guidance; and describe reporting, investigations, and resolution of non-compliance.
2. Designation of a compliance officer who reports directly to the senior administrator and the governing body.
3. Effective and regular training of employees, executives, and the governing body.
4. Reporting process that allows anonymous good faith reporting.
5. Monitoring, auditing, and internal reporting systems.
6. Staff disciplinary policies that are fairly enforced and address non-compliant behavior or failure to report non-compliance.
7. Corrective actions and remedial measures.

General MCP Resources:

- <https://oig.hhs.gov/fraud/docs/complianceguidance/thirdparty.pdf>
- <https://oig.hhs.gov/compliance/provider-compliance-training/files/Compliance101tips508.pdf>
- <http://www.gpo.gov/fdsys/pkg/PLAW-111publ148/pdf/PLAW-111publ148.pdf>
- <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforProfs/Downloads/mccomplan.pdf>
- <https://oig.hhs.gov/compliance/compliance-resource-portal/files/HCCA-OIG-Resource-Guide.pdf>
- <https://oig.hhs.gov/compliance/provider-compliance-training/files/Provider-Compliance-Training-Presentationv2.pdf>
- <https://oig.hhs.gov/compliance/provider-compliance-training/files/OperatinganEffectiveComplianceProgramFinalBR508.pdf>
- [https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/Downloads/podcast-Establish-Compliance-Program-transcript-\[November-2015\].pdf](https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/Downloads/podcast-Establish-Compliance-Program-transcript-[November-2015].pdf)
- <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNEdWebGuide/Downloads/MLN-Compliance-Webinar.pdf>

Element 1: Written policies and procedures that set forth compliance expectations; provide guidance; and describe reporting, investigations, and resolution of noncompliance. This Element should include:

- A. A process to conduct annual reviews of all internal policies
- B. Assure a procedure is in place to communicate to staff all additions and changes to policies
- C. Integration of mission, vision, values and ethical principles that address good faith reporting and prohibit intimidation and retaliation
- D. Policies and procedures for internal self-audits and external audits that include processes to prepare, conduct, and analyze data to implement corrective actions [1]
- E. A process to verify appropriate billing policies, documentation procedures, self-discovery of overpayment and appropriate remediation[2]
- F. Assure policies and procedures guarantee the provision of services meets the service definitions described in DMAP Provider Manual[3] and individual levels of support [4]
- G. An Emergency Preparedness Plan that complies with the applicable sections of the Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers [5,6]

References for this Element:

1. <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/Downloads/ebulletins-self-audit.pdf>
2. <https://www.law.cornell.edu/cfr/text/42/433.316>
3. https://medicaidpublications.dhss.delaware.gov/dotnetnuke/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=910&language=en-US&PortalId=0&TabId=94
4. https://dhss.delaware.gov/dhss/dds/files/level_of_support.pdf
5. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule.html>
6. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Core-EP-Rule-Elements.html>

Element 2: Designation of compliance officer who reports directly to the senior administrator and the governing body. This

Element should include:

- A. A process to report compliance and non-compliance program activity to the governance board/committee
- B. A process to ensure the compliance officer maintains up-to-date knowledge of current standards, procedures, policies, regulations as it relates to service(s) delivered
- C. A process to document and verify compliance activities are occurring

Element 3: Effective and regular training of employees, executives, and the governing body. This Element should include:

- A. A mechanism to communicate compliance information throughout the organization
- B. An assurance that compliance training is relative and responsive to workforce roles and duties
- C. An assurance that compliance training is continuous and ongoing
- D. A process to track and verify workforce participation in compliance training programs

Key component to consider:

*Assure a mechanism exists to evaluate employee understanding of compliance responsibilities

Element 4: Reporting process that allows anonymous good faith reporting. This Element should include:

- A. A plan to protect reporter anonymity and confidentiality within legal and practical limits [1,2]
- B. A mechanism to publicize the reporting system to all workforce members, vendors and agents
- C. A reporting system(s) to enable employees to report any noncompliance(e.g., hotline)
- D. A written procedure to respond to compliance concerns expressed by employees through internal reporting
- E. A written procedure to monitor that retaliation for reporting compliance concerns does not occurred

References for this Element:

1. <https://oig.hhs.gov/fags/whistleblower-faq.asp>
2. <http://delcode.delaware.gov/title19/c017/index.shtml>

Element 5: Monitoring, auditing, and internal reporting systems. This Element should include:

- A. A process to conduct routine internal compliance audits. This process should employ auditing methodologies that are objective and independent and should evaluate results of both internal and external audits [1,2,3]

References for this Element:

1. <https://dhss.delaware.gov/dhss/ddds/files/providerstds07012018.pdf>
2. <https://www.medicare.gov/medicaid/hcbs/downloads/training/billing-validation.pdf>
3. <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/Downloads/ebulletins-self-audit.pdf>

Element 6: Staff disciplinary policies that are fairly enforced and address non-compliant behavior or failure to report non-compliance. This Element should include:

- A. Recommend progressive disciplinary action when noncompliance is substantiated
- B. Promote discipline consistent with policies and procedures
- C. Verify that compliance related violations are addressed in disciplinary policies

Element 7: Corrective actions and remedial measures. This Element should include:

- A. A process to ensure development of corrective action plans in response to noncompliance found during internal and external audits
- B. A requirement that corrective action plans include S.M.A.R.T. goals [1,2]
- C. A process to ensure implementation of corrective action plan
- D. A process to monitor the effectiveness of corrective action plans [3]
- E. A process to adjust corrective actions as necessary to increase effectiveness [4]
- F. A mechanism to ensure documents relevant to corrective actions are preserved

References for this Element:

1. <https://www.smartsheet.com/blog/essential-guide-writing-smart-goals>
2. <https://www.youtube.com/watch?v=1-SvuFIQjK8>
3. <http://asq.org/learn-about-quality/project-planning-tools/overview/pdca-cycle.html>
4. https://hrm.omb.delaware.gov/orgdev/documents/cqi_circle_2010.pdf