

## Corporate Compliance

### I.11.0 Corporate Compliance/Fraud, Waste, Abuse and Reporting

#### **Policy**

It is the policy of Mountain Valley Developmental Services to deliver services in an environment characterized by strict conformance with the highest standards of accountability for administration, programs, business, marketing, human resources, and financial management. Mountain Valley Developmental Services' leadership is fully committed to the need to prevent and detect fraud, fiscal mismanagement and misappropriation of funds and, therefore, to the development of a formal corporate compliance program to ensure ongoing monitoring and conformance with all legal and regulatory requirements. Further, the organization is committed to the establishment, implementation, and maintenance of a corporate compliance program that emphasizes:

- Prevention of wrongdoing - whether intentional or unintentional.
- Immediate reporting and investigation of questionable activities and practices without consequences to the reporting party.
- Timely correction of any situation that puts the organization, its leadership or staff, funding sources, or consumers at risk.
- Assures conformance with the terms and conditions of Federal, State, Local or private contractual agreements including but not limited to the provisions of Deficit Reduction Act of 2005, Section 6032.

#### **Procedure**

By formal resolution, the Board of Directors has delegated overall responsibility for the Corporate Compliance activities to the Executive Director who shall appoint a Corporate Compliance Officer who shall be an individual without conflict of interest and capable of independently reviewing and responding to issues of Corporate Compliance. The Corporate Compliance Officer shall oversee Corporate Compliance activities and will formally designate other members of the organization's staff, board, or community members as necessary to adequately monitor the organization's corporate compliance program, and provide periodic and annual reports to the Board of Directors on matters pertaining to the program.

The Corporate Compliance Officer shall:

- Coordinate the organization's corporate compliance activities and serve as the organization's primary point of contact for all corporate compliance issues, including scheduling team meetings, reporting on team activities, and making recommendations to the Board of Directors as required.
- Develop, implement, and monitor (on a regular and consistent basis) the organization's corporate compliance plan, including all internal and external monitoring, auditing, investigative and reporting processes, procedures, and systems.

- Prepare, submit and present periodic reports to the Executive Director and the Board of Directors as may be required to provide clear communication to the organization's leadership for corporate compliance oversight. These reports will be prepared at least on an annual basis.
- Provide the Board of Directors with a timely summary of the findings of all external audits, program reviews, and accreditation actions in a timely manner
- As part of the complainant review process, coordinate with the agency Code of Ethics. (See attached Code of Ethics)

The Corporate Compliance Officer shall submit an annual report to the Executive Director and the Board of Directors. Annual reports will include, at a minimum:

- A summary of all allegations, investigations and/or complaints processed in the preceding 12 months in conjunction with the corporate compliance program.
- A complete description of all corrective action(s) taken.
- Any recommendations for changes to the organization's policies and/or procedures. In the performance of his/her duties, the Corporate Compliance Officer shall have direct and unimpeded access to the Executive Director, Board of Directors and the organization's auditing firm.

### **Reporting and Response**

Members of the Mountain Valley staff have the responsibility to report any wrongdoing through the Corporate Compliance Program. Employees may also report any concern directly to the Corporate Compliance Officer.

The community at large is also encouraged to report wrongdoing on matters involving Mountain Valley Developmental Services.

Matters related to Mountain Valley Developmental Services involving responding to subpoenas, search warrants, investigations and other legal actions should be referred to the Executive Director, by the Corporate Compliance Officer, who will assess the situation and proceed in a lawful manner. Mountain Valley will comply, communicate, and cooperate with appropriate organizations or individuals possessing legal authority for access to records, files, or reports pursuant to corporate compliance. If the subpoena calls for confidential records, then the statutes, rules and regulations that apply to the records being sought will be examined. Every effort will be made to ensure appropriate consent to disclosure is obtained and to safeguard confidential information.

The Director of Human Resources will serve as the Corporate Compliance officer for the organization. The Corporate Compliance Committee will be comprised of the Executive Director, Human Resource Director, Finance Director, Director of Marketing, Operations Coordinator, Director of Support Services, and Benefits Coordinator

The Corporate Compliance Officer shall initiate an investigation of any reported allegation within two workdays of receipt of the report.

Corporate Compliance Officer's responses to reported instances are to be made within 15 days. Responses that require a length of time in excess of the 15 days will be granted an additional 15 days. The Corporate Compliance Officer will notify the Corporate Compliance Committee of cases that require an additional 15-day period.

## **Methods of Contact**

- Telephone: Any complainant may call the Corporate Compliance Officer to report issues of fraud, waste, and/or abuse. This allows for anonymity of the caller. The Corporate Compliance Officer will return all calls within 48 hours (weekdays) of the call. The Corporate Compliance Officer will proceed as appropriate. The toll free number is 1-800-626-6450.
- Mail: A written reporting form will be available at all sites at all times for complainants to disclose wrongdoings. All information should be completely filled out and submitted through the mail to the Corporate Compliance Officer. Complainants are encouraged to disclose their identity, but they may remain anonymous. When submitting anonymously, the complainants should establish a four-digit identification code to identify himself/herself on the report. The complainants must contact the Corporate Compliance Officer within one week to determine whether any additional information is needed. For anonymous reports, the Corporate Compliance Officer will recognize the caller by the assigned identification code.

## **Alternative Reporting Process**

If the Corporate Compliance Officer is the subject of possible unethical or improper conduct, the complainant is to file the report with the Executive Director, or any member of the Corporate Compliance Committee.

## **Records**

The Corporate Compliance Officer shall maintain a record of all reported issues and the findings of any resulting investigation or proceeding.

## **Training**

The Corporate Compliance Officer shall see to the development of initial training for all employees. Employees are encouraged to ask questions throughout the orientation process to ensure that they understand the standards of the program. Upon completion of orientation each employee shall complete, sign and forward to the Corporate Compliance Officer a signed acknowledgement of training that will be placed in their personnel file. The Corporate Compliance Policy will be publicly posted on the Mountain Valley Developmental Services web site and at each physical location.

## **Retribution**

The organization shall not take corrective action against any employee for merely reporting what the employee reasonably believes to be a violation of this program. However, the organization may take disciplinary action against an employee on the following basis relating to reporting. First, an employee who knowingly fabricated, distorted, exaggerated, or minimized a report of wrongdoing to either injure someone else or to protect himself/herself or others and/or second, an employee whose report contains admissions of personal wrongdoing will not be guaranteed protection from corrective action. The organization generally will give positive weight to self- confession in determining corrective action; but the extent depends on factors such as whether the employee's conduct was

previously known to the organization, whether discovery of the conduct was imminent, and whether the confession was complete and truthful.

### **Enforcement**

The Executive Director, with input from the Corporate Compliance Committee, will handle all corrective action for violations of the program. The Executive Director may consider the following circumstances:

- The employee has promptly reported his/her own violation.
  - The employee's own report constituted the Corporate Compliance Officer's first notice of the violation and the employee's involvement.
  - The employee cooperates fully in the investigation and correction of the violation.
- Violations of this Policy may have severe consequences, including, but not limited to, civil and criminal penalties as allowed under applicable federal and state laws, including the federal False Claims Act.

### **Details of the False Claims Act**

1. *The False Claims Act (FCA)*, 31 US c. §§ 3729-3 731: The FCA creates civil liability to any person who:
  - a. Knowingly presents, or causes to be presented, to an officer or employee of the United States Government or member of the Armed Forces of the United States, a false or fraudulent claim for payment or approval;
  - b. Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
  - c. Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
  - d. Has possession, custody or control of property or money used, or to be used by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
  - e. Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government; takes or delivers the receipt without completely knowing that the information on the receipt is true;
  - f. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell the property; or
  - g. Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.
2. *Penalty for Unlawful Conduct* - The civil penalty for violating the False Claims Act is a minimum of \$5,500 up to a maximum of \$11,000 for each false claim submitted. In addition to the penalty, a provider could be found liable for up to three times the amount unlawfully claimed except in situations where it is found that:

- a. The person committing the violation furnished officials of the United States responsible for investigating false claims violations with all information known to such persons about the violation within 30 days after the date on which the defendant first obtained the information;
    - i. Such persons fully cooperated with any Government investigation of such violation; and;
    - ii. At the time such person furnished by the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.
  - b. Then the penalty would be not less than 2 times the amount of damages which the Government sustains because of the act of the person. A person shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damage.
3. *Qui Tam (Whistleblower) Protection* - Under certain circumstances, private individuals are protected and can bring "qui tam" (whistleblower) suits in the name of the United States against health care providers, and the individual shares in any recovery against the provider.
- a. The purpose of bringing the qui tam suit is to recover the funds paid by the Government as a result of the false claims. The government may choose to intervene and proceed with the lawsuit itself. In some instances the person who initiated the lawsuit (the "relater") will get a portion of the money the government collects from the wrongdoer if the lawsuit is ultimately successful.
  - b. Because the Government assumes responsibility for all of the expenses associated with a suit when it joins a false claims action, the percentage is lower when the Government joins a qui tam claim. However, regardless of whether the Government participates in the lawsuit, the court may reduce the whistleblower's share of the proceeds if the court finds that the whistleblower planned and initiated the false claims violation. Further, if the whistleblower is convicted of criminal conduct related to his/her role in the preparation or submission of the false claims, the whistleblower will be dismissed from the civil action without receiving any portion of the proceeds.
  - c. The act protects employees who are "discharged, demoted, suspended, threatened, harassed or in any manner discriminated against in the terms and conditions of employment" because of lawful acts they take for participation in a lawsuit filed or to be filed under this act. Employees who are treated inappropriately under this law are entitled to all relief necessary to make the employee whole. This could include reinstatement, back pay, interest on the back pay and compensation for damages. Mountain Valley Developmental Services prohibits any retaliation against employees who report wrongdoing, including suspected violations of the FCA.

- d. Section 3731 of the FCA sets forth the procedures that must be followed under the act. Civil actions may not be filed more than six (6) years after the date on which the violation occurred or more than three (3) years after the date when material facts are known or should have been known by the US Government, and in no event more than ten (10) years after the date on which the violation occurred
- e. The US Attorney General has the authority to require individuals with information relevant to false claims to produce the evidence or answer questions about the evidence during the course of an investigation. This must be done in the manner set forth in section 3733 of the Act.

*Effective: 4/20/2005; Revised: 1/2007, 7/2008*