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Legal Requirements
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Corporate Compliance Policy on Fraud and Waste

I-33 B

PURPOSE:

The purpose of this policy is to provide information regarding the prevention, elimination, monitoring, and reporting of fraud, abuse, and improper activities of government funding in order to obtain and maintain integrity of public funds.

POLICY:

ProAct's policy is to protect its revenue, property, information and other assets from any attempt, either by members of the public, contractors, sub contractors, agents, intermediaries, or its own employees and management, to gain by deceit, financial or other tangible and intangible benefits.

ProAct is a holder of a license that is issued by Minnesota Department of Human Services (DHS), pursuant to MN Statutes, chapter 245A [Human Services Licensing Act], and who has enrolled to receive public governmental funding reimbursement for services. As such, ProAct is required to comply with the enrollment requirements as a licensing standard (MN Statutes, sections 245A.167 and 256B.04, subdivision 21).

ProAct is a provider of services to persons whose services are funded by government/public funds. Government funds may be from state or federal governments, to include, but not be limited to: Minnesota's Medical Assistance, Medicaid, Medicare, Brain Injury (BI) Waiver, Community Alternative Care (CAC) Waiver, and Community Alternatives for Disabled Individuals (CADI) Waiver, Developmental Disability (DD) Waiver, Elderly Waiver (EW), and Minnesota's Alternative Care (AC) program.

DEFINITION:

Types of fraud, abuse, or improper activities include, but are not limited to, the following:

1. Billing for services not actually provided.
2. Documenting clinical care not actually provided.
3. Paying phantom vendors or phantom staff.
4. Paying a vendor for services not actually provided.
5. Paying an invoice known to be false.
6. Accepting or soliciting kickbacks or illegal inducements from vendors of services, or offering or paying kickbacks or illegal inducements to vendors of services.
7. Paying or offering gifts, money, remuneration, or free services to entice a Medicaid recipient to use a particular vendor.
8. Using Medicaid reimbursement to pay a personal expense.
9. Embezzling from the company.
10. Ordering and charging over-utilized medical services that are not necessary for the person served.
11. Corruption.
12. Conversion (converting property or supplies owned by the company to personal use).
13. Misappropriation of funds of the company or person served by the company.
14. Personal loans to executives.
15. Illegal orders.

16. Maltreatment or abuse of persons served by the company.

PROCEDURES:

- A. Public Funds Compliance Officer: ProAct has designated the Corporate Compliance Officer as their Public Funds Compliance Officer.
- B. Reporting responsibility: ProAct has an open door policy and encourages staff to share their questions, concerns, suggestions, or complaints regarding the company and its operations with someone who can address them properly. In most cases, this will be a staff person's supervisor. However, if the staff person is not comfortable speaking with their supervisor or is not satisfied with the supervisor's response, the staff person is encouraged to speak with the Public Funds Compliance Officer. If the staff is not comfortable speaking with the Public Funds Compliance Officer, the staff is encouraged to speak with the CEO. At any time, the staff may speak with an applicable external agency to express their concerns if it is believed that it is not possible to speak with the CEO. Examples of applicable external agencies are local social service agency's financial manager or law enforcement. This policy is intended to encourage and enable persons to raise serious concerns within ProAct prior to seeking resolution outside it.
- C. Requirement of good faith: Anyone filing a complaint concerning a violation or suspected violation of the law or regulation requirements must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious offense subject to disciplinary action.
- D. Confidentiality: Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation. All participants in the fraud investigation shall keep the details and results of the investigation confidential. However, the PFCO, in consultation with the police, may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.
- E. No retaliation: No staff person who in good faith reports a violation of a law or regulation requirements will suffer harassment, retaliation, or adverse employment consequences. A staff who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.
- F. Report acknowledgement: The Public Funds Compliance Officer, or designee, will acknowledge receipt of the reported violation or suspected violation by writing a letter (or email) to the complainant within ten (10) business days, noting that the allegations will be investigated.
- G. Responding to allegations of improper conduct: The Public Funds Compliance Officer is responsible for responding to allegations of improper conduct related to the provision or billing of Medical Assistance services. This may include, but is not limited to: investigating, interviewing applicable individuals involved, reviewing documents, asking for additional assistance, seeking input on process of the investigation, or seeking input on Medical Assistance laws and regulations interpretations to address all staff complaints and allegations

concerning potential violations. The CEO will take on functions of the Public Funds Compliance Officer role if the complaint involves the Corporate Compliance Officer. If the complaint involves the CEO and Corporate Compliance Officer, ProAct's Board of Directors or their designee will carry out the functions of the Public Funds Compliance Officer. The Corporate Compliance Officer or its designee will implement corrective action to remediate any resulting problems.

- H. Evaluation and monitoring for internal compliance: On a regular schedule and as needed, the Corporate Compliance Officer, or its designee, will run routine financial reports to review financial information for accuracy and compliance. On a regular schedule and as needed, the Corporate Compliance Officer, or its designee, will review standard operations and procedures to ensure that they remain compliant.
- I. External auditing for compliance: On a regular schedule, the company will have an external financial audit.
- J. Promptly reporting errors: The Public Funds Compliance Officer shall immediately notify appropriate individuals of all reported concerns or complaints regarding corporate accounting practices, internal controls, or auditing. This may include the Chief Financial Officer, the owner/CEO, or the Chairperson of the Board of Directors. The Corporate Compliance Officer will promptly report to DHS any identified violations of Medical Assistance laws or regulations.
- K. Recovery of overpayment: Within 60 days of discovery by the company of a Medical Assistance reimbursement overpayment, a report of the overpayment to DHS will be completed and arrangements made with DHS for the Department's recovery of the overpayment.
- L. Training: Staff are trained on this policy and as needed, they may need to be re-trained. As determined by ProAct, staff may need to demonstrate an understanding of the implementation of this policy.
- M. Security of Evidence: Once fraud or waste is reported, the Corporate Compliance Officer or designee shall take immediate action to prevent the theft, alteration, or destruction of relevant records. Such actions include, but are not limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing the fraud from having access to the records. The records must be adequately secured until the CCO or designee obtains the records to begin the investigation.
- N. If a suspicion of fraud or waste is substantiated by the investigation, disciplinary action, up to and including dismissal shall be taken by the appropriate level of management in conformance with ProAct Personnel Policies and Procedures manual.
- O. Documentation: At the conclusion of the investigation, the CCO will document the results in a confidential report to the President/CEO or, in the case of investigation of the President/CEO, to the Chairperson of the Board of Directors. If the report concludes that the allegations are founded, the report will be forwarded to the police or appropriate internal personnel for action.

- P. Unless exceptional circumstances exist, a person under investigation for fraud shall be given notice in writing of the essential finding of the investigations prior to final disciplinary action being taken. Where notice is given, the person against whom allegations are being made may submit a written explanation to the CCO no later than seven calendar days after the notice is received.
- Q. Media Issues: Any staff person contacted by the media with respect to an audit investigation shall refer the media to the President/CEO. The alleged fraud or waste will not be discussed with the media by any person other than those designated.
- R. Completion of the Investigation: Upon completion of the investigation including all legal and personnel actions, any records, documents and other evidentiary material will be returned to the human resources department.
- S. Annual Report: The Corporate Compliance Officer and/or the President/CEO will report, on an annual basis, information related to investigations conducted during the year involving fraud and waste. Should that report substantiate such allegations, information pertinent to the investigation and resolution of the allegations will be included in the Annual Conformance to Quality Report submitted to the Rehabilitation Accreditation Commission (CARF).

APPLICABILITY:

This policy applies to all ProAct employees, board members and others with whom ProAct has the authority to require general policies to be followed.

1. ProAct will fully investigate any suspected acts of fraud, misappropriation or other similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, and length of service or relationship with ProAct of any party who becomes/is the subject of such an investigation. The investigation will be conducted in a timely manner, normally within a three month period of time. A corporate compliance committee may be designated, if deemed necessary, to investigate allegations of fraud, misappropriation or other similar irregularity.
2. ProAct will institute and maintain a system of internal controls to provide reasonable assurance for the prevention and detection of fraud, misappropriations and other irregularities. Management should be familiar with the types of improprieties that might occur within the organization as it is set up.
3. The Corporate Compliance Officer has the primary responsibility for the investigation of all activity as defined in this policy. The CCO will report to the President/CEO, except in those situations where allegations have been made against the President/CEO. In that situation, the CCO will report to the Chairperson of the Board of Directors.
4. The President/CEO and/or the Board of Director's Chairperson may, at its discretion, seek the input of the outside auditor for ProAct. In all circumstances where there are reasonable grounds to indicate that a fraud may have occurred, the President/CEO or the Chairperson of the Board of Directors will contact the local police.

5. Upon conclusion of the investigation, a full report will be made to the Board of Directors.
6. ProAct will pursue every reasonable effort, including court ordered restitution, to obtain recovery of the losses from the offender, or other appropriate source(s).

INTERNAL PROCEDURES:

1. All employees

Any employee who has knowledge of an occurrence of irregular conduct, or has reason to suspect that fraud or waste has occurred, shall immediately notify his/her supervisor. If the employee has reason to believe that the employee's supervisor may be involved, the employee shall immediately notify the Vice President/Director of Programs & Services, or if the director or Vice President is suspected of involvement, then the President/CEO.

The employee shall not discuss the matter with anyone other than his/her supervisor, or one of the Directors or the President/CEO. Employees who knowingly make false allegations will be subject to discipline up to and including dismissal.

2. Directors

Upon notification from an employee of suspected fraud or waste, or if the director has reason to suspect that fraud or waste has occurred, the director shall immediately notify the President/CEO. The director shall not attempt to investigate the suspected fraud or waste or to discuss the matter with anyone other than the person who reported the fraud/waste.

3. ProAct President/CEO

Upon notification from an employee, supervisor, or director of suspected fraud or waste, the President/CEO shall immediately contact the Corporate Compliance Officer. Together they will determine the severity of the alleged offense and how to proceed with the investigation of the suspected fraud or waste. A proposed time frame will be established at that time, with a rationale should the investigation be expected to exceed three months in length.