



## **CORPORATE COMPLIANCE PLAN**

**Compliance Officer**

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**Mohawk Opportunities**

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Schenectady, New York 12307

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## CORPORATE COMPLIANCE PLAN

### **I. The Purpose of the Compliance Plan and Program.**

Mohawk Opportunities, Inc. (“Mohawk Opportunities”) has adopted a Corporate Compliance Program (the “Compliance Program”) to promote Mohawk Opportunities’ compliance with all applicable Federal and State laws, regulations, and ethical standards. Mohawk Opportunities’ Compliance Program is described in this Corporate Compliance Plan (the “Compliance Plan”). This Compliance Plan provides guidance to all persons who are affected by Mohawk Opportunities’ Compliance Risk Areas (as defined in Section XIII herein), including Mohawk Opportunities’ employees, contractors, and Board of Directors (“Board”) members<sup>1</sup> on how to conduct themselves when working for Mohawk Opportunities. The goals of Mohawk Opportunities’ Compliance Program are to:

1. Prevent fraud, waste, abuse, and other improper or unethical conduct;<sup>2</sup>
2. Detect any improper or unethical conduct at an early stage before it creates a substantial risk of liability for Mohawk Opportunities; and
3. Respond swiftly to compliance problems through investigation, disciplinary, and corrective action.

All employees, contractors, and Board members of Mohawk Opportunities have a personal obligation to assist in making the Compliance Program successful. Employees, contractors, and Board members are expected to:

1. Familiarize themselves with this Compliance Plan;
2. Review and understand the key compliance policies governing their particular functions and responsibilities;

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<sup>1</sup> In this Compliance Plan, “employees, contractors, and Board members” includes Mohawk Opportunities’ employees, Executive Director, senior administrators, managers, interns, volunteers, contractors, agents, subcontractors, independent contractors, Board, and corporate officers who are affected by Mohawk Opportunities’ Compliance Risk Areas, as defined in Section XIII herein. For purposes of Mohawk Opportunities’ Compliance Program and this Compliance Plan, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by Mohawk Opportunities’ Compliance Risk Areas, as defined in Section XIII herein. Contractors are required to comply with Mohawk Opportunities’ Compliance Program to the extent that the contractor is affected by Mohawk Opportunities’ Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

<sup>2</sup> Note that personnel issues are not compliance issues unless an employee believes that they have been intimidated or retaliated against for reporting a compliance issue, in which case the employee should contact the Compliance Officer. Other personnel issues should be reported to the Director of Human Resources.

3. Report any fraud, waste, abuse, or other improper or unethical conduct by using the methods described in this Compliance Plan;
4. Cooperate in any audits and investigations of Mohawk Opportunities; and
5. Carry out their responsibilities in a manner that demonstrates a commitment to honesty, integrity, and compliance with the law.

The Compliance Plan and Compliance Program are reviewed at least annually to address new compliance challenges and maximize the use of Mohawk Opportunities' resources, and to determine whether:

1. The Compliance Plan, Compliance Program, and Standards of Conduct have been implemented;
2. Employees, contractors, and Board members are following the policies, procedures, and Standards of Conduct;
3. The policies, procedures, and Standards of Conduct are effective; and
4. Any updates are required.

Employees, contractors, and Board members are also encouraged to provide input on how the Compliance Program might be improved. Additional information on Mohawk Opportunities' annual Compliance Program review can be found in Mohawk Opportunities' *Auditing and Monitoring Policy*.

## **II. The Elements of the Compliance Program.**

The Compliance Program is based on the compliance laws and regulations, as well as guidance from Federal and State governmental entities, which Mohawk Opportunities must comply with.<sup>3</sup> The key elements of the Compliance Program, which are discussed in greater detail in the sections referenced below and in applicable policies and procedures found in Mohawk Opportunities' *Compliance Program Policies and Procedures Manual*, are as follows:

1. Standards of Conduct and Key Policies and Procedures (Sections III and IV);
2. Compliance Officer and Committee (Section V);
3. Compliance Training (Section VI);
4. Reporting Compliance Issues (Section VII);
5. Internal Investigations (Section VIII);
6. Corrective Action (Section IX);
7. Disciplinary Measures (Section X);

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<sup>3</sup> This includes Section 363-d of the New York Social Services Law, Part 521-1 of Title 18 of the New York State Codes, Rules and Regulations, and guidance issued by both the New York State Office of Medicaid Inspector General ("OMIG") and the United States Department of Health and Human Services Office of Inspector General ("HHS-OIG").

8. Non-Retaliation and Non-Intimidation (Section XI);
9. Government Audits and Investigations (Section XII);
10. Risk Identification and Audits (Section XIII);
11. Conflict of Interest Policy (Section XIV); and
12. Laws Regarding the Prevention of Fraud, Waste, and Abuse (Section XV).

### **III. Standards of Conduct.**

Mohawk Opportunities recognizes that operating in an ethical and legal manner is not only an obligation of Mohawk Opportunities, but is an obligation of each individual providing services on Mohawk Opportunities' behalf. Mohawk Opportunities' Standards of Conduct set forth the basic principles that guide Mohawk Opportunities' decisions and actions. All employees, contractors, and Board members are required to familiarize themselves with Mohawk Opportunities' Standards of Conduct, certify adherence to the Standards of Conduct and Compliance Plan, and comply with the Standards of Conduct and Compliance Plan in carrying out their duties. As set forth in Mohawk Opportunities' *Standards of Conduct*, employees, contractors, and Board members are required to comply with the following responsibilities:

1. Know and Comply with Applicable Laws;
2. Duty to Report;
3. Duty to Respond and Cooperate;
4. Promote Organizational Compliance;
5. Conduct Affairs in Accordance with High Ethical Standards;
6. Conflicts of Interest;
7. Provide High Quality of Care;
8. Provide Equal Opportunity for All Recipients;
9. Confidentiality;
10. Integrity with Payor Sources;
11. Honesty and Integrity; and
12. Dignity and Respect.

Additional information on Mohawk Opportunities' Standards of Conduct can be found in the Standards of Conduct in Mohawk Opportunities' *Compliance Program Policies and Procedures Manual*.

### **IV. Key Policies and Procedures.**

The development and distribution of policies and procedures are essential components of an effective compliance program. All employees, contractors, and Board members are required to review and carry out their duties in accordance with the policies applicable to their functions and

responsibilities. Mohawk Opportunities' Compliance Program policies and procedures include the following:

1. Standards of Conduct;
2. Compliance Officer and Compliance Committee Responsibilities;
3. Duty to Report Policy;
4. Non-Retaliation and Non-Intimidation Policy;
5. Compliance Training Policy;
6. Disciplinary Policy;
7. Compliance Investigations Policy;
8. Auditing and Monitoring Policy;
9. Government Audits and Investigations Policy;
10. Vendor Relations Policy;
11. Exclusion Screening Policy;
12. Fraud Prevention Policy;
13. Written Policies and Procedures Policy;
14. Conflict of Interest Policy; and
15. Whistleblower Policy.

Additional information on Mohawk Opportunities' written policies and procedures, including information pertaining to drafting, revising, reviewing, and approving these policies and procedures, can be found in Mohawk Opportunities' *Written Policies and Procedures Policy*.

**V. Compliance Officer and Compliance Committee.**

**A. Compliance Officer.**

The Compliance Officer is responsible for overseeing the implementation of the Compliance Program and for the day-to-day operation of the Compliance Program. The Compliance Officer's duties and responsibilities are outlined in Mohawk Opportunities' *Compliance Officer and Compliance Committee Responsibilities*.

The Compliance Officer reports directly to, and is accountable to, the Executive Director or another senior manager designated by the Executive Director for reporting purposes. Mohawk Opportunities will ensure that the Compliance Officer is allocated sufficient staff and resources to satisfactorily perform their responsibilities for the day-to-day operation of the Compliance Program based on Mohawk Opportunities' Compliance Risk Areas (as defined in Section XIII herein) and Organizational Experience,<sup>4</sup> and that the Compliance Officer and appropriate

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<sup>4</sup> As used in this Compliance Plan, "Organizational Experience" means Mohawk Opportunities': (1) knowledge, skill, practice, and understanding in operating its Compliance Program; (2) identification of any issues or risk areas in the course of its internal monitoring and auditing activities; (3) experience, knowledge, skill, practice, and understanding

personnel have access to all records, documents, information, facilities, and employees, contractors, and Board members that are relevant to carrying out their Compliance Program responsibilities.

The Compliance Officer will report directly to the Board, Executive Director, and Compliance Committee on the progress of adopting, implementing, and maintaining the Compliance Program on a regular basis, and no less frequently than quarterly. In addition, the Compliance Officer will annually prepare a written report to the Board describing the compliance efforts undertaken during the preceding year and identifying any changes necessary to improve the Compliance Program. In the event of suspected or actual improper conduct on the part of the Executive Director, the Compliance Officer is required to report such conduct directly to the Board.

**B. Compliance Committee.**

Mohawk Opportunities has a Compliance Committee which is responsible for coordinating with the Compliance Officer to ensure that Mohawk Opportunities is conducting its business in an ethical and responsible manner, consistent with its Compliance Program. The Compliance Committee's duties and responsibilities are outlined in Mohawk Opportunities' *Compliance Officer and Compliance Committee Responsibilities* and *Compliance Committee Charter*.

The Compliance Officer shall be a member of the Compliance Committee and serve as the Chair of the Committee. Additional members of Mohawk Opportunities' Compliance Committee shall be appointed by the Executive Director, and shall, at a minimum, be senior managers. The Compliance Committee meets at least quarterly, and the duties, responsibilities, and members of the Compliance Committee, as set out in the *Compliance Officer and Compliance Committee Responsibilities* and *Compliance Committee Charter*, are reviewed at least annually.

**C. Board Members.**

The Board has ultimate authority for governance of Mohawk Opportunities, including oversight of Mohawk Opportunities' Compliance Program. The Board will receive reports on the operation of the Compliance Program directly from the Compliance Officer at least quarterly. The Compliance Officer has the right to bring matters directly to the Board at any time.

**VI. Compliance Training.**

The Compliance Officer and all employees, contractors, and Board members are required to receive compliance program training upon hiring and no less frequently than annually thereafter. Training and education will be provided in a form and format that is accessible and understandable to all employees, contractors, and Board members, consistent with Federal and State language and other access laws, rules, or policies.

Every employee, including the Compliance Officer and senior administrators, must attend the basic compliance training session offered by Mohawk Opportunities within the initial

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of its participation in the Medicaid Program and the results of any audits, investigations, or reviews it has been the subject of; or (4) awareness of any issues it should have reasonably become aware of for its categories of service.

employment period (generally thirty (30) days of the commencement of employment), as well as a refresher training session annually thereafter. Training will be scheduled by the Director of Quality Assurance & Training and/or their designee as part of their responsibility to oversee general orientation for new employees and annual refresher trainings. The basic compliance training session shall cover the key training elements set out in Mohawk Opportunities' *Compliance Training Policy*.

Employees may also be required to participate in targeted compliance training sessions recommended by the Compliance Officer, the Director of Quality Assurance & Training, or an appropriate program supervisors. Targeted training is designed to focus on the specific compliance issues associated with an employee's functions, and will be in addition to the orientation and annual compliance training and education provided to all employees, Board members, and contractors. After all compliance trainings, employees must acknowledge in writing that they have received training and agree to fulfill their obligations under the Compliance Plan and policies.

Board members must attend a compliance training session within thirty (30) days of the commencement of their term and annual refresher trainings thereafter. After all compliance trainings, Board members must acknowledge in writing that they have received training and agree to fulfill their obligations under the Compliance Plan and policies.

Contractors must participate in compliance training either prior to contracting with Mohawk Opportunities or within thirty (30) days of contracting with Mohawk Opportunities. This training may consist of Mohawk Opportunities providing the contractor with Mohawk Opportunities' Compliance Plan and Compliance Program policies and procedures for self-study, and affording the contractor the opportunity to ask questions and receive responses about the Compliance Plan and Compliance Program. Mohawk Opportunities shall maintain a dated distribution letter and require contractors to complete an acknowledgement evidencing that compliance training and education occurred. See *Fraud Prevention Policy* and *Sample Fraud Prevention Letter to Contractors*.

All individuals and entities required to receive training must be afforded an opportunity to ask questions and receive responses to such questions. Additional information on compliance training can be found in Mohawk Opportunities' *Compliance Training Policy*.

## **VII. Reporting Compliance Problems.**

### **A. Reporting Options.**

In accordance with its *Duty to Report Policy*, Mohawk Opportunities maintains open lines of communication for the reporting of actual or suspected improper or unethical conduct. Employees, contractors, and Board members shall promptly report any such conduct of which they become aware in any one (1) of the following ways:

1. Mohawk Opportunities' Compliance Hotline (anonymously or otherwise), which can be made via the following reporting methods:
  - a. By telephone at 1-877-472-2110 or 1-800-216-1288 (to make a report in Spanish);

- b. Online at [www.lighthouse-services.com/mohawkopportunities](http://www.lighthouse-services.com/mohawkopportunities);
  - c. By email to [reports@lighthouse-services.com](mailto:reports@lighthouse-services.com) and indicating “Mohawk Opportunities” within the report; or
  - d. By fax at 215-689-3885 and indicating “Mohawk Opportunities” within the report;
2. The Compliance Officer, Stephanie Williams, by telephone (518-836-3975) or email ([swilliams@mohawkopportunities.org](mailto:swilliams@mohawkopportunities.org));
  3. The Compliance Officer by mail to Attn: Compliance Officer, Mohawk Opportunities, 201 Nott Terrace, Schenectady, New York 12307 (anonymously or otherwise);
  4. A Compliance Committee member; or
  5. If an employee, the employee’s supervisor or any supervisor, or if a Board member, the Executive Director.

These lines of communication will be publicized by Mohawk Opportunities, and will be made available to all employees, contractors, Board members, and service recipients who are Medicaid Program beneficiaries. Employees, contractors, and Board members may also use these reporting methods to ask compliance-related questions and communicate directly with Mohawk Opportunities’ Compliance Officer.

**B. Compliance Hotline.**

The Compliance Hotline may be accessed by dialing 1-877-472-2110 to report a complaint. Reports may also be made in Spanish by dialing 1-800-216-1288. Employees, contractors, and Board members have the option of reporting a complaint on the Compliance Hotline anonymously. Anonymous reports may also be made online at [www.lighthouse-services.com/mohawkopportunities](http://www.lighthouse-services.com/mohawkopportunities), by email to [reports@lighthouse-services.com](mailto:reports@lighthouse-services.com) and indicating “Mohawk Opportunities” within the report, or by fax to 215-689-3885 and indicating “Mohawk Opportunities” within the report. The Compliance Officer is responsible for reviewing all Compliance Hotline reports (including online, emailed, and faxed reports) and assessing whether the report warrants further investigation.

In addition to compliance-related reports, an employee who believes that they were retaliated against or intimidated for reporting a compliance concern may report their complaint on the Compliance Hotline, to the employee’s supervisor, or to the Director of Human Resources. However, if the employee reports retaliation or intimidation on the Compliance Hotline, the employee will have to disclose their identity in order for the Compliance Officer to be able to investigate the matter.

**C. Confidentiality.**

If an employee, contractor, Board member, or Medicaid Program beneficiary service recipient requests that their report be confidential, the information provided by the individual will be treated as confidential to the extent feasible and permitted by applicable laws. However, individuals are encouraged to identify themselves when making compliance-related reports so that an investigation can be conducted with a full factual background. In general, Mohawk



Opportunities will keep all reports confidential to the greatest extent possible, whether or not confidentiality is requested.

Mohawk Opportunities will ensure that the confidentiality of persons reporting compliance issues is maintained unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by the New York State Attorney General’s Medicaid Fraud Control Unit (“MFCU”), OMIG, or law enforcement, or disclosure is required during a legal proceeding. All persons reporting compliance issues—including employees, Board members, contractors, and service recipients who are Medicaid Program beneficiaries—will be protected from non-intimidation and non-retaliation pursuant to Mohawk Opportunities’ *Non-Retaliation and Non-Intimidation Policy*.

### **VIII. Internal Investigations.**

All reports of fraud, waste, abuse, or other improper or unethical conduct, as well as any potential compliance problems identified in the course of internal auditing and monitoring, shall be promptly reviewed and evaluated by the Compliance Officer. The Compliance Officer determines, in consultation with other personnel and Mohawk Opportunities’ legal counsel, as necessary, whether the report warrants an internal investigation. If warranted, the Compliance Officer will coordinate the investigation and determine whether any outside advisors such as attorneys, accountants, or other advisors are needed. If the Compliance Officer and/or senior management determine it is in Mohawk Opportunities’ best interest to keep the contents and/or findings of the investigation confidential and not subject to disclosure to third parties, the Compliance Officer shall arrange for legal counsel to conduct and/or supervise the investigation under the attorney-client and attorney work product privileges.

In accordance with Mohawk Opportunities’ *Compliance Investigations Policy*, employees, contractors, and Board members are required to cooperate fully in all audits and investigations. Although individuals have a right not to incriminate themselves, any employee who fails to provide such cooperation will be subject to termination of employment. Any Board member who fails to provide such cooperation will be subject to sanctions as set forth in Mohawk Opportunities’ Bylaws and policies, as well as applicable laws and regulations. Any contractor who fails to provide such cooperation will be subject to termination of contract or the relationship.

Investigations shall consist of interviews and document reviews, as necessary. The investigation of the compliance issue will be documented, including any alleged violations, a description of the investigation process, and copies of interview notes and any other documents essential for demonstrating that a thorough investigation of the issue was completed. Any disciplinary action taken and the corrective action implemented will also be documented.

All investigations will conclude with a written report of findings and recommendations for corrective action to correct the problem and prevent future occurrence. The written report may be subject to the attorney-client and/or attorney work product privilege if it is prepared by Mohawk Opportunities’ outside legal counsel. The Compliance Officer and/or legal counsel shall present the written report or a summary thereof to the Compliance Committee and the Executive Director. The Compliance Officer shall oversee the corrective action to ensure it is completed. The

Compliance Officer shall update the Compliance Committee on the status of internal investigations and corrective action.

The Compliance Officer shall work with the Executive Director and outside advisors to determine whether the conduct that is the subject of the investigation should be disclosed to governmental agencies and/or payors. If the Compliance Officer credibly believes or credible evidence is identified that a State or Federal law, rule, or regulation has been violated, Mohawk Opportunities will promptly report the violation to the appropriate governmental entity. The Compliance Officer shall receive copies of any reports submitted to governmental entities.

#### **IX. Corrective Action.**

Mohawk Opportunities is committed to taking prompt and thorough corrective action to address any fraud, waste, abuse, or other improper or unethical conduct identified through internal audits, investigations, reports by employees, or other means. The Compliance Officer is independently responsible for reviewing and approving all corrective action plans. The Compliance Officer may consult with the Executive Director and program supervisors regarding corrective action plans, as appropriate. However, the Compliance Officer is authorized to recommend corrective action directly to the Board if the Compliance Officer believes, in good faith, that the Executive Director is not promptly acting upon a recommendation or is not acting in Mohawk Opportunities' best interests. In cases involving clear fraud or illegality, the Compliance Officer also has the authority to order interim measures, such as a suspension of billing, while a recommendation of corrective action is pending. Corrective action may include, but not be limited to, any of the following steps:

1. Modifying Mohawk Opportunities' existing policies, procedures, and/or business practices;
2. Providing additional training or other guidance to employees, contractors, or Board members;
3. Seeking interpretive guidance of laws and regulations from government agencies and/or legal counsel;
4. Disciplining employees, terminating contractors, and sanctioning Board members as described more fully in Section X of this Compliance Plan;
5. Notifying government agencies of improper conduct by employees, contractors, Board members, or others; and/or
6. Facilitating the reporting and returning of overpayments or other funds to which Mohawk Opportunities is not entitled to the appropriate government agency or payor, including through OMIG's voluntary self-disclosure program, if applicable.

#### **X. Disciplinary Measures.**

Mohawk Opportunities shall have disciplinary policies in effect to address violations of its compliance standards and to encourage good faith participation in the Compliance Program, including Mohawk Opportunities' *Disciplinary Policy*. Mohawk Opportunities' disciplinary standards are enforced fairly and consistently, and the same disciplinary actions apply to all levels

of personnel. Employees, contractors, and Board members are subject to disciplinary action in accordance with Mohawk Opportunities' disciplinary policies when the employee, contractor, or Board Member:

1. Engages in, encourages, directs, facilitates, or permits fraud, waste, abuse, or other improper or unethical conduct;
2. Fails to report actual or suspected fraud, waste, abuse, or other improper or unethical conduct; or
3. Violates Mohawk Opportunities' Compliance Plan or an Mohawk Opportunities policy designed to detect or prevent fraud, waste, abuse, or other improper or unethical conduct.

The Compliance Officer will promptly notify the Director of Human Resources of any improper or unethical conduct of an employee that may warrant discipline. The Director of Human Resources and Compliance Officer will be responsible for determining the appropriate discipline for employees, in accordance with Mohawk Opportunities' standard employment policies. Discipline-related decisions made by the Director of Human Resources and the Compliance Officer will be made in consultation with the appropriate administrator, supervisor, and the Executive Director.

Contractor sanctions shall range from written admonition, financial penalties (if applicable), and in the most extreme cases, termination of the contractor's relationship with Mohawk Opportunities. The Compliance Officer shall make a recommendation to the Executive Director with respect to such sanctions. Board Member sanctions can range from written admonition to, in the most extreme cases, removal from the Board, in accordance with Mohawk Opportunities' Bylaws and policies, as well as applicable laws and regulations. The Compliance Officer shall make a recommendation to the Board with respect to such sanctions.

The Compliance Officer will ensure that the written policies and procedures for taking disciplinary actions are published and disseminated to all employees, contractors, and Board members, and are incorporated into Mohawk Opportunities' training plan, as set forth in its *Compliance Training Policy*.

#### **XI. Non-Retaliation and Non-Intimidation.**

In accordance with Mohawk Opportunities' *Non-Retaliation and Non-Intimidation Policy*, Mohawk Opportunities prohibits intimidation and retaliation for good faith participation in the Compliance Program, including for reporting or threatening to report potential issues, investigating issues, and reporting to appropriate officials. No employee, contractor, Board member, or service recipient who is a Medicaid Program beneficiary who files a report of, or threatens to report, actual or suspected fraud, waste, abuse, or other improper or unethical conduct based on a reasonable belief will be subject to retaliation or intimidation by Mohawk Opportunities in any form.

With respect to employees, prohibited retaliation and intimidation includes, but is not limited to, terminating, suspending, demoting, failing to consider for promotion, harassing, reducing the compensation of, or adversely changing working conditions of an employee due to

the employee's intended or actual filing of a report. Employees, contractors, and Board members should immediately report any perceived retaliation or intimidation to the Compliance Officer. However, if an employee has participated in a violation of law and/or a policy of Mohawk Opportunities, Mohawk Opportunities has the right to take appropriate action against the employee. While Mohawk Opportunities requires its employees to report retaliation and intimidation concerns directly to Mohawk Opportunities, certain laws provide that individuals may also bring their concerns to the government. These laws are set out more fully in Mohawk Opportunities' *Non-Retaliation and Non-Intimidation Policy*.

### **XIII. Government Audits and Investigations.**

Employees, contractors, and Board members are required to cooperate fully in all government audits and investigations, including instances where employees, contractors, and Board members are contacted by governmental investigators or auditors, receive subpoenas and other written or verbal requests for documents from government agencies, and requests for interviews in the course of a government audit or investigation.

Moreover, employees, contractors, and Board members are strictly prohibited from altering, removing, destroying, or otherwise making inaccessible any paper or electronic documents, records, or information relating to the subject matter of any government subpoena, information request, or search warrant during the course of an audit or investigation. Employees, contractors, and Board members are also barred from directing or encouraging another person to alter, remove, destroy, or otherwise make inaccessible any such paper or electronic documents, records, or information.

Additional information on employees', contractors', and Board members' responsibilities pertaining to government audits and investigations can be found in Mohawk Opportunities' *Government Audits and Investigations Policy*.

### **XIV. Risk Identification and Internal Compliance Audits.**

Mohawk Opportunities seeks to identify compliance issues at an early stage before they develop into significant legal problems by establishing a system for routine identification and evaluation of Compliance Risk Areas. Additional information on risk identification and internal auditing can be found in Mohawk Opportunities' *Auditing and Monitoring Policy*.

#### **A. Identification of Key Risk Areas.**

Mohawk Opportunities' key Compliance Risk Areas include, but are not limited to, the following:<sup>5</sup>

1. Billing for individuals not actually served by Mohawk Opportunities;

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<sup>5</sup> These risk areas, as set out in applicable regulation (*see* 18 NYCRR § 521-1.3(d)) include: (1) billings; (2) payments; (3) ordered services; (4) medical necessity; (5) quality of care; (6) governance; (7) mandatory reporting; (8) credentialing; (9) contractor, subcontractor, agent, or independent contractor oversight; and (10) other risk areas that are or should reasonably be identified by Mohawk Opportunities through its Organizational Experience.

2. Billing for services rendered to individuals that are not properly documented;
3. Billing the same service twice;
4. Billing at a rate in excess of the rate permitted under the applicable program;
5. Billing for services that are knowingly also being billed to the government by another health care provider;
6. Failing to properly coordinate an individual's benefits among Medicare, Medicaid, and other third party payors;
7. Submitting cost reports that are inaccurate or incomplete;
8. Ordering unnecessary or excessive services;
9. Failing to properly document the provision of ordered services;
10. Determining if billing and payment system weaknesses are being identified and corrected as necessary;
11. Providing medically unnecessary services;
12. Failing to properly credential licensed health care professionals;
13. Employing an excluded individual or company or billing for services provided by an excluded individual or company;
14. Failing to properly oversee contractors, subcontractors, agents, and independent contractors; and
15. Ensuring compliance with applicable mandatory reporting obligations.

Additional Compliance Risk Areas can be identified by reviewing external audits performed by governmental agencies, payors, and credentialing bodies. Compliance Risk Areas may also be identified by reviewing of the annual work plans and other resources from OMIG, HHS-OIG, and other regulatory agencies.

#### **B. Performance of Internal Audits and Compliance Reviews.**

Mohawk Opportunities' Compliance Officer, in conjunction with the Compliance Committee, will develop audit tools and procedures for carrying out internal audits and routine monitoring, and develop a schedule of internal audits for the upcoming year. The audits will cover aspects of Mohawk Opportunities' operations that pose a heightened risk of non-compliance and will focus on Mohawk Opportunities' Compliance Risk Areas. Ongoing audits will be performed by internal or external auditors who have expertise in State and Federal Medicaid Program requirements and applicable laws, rules, and regulations, or who have expertise in the subject area of the audit. Mohawk Opportunities will also review the effectiveness of its Compliance Program on at least an annual basis, and this review will include a determination as to whether any revision or corrective action is required.

The Compliance Officer may contract with outside companies to perform certain auditing functions. The Compliance Officer will oversee the services provided by outside companies. If the Compliance Officer determines it is in Mohawk Opportunities' best interest to keep the

contents and/or findings of an audit confidential, the Compliance Officer shall arrange for legal counsel to conduct and/or supervise the audit under the attorney-client and/or attorney work product privileges. A written report shall be prepared summarizing the design, implementation, and results of each audit, and recommending any corrective action. The corrective action shall be designed to reduce the potential for recurrence and ensure ongoing compliance with the requirements of Medicaid, Medicare, and other payors.

The Compliance Officer shall present the audit findings or summaries thereof, as appropriate, to the Compliance Committee, Executive Director, and the Board. If requested by a program supervisor, the Compliance Officer will work with the appropriate program supervisor to implement any corrective action. The program supervisor shall report to the Compliance Officer when implementation is completed.

All employees and contractors are required to participate in and cooperate with internal and external audits as requested by the Compliance Officer. This includes assisting in the production of documents, explaining program operations or rules to auditors, and implementing any corrective action plans. Additional information on the performance of internal audits and compliance reviews can be found in Mohawk Opportunities' *Auditing and Monitoring Policy*.

#### **XIV. Conflict of Interest Policy.**

Mohawk Opportunities seeks to protect its interests when it is considering a transaction with a Board member, employee, or officer that might also benefit the personal interests of those individuals. Mohawk Opportunities' *Conflict of Interest Policy* describes such conflicts and disclosure of conflicts in detail. Board members and officers owe a fiduciary duty of loyalty to Mohawk Opportunities and must disclose any actual or potential conflicts of interest to Mohawk Opportunities promptly upon learning of such conflict and on an annual basis.

#### **XV. Laws Regarding the Prevention of Fraud, Waste, and Abuse.**

The following is a basic overview of the laws regarding the prevention of fraud, waste, and abuse. Additional, more detailed information on these laws can be found in Mohawk Opportunities' *Fraud Prevention Policy*.

##### **A. Federal Laws.**

##### **1. Civil and Criminal False Claims Act.**

Under the Federal Civil False Claims Act, any person who knowingly and/or willfully submits a false or fraudulent claim for payment to the Federal government may be subject to civil penalties, including monetary penalties, treble damages, exclusion from participation in the Medicare and Medicaid Programs, and fines of up to three times the government's loss plus up to \$11,000 per claim filed (*i.e.*, each instance of an item or service billed to a government health care program). The civil False Claims Act also contains a whistleblower provision that permits private citizens ("relators") to file suits on behalf of the government ("qui tam suits") against those who have defrauded the government and the relator, if successful, may receive a portion of the government's recovery. Federal law also establishes criminal liability against individuals or entities that knowingly submit, or cause to be submitted, a false or fraudulent claim for payment

to the Federal government. Criminal False Claims Act liability can result in imprisonment of up to five years and/or substantial fines.

## **2. Anti-Kickback Statute.**

The Federal Anti-Kickback Statute is a criminal law that prohibits the knowing and willful payment of “remuneration” to induce or reward patient referrals or the generation of business involving any item or service that is payable by a Federal health care program. An individual or entity that is found to have violated the Anti-Kickback Statute may be subject to criminal penalties and administrative sanctions including fines, imprisonment, and exclusion from participation in Federal health care programs, including the Medicaid and Medicare Programs. Safe harbors protect certain payment and business practices from criminal and civil prosecution that could otherwise implicate the Anti-Kickback Statute. To be protected by a safe harbor, the arrangement must fit squarely within the safe harbor and must satisfy all of its requirements.

## **3. Physician Self-Referral Law (“Stark Law”).**

The Federal Physician Self-Referral Law, commonly referred to as the “Stark Law,” prohibits physicians<sup>6</sup> from referring patients to receive “designated health services”<sup>7</sup> payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless the ownership or compensation arrangement is structured to fit within a regulatory exception. Penalties for physicians who violate the Stark Law include fines, civil penalties, repayment of Medicare and/or Medicaid reimbursement, and exclusion from participation in the Federal health care programs.

## **4. Civil Monetary Penalties Law.**

The Federal Civil Monetary Penalties Law authorizes HHS-OIG to seek civil monetary and other penalties against individuals and entities for a wide variety of conduct, including presenting a claim that a person knows or should know is for an item or service that was not provided as claimed or is false or fraudulent, presenting a claim that the person knows or should know is for an item or service that is not payable, or making false statements or misrepresentations on applications or contracts to participate in Federal health care programs, among others. Violations of the False Claims Act, Anti-Kickback Statute, and Stark Law implicate the Civil Monetary Penalties Law and can lead to civil monetary and other penalties.

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<sup>6</sup> Physicians include medical doctors, doctors of osteopathy, psychologists, oral surgeons, dentists, podiatrists, optometrists, and chiropractors.

<sup>7</sup> Designated health services are any of the following services, other than those provided as emergency physician services furnished outside of the United States, that are payable in whole or in part by the Medicare Program: (1) clinical laboratory services; (2) physical therapy, occupational therapy, and outpatient speech-language pathology services; (3) radiology and certain other imaging services; (4) radiation therapy services and supplies; (5) durable medical equipment and supplies; (6) parenteral and enteral nutrients, equipment, and supplies; (7) prosthetics, orthotics, and prosthetic devices and supplies; (8) home health services; (9) outpatient prescription drugs; and (10) inpatient and outpatient hospital services. See 42 CFR § 411.351.

## **B. State Laws.**

New York State has laws that are similar to the Federal laws set out above. These laws include the New York State False Claims Act, False Statements Law, Anti-Kickback Law, Self-Referral Prohibition Law, Health Care and Insurance Fraud Penal Law, and anti-fee-splitting law, among others. Individuals may be entitled to bring an action under the New York State False Claims Act and share in a percentage of any recovery. However, if the *qui tam* action has no merit or is for the purpose of harassing the person or entity, the individual may have to pay the person or entity for its legal fees and costs in defending the suit.

## **C. Whistleblower Protections.**

### **1. Federal Whistleblower Protection.**

The civil False Claims Act provides protection to relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the False Claims Act. Remedies include reinstatement with comparable seniority as the relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. However, if the *qui tam* action has no merit or is for the purpose of harassing the person or entity, the individual may have to pay the person or entity for its legal fees and costs in defending the suit.

### **2. New York State Whistleblower Protection.**

The New York State False Claims Act provides protection to an employee of any private or public employer who is discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by their employer because of lawful acts taken by the employee in furtherance of an action under the New York State False Claims Act. Remedies can include reinstatement to the same position or an equivalent position, two times back pay, reinstatement of full fringe benefits and seniority rights, and compensation for any special damages sustained, including litigation costs and reasonable attorneys' fees.

### **3. New York State Labor Laws.**

Employees are protected from retaliation or intimidation by an employer if the employee discloses or threatens to disclose an activity, policy, or practice of the employer that the employee reasonably believes is in violation of any law, rule, or regulation or reasonably believes poses a substantial and specific danger to the public health or safety, to a supervisor or public body. Employees are also protected from retaliation or intimidation by an employer if the employee provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such activity, policy, or practice, or who objects to, or refuses to participate in, any such activity, policy, or practice. The employee's disclosure or threat of disclosure is only protected if the employee has made a good faith effort to notify the employer by bringing the activity, policy, or practice to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct the activity, policy, or practice.



## **XVI. Summary.**

In summary, Mohawk Opportunities has adopted this Compliance Plan with the goal of carrying out its activities in accordance with law and high ethical standards. The effectiveness of Mohawk Opportunities' Compliance Program depends on the active participation of all employees, contractors, and Board members in preventing, detecting, and appropriately responding to actual or suspected fraud, waste, abuse, or other improper or unethical conduct. Working together, we can make Mohawk Opportunities a model of excellence and integrity in our community.