



The Arc Mid-Hudson  
471 Albany Avenue  
Kingston, NY 12401  
845-331-4300  
www.ArcMH.org

**POLICY STATEMENT**

Topic: Compliance Investigations Policy Date Effective: 7/1/2019

Revised  New Section: Corporate Compliance Number: 10.09

Date: 8/14/2023 Approved by: 

**PURPOSE**

This policy and procedure provides information on the Arc Mid-Hudson’s process for completing thorough investigations into matters of non-compliance.

**POLICY**

The Arc Mid-Hudson (“Arc Mid-Hudson”) promptly responds to reports or reasonable indications of suspected noncompliance with federal, state, and local statutes, rules, regulations, Medicaid Program requirements, or the Compliance Program (hereafter referred to as “compliance issues”) by commencing a prompt investigation of the allegations to determine whether a violation has, in fact, occurred.

**SCOPE**

This policy applies to all investigations conducted to evaluate possible non-compliance with compliance issues.

This policy and procedure are applicable and made available/accessible to all affected individuals unless a specific exemption is noted within this policy

**REFERENCES**

The Arc Mid-Hudson is governed by several federal, state, and local statutes, rules, and regulations; however, the focus of this policy is on those pertaining to participation in and compliance with the Medical Assistance Program (Medicaid and Medicare). Applicable statutes, rules and regulations used to design this policy include New York State Title 18 regulations, specifically those under Part 521 that establishes requirements to adopt and implement programs designed to detect and prevent fraud, waste, and abuse in the Medical Assistance program. Social Services Law Part 363-d which establishes expectations for provider compliance programs, was also used to design this policy and procedure. The Arc New York Chapter Manual also requires that all operating Chapters shall have in effect a plan for corporate compliance that contains all the elements of a corporate compliance plan required by the OMIG (Section III-15.0: Corporate Compliance, Arc New York Chapter Manual) as well as a Compliance Committee that is a committee of the Chapter Board. (Section II-5.1: Model Chapter By-Laws, Article XI, Sections 1 &2)

Compliance program investigation requirements are governed by Title 18, Social Services Law, New York Codes, Rules, and Regulations at Part 521-1.4(h) and Part 521-1.4(h)(1).

### **DEFINITIONS**

Affected Individuals: all persons who are affected by the required provider's risk areas including the required provider's employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers. (N.Y. Comp. Codes R. & Regs. tit. 18, § 521-1.2)

### **RESPONSIBILITIES**

All affected individuals are expected to participate fully in investigation of compliance issues.

This policy and procedure are overseen by the Arc Mid-Hudson designated Compliance Officer (CO) and Compliance Committee (CC). The CO and CC are responsible for monitoring implementation of this policy and procedure, reviewing and revising as necessary; but no less frequent than annually.

### **PROCEDURE**

#### **The Investigation**

The Director of Quality Management/Corporate Compliance or Corporate Compliance Officer (CO) is empowered to investigate and independently act on matters related to the Compliance Program, including designing and coordinating internal investigations and documenting, reporting, coordinating, and pursuing any resulting corrective action with all internal departments, and other affected individuals. The CO has the authority to engage outside experts, auditors, legal counsel, or other consultants, as needed. The CO considers whether the investigation should be conducted under privilege.

Depending upon the type of possible non-compliance, the Director of Quality Management/Corporate Compliance or Corporate Compliance Officer will determine what personnel possess the requisite skill sets to examine the compliance issues and will assemble a team of investigators as needed. The Director of Quality Management/Corporate Compliance or Corporate Compliance Officer in consultation with the Chief Executive Officer will decide whether Arc Mid-Hudson has sufficient internal resources to conduct the investigation or whether external resources are also needed.

If appropriate, and in consultation with the Chief Executive Officer, or their designee, or the Corporate Compliance Committee, or any other appropriate parties, the Corporate Compliance Officer or designee will recommend the cessation of internal activities that may be the cause of the possible non-compliance.

Name of Document: Internal Investigation Policy 10.09

Date last updated: August 14, 2023

Updated by: T.Blair

Before conducting an investigation of the particular facts surrounding the issue, the Director of Quality Management/Corporate Compliance or Corporate Compliance Officer or designee obtains an understanding of the relevant statutes, rules, regulations, Medicaid Program Requirements, and government issuances.

The Corporate Compliance Officer or designee shall work with the investigation team to develop a strategy for reviewing and examining the facts surrounding the possible violation, which may include, but not be limited to, an audit of billing practices and interviews. Interviews include the “Who, What, When, Where, and Why” of the circumstances as applicable. All interview notes and notes from the documents reviewed shall be kept as part of the investigation file.

### **Post-Investigation**

Upon receipt of the results from the investigation, depending on the scope and severity of any identified violations, the Corporate Compliance Officer or designee may consult with the Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Corporate Compliance Committee, Chief of Legal Affairs, Chief Human Resources Officer, or Outside Counsel and/or other appropriate parties in order to determine: (a) the results of the investigation and the adequacy of recommendations for corrective actions; (b) the completeness, objectivity and adequacy of the results and findings; and/or (c) further actions to be taken as necessary and appropriate to prevent recurrence of the compliance issue.

If the Chapter identifies credible evidence or credibly believes that a State or Federal law, rule, or regulation has been violated, the Chapter promptly reports the violation to the appropriate government entity. The Chapter also makes notification to The Arc New York compliance staff immediately, but no later than five (5) business days of the self-disclosure or referral and includes a copy of the self-disclosure letter or other documentation. If no written self-disclosure document exists, the notification to The Arc New York includes a summary of the events as described to the state or federal agency. The CO receives and retains copies of any such reports.

### **Overpayments Identified as a Result of an Investigation**

If the investigation concludes that the Chapter received a Medicaid Program overpayment this is reported, returned, and explained to the department of the Office of Medicaid Inspector General (OMIG). This obligation is satisfied by making a disclosure through OMIG’s Self-Disclosure Program (if eligible), complying with the requirements as specified in section 521-3.4, and returning the overpayment and interest (if required) to the department in accordance with the provisions of

Name of Document: Internal Investigation Policy 10.09

Date last updated: August 14, 2023

Updated by: T.Blair

section 521-3.5. Please see the Arc Mid-Hudson’s Voluntary Disclosures policy and procedure for additional details.

The investigation seeks to identify the root cause of the identified overpayment and explores the potential existence of any additional overpayments.

Investigations into additional potential overpayments use up to a six-year look-back period and a look-ahead period up to the point of implementation of the corrective action addressing the non-compliance contributing to the existence of the overpayment. The CO determines what additional activities are warranted to explore the potential existence of additional overpayments (e.g., Chapter conducted audits, seeking outside consultation and audit support) as well as the scope of the audits (e.g., the look-back and look ahead periods, what records are reviewed).

### **Documentation**

At the conclusion of the investigation, the Corporate Compliance Officer or designee will organize the information in a manner that enables Arc Mid-Hudson to determine whether an infraction did in fact occur. Documentation includes the alleged violations, a description of the investigation process, copies of interview notes, other documents essential for demonstrating that the Chapter completed a thorough investigation and the disciplinary action and corrective action implemented. The CO tracks the investigation, including responsible parties and due dates in a central log. The log includes a notation of “closed” (or other similar notation) when the matter has been investigated and/or fully resolved.

### **Reporting**

The Corporate Compliance Officer or designee will be responsible for reporting all investigations to the Chief Executive Officer, Corporate Compliance Committee, and the Board of Directors.

Name of Document: Internal Investigation Policy 10.09

Date last updated: August 14, 2023

Updated by: T.Blair