



Deficit Reduction Act of 2005 and Whistleblower Policy

YAI Network's Commitment to the Prevention and Detection of Fraud, Waste and Abuse and Education about False Claims

Purpose

The YAI Network is committed to providing the highest quality care and to conducting its business in compliance with Federal, State and local laws and within applicable regulatory guidance. YAI strives to ensure that its billing to the Medicare program, the New York State Medicaid program and any other federal and state health care programs is accurate and in full conformity with applicable laws. This policy applies to workforce members of the corporations comprising the YAI Network (herein referred to as "YAI"). The Corporations include Young Adult Institute, Inc., Young Adult Institute/Rockland County Association for the Learning Disabled, Inc., and Premier HealthCare, Inc. Workforce members include employees, trainees, volunteers who provide substantial services to the organization, directors, officers, consultants, contractors, subcontractors and other agents of YAI.

Compliance Program

In furtherance of its commitment to promote the highest ethical standards, YAI has established a Compliance Program. At the heart of this program is the written Code of Conduct, which sets forth the organization's commitment to integrity and responsibility and provides compliance-related guidance to employees, trustees, vendors and contractors. YAI requires all staff, vendors and contractors to obtain a copy of, and familiarize themselves with, its Code of Conduct. A Compliance Officer is responsible for the implementation of the program and reports directly to YAI's Chief Executive Officer and its Board of Trustees. YAI has developed policies and procedures for the compliance program which can be found on the YAI intranet site under "Corporate Compliance" and on the YAI internet site.

Detection and Prevention of Fraud

YAI is committed to the prevention and detection of fraud and has undertaken the following activities:

- > Background screening of new and existing employees, vendors and Board members;
- > Periodic training and education of all employees;
- > Confidential and anonymous communication mechanisms (such as a “hot-line”);
- > Internal and external audits;
- > Internal risk assessments;
- > Protocols for promptly responding to and investigating compliance complaints and concerns;
- > Enforcement of discipline against non-compliant behavior; and
- > Non-retaliation and discrimination policies to encourage good-faith reporting of problems and concerns.

Reporting Non-Compliance and Whistleblower Protection

Workforce members of YAI have the right and responsibility to report any concerns about action or suspected action by or within YAI that is illegal, fraudulent or in violation of YAI’s policies or Code of Conduct.

The federal False Claims Act, the federal Program Fraud Civil Remedies Act, and certain New York State laws prohibit the knowing submission of false claims or statements to the government for payment. Although they differ in their specific detail, these laws define false claims as knowingly submitting false or fraudulent claims for payments to the federal or state government or making or using a false record or statement in connection with the submission of a claim for payment to the government. Violations can subject YAI to significant fines and penalties. The laws that prohibit the submission of false claims impose an affirmative obligation on YAI and its employees, agents and contractors to know and to understand the rules and regulations regarding the submission of claims. YAI makes it a part of the duty of all employees to support its commitment to accurate billing by reporting any potential improprieties directly to their supervisors or to the Compliance Officer.

A cornerstone of our Compliance Program and Whistleblower Policy is our open door policy. Any person who witnesses, is aware of or suspects any action is inconsistent with applicable law, YAI's policies or YAI's Code of Conduct must report this behavior to his or her supervisor or to anyone with whom he or she feels comfortable speaking, including, but not limited to, the Compliance Officer or the Vice President of Human Resources. Such report may be made in person, by electronic mail or by telephone. Alternatively, our Compliance Hotline allows for confidential reporting. The number for the Hotline is posted throughout all YAI program sites and offices and on the YAI intranet and internet sites.

All relevant matters, including suspected but unproved matters, will be reviewed and analyzed, with documentation of the receipt, retention, investigation and treatment of the report. Appropriate corrective action will be taken, if necessary. Investigations may warrant investigation by an independent person such as an auditor and/or attorney. YAI will take reasonable measures to keep the matter confidential and the individuals involved in the investigation will be advised to keep the matter confidential.

YAI's Code of Conduct and this policy specifically prohibit any retaliation against a workforce member who in good faith reports any concerns pursuant to this policy, including, without limitation, intimidation, harassment, discrimination, coercion, or, in the case of employees, adverse employment consequences. Workforce members who believe they have been retaliated against may file a written complaint with YAI's Chief Executive Officer, Chief of Human Resources, or a member of the Audit Committee of the Board of Trustees. Any complaint of retaliation will be promptly investigated and appropriate corrective measures will be taken if such allegations are substantiated, which may include disciplinary measures up to and including termination of employment. This protection is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related factors.

Anyone reporting a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

The Compliance Officer shall serve as the administrator of this policy and is responsible for ensuring that all complaints about suspected improper behavior are investigated and resolved. The Compliance Officer will advise the Audit Committee of the Board of Trustees of all complaints and their resolution. The Audit Committee is responsible for the oversight and implementation of this policy.

Any person who believes that YAI has not responded appropriately to his or her reports of potential problems (the agency encourages the use of the open door policy and the chain of command to communicate any and all concerns), is permitted, under certain of the federal statutes described above, to notify the federal government. As a matter of statute as well as its own internal policy, YAI is prohibited from taking any adverse action against persons who notify the federal government of potential violations.

Relevant Policies

All YAI employees and certain contractors and vendors should be aware of the agency's policies regarding prevention of fraud and abuse. These policies are posted on YAI's internal intranet site and the YAI internet site. The relevant policies include:

- [Code of Conduct](#)
- [Federal and State Laws Relating to False Claims and False Statements](#)
- YAI Policy GCP2.02 - [Employee, Board and Contractor Exclusion Screening](#)
- YAI Policy GCP5.01 - [Enforcement and Discipline of Compliance Violations](#)
- YAI Policy GCP7.01 - [Investigation and Resolution of Compliance Issues](#)
- YAI Policy GCP4.01 - [Reporting and Self Disclosure of Compliance Issues](#)
- YAI Policy GCP8.01 - [Reporting Compliance Concerns, Non Intimidation and Non-Retaliation](#)

Federal and State Laws and Regulations

YAI has set forth detailed information about the provisions of the federal False Claims Act, the federal Program Fraud and Civil Remedies Act and New York's civil and criminal state laws pertaining to false claims and statements in materials which are readily available to our

employees, agents, volunteers and contractors. For more information on these federal and state laws see YAI's intranet and internet sites.

Distribution

A copy of this policy will be distributed to all directors, officers, employees, contractors, vendors and volunteers who provide substantial services to the organization.

| Version Number | Summary of Changes | Effective Date |
|----------------|---|----------------|
| 1.0 | Initial Version | 2007 |
| 2.0 | Updated references and reformatted | May 25, 2012 |
| 3.0 | Updated to include minor edits and NYS Non- Profit Revitalization Act requirements | August 1, 2014 |
| 4.0 | Updated to include minor edits and additional NYS Non- Profit Revitalization Act requirements | June 29, 2016 |



ACKNOWLEDGEMENT OF RECEIPT

I acknowledge that I have received a copy of YAI Network's Commitment to the Prevention and Detection of Fraud, Waste and Abuse and Education About False Claims and Whistleblower Policy.

I agree to review the Policy and to conduct myself in conformity with all of its requirements and to cooperate with the agency's efforts to carrying out the objectives of the Compliance Program.

I understand that if I have any questions about any aspect of this Policy I can speak to any YAI Network supervisor or manager, the Chief Human Resources Officer or the Compliance Officer.

Acknowledged and Agreed:

Signature

Print Name

Date



Federal and State Laws Relating to False Claims and False Statements

The federal False Claims Act, the federal Program Fraud Civil Remedies Act and certain other New York State laws can subject individuals and organizations to significant fines and penalties if they commit fraud against either the federal or the state government.

I. Federal Laws

> Federal False Claims Act

Under the federal False Claims Act (31 U.S.C. §§ 3729-3733), false claims include knowingly submitting false or fraudulent claims to the government for payment, making or using a false record or statement in connection with the submission of such claims, or obtaining money from the government to which one is not entitled and then using false statements or records to retain the money. Examples of false claims include billing for services with knowledge that such services are not medically necessary or performed, billing twice or multiple times for the same items or services, falsifying internal records that are used to support claims, failing to report known overpayments and credit balances to a government payor, and upcoding claims in order to obtain reimbursement in excess of the proper amount due.

In addition to willful and intentional acts of fraud, individuals and organizations can be penalized for submitting or causing the submission of claims in deliberate ignorance or reckless disregard for the truth. Civil penalties range from \$5,500 to \$11,000 per claim. Violators may also be assessed up to three times the amount of damages caused to the government. If found in violation, Medicare and Medicaid providers can be subject to exclusion from both of these programs.

> Program Fraud Civil Remedies Act

Like the federal False Claims Act, the federal Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3802) imposes penalties on persons or organizations who deliberately submit false

statements or claims to certain federal agencies or submit such claims in deliberate ignorance or reckless disregard of their truth or falsity or omit material information in submissions to federal agencies. Unlike the federal False Claims Act, however, a violation of the federal Program Fraud Civil Remedies Act occurs when a false claim is submitted, not when it is paid. Also unlike the federal False Claims Act, an administrative agency rather than the federal judicial system, determines the existence of a violation and the imposition of penalties. Violations of the federal Program Fraud Civil Remedies Act are subject to civil monetary penalties of up to \$5,000 per false claim or statement and assessments of up to twice the amount of such claim in lieu of damages.

II. New York State Laws

Several New York State statutes also impose civil and criminal penalties for false claims and statements.

> **The New York False Claims Act** (N.Y. State Finance Law §§187-194) tracks the Federal False Claims Act, and similarly imposes penalties on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. Penalties for filing a false claim can range from \$6,000-\$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. Penalties may also include payment of the government's legal fees.

> **N.Y. Social Services Law § 145-b** prohibits the knowing submission of false statements, the deliberate concealment of material facts or other fraudulent schemes to obtain payment from public funds for items or services furnished under any Social Services program, including Medicaid. False statements include not only a claim for payment that is false on its face, but also falsification of the underlying data that forms the basis for a claim or a knowing misrepresentation concerning the licensure status or qualifications of the individual who renders health care services. The statute imposes up to treble damages for violations, as well

as civil monetary penalties that may range from \$2,000 to \$7,500 per claim. N.Y. Social Services Law § 145 makes it a misdemeanor to submit false information or to deliberately conceal material information in order to receive public assistance, including Medicaid. Moreover, under New York Social Services Law § 145-c, any person that makes a false or misleading statement in connection with an application for or receipt of public assistance, including Medicaid, may be excluded from the public assistance program for periods of 6 months to a period of years depending on the number of offenses.

> **N.Y. Social Services Law §§ 366-b, 366-d and 366-f** impose criminal penalties and civil monetary penalties up of to \$10,000 on persons or entities who knowingly make false statements, conceal material facts or submit false information for the purpose of obtaining greater compensation for services under the New York Medicaid program than is rightfully due or for obtaining authorization to provide items or services under the Medicaid program.

> **N.Y. Penal Law § 155** makes it a felony to commit larceny. Section 155 applies the crime of larceny to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud. N.Y. Penal Law § 155 has been applied to Medicaid fraud cases. Under N.Y. Penal Law § 155, the nature and extent of the violation determine the penalty. Fourth degree grand larceny involves property valued over \$1,000 and is considered a Class E felony (N.Y. Penal Law § 155.30). Third degree larceny involves property valued over \$3,000 and is considered a class D felony (N.Y. Penal Law § 155.35). Second degree grand larceny involves property valued over \$50,000 and is considered a Class C felony (N.Y. Penal Law § 155.40). First degree grand larceny involves property valued over \$1 million and is considered a Class B felony (N.Y. Penal Law § 155.42).

> **N.Y. Penal Law § 175** imposes criminal penalties on persons who deliberately file false information or claims or omit to make a true entry in a business record in violation of a duty to

do so. N.Y. Penal Law § 175.05 makes it a Class A misdemeanor to deliberately falsify business records, to provide false information or omit material information in a business record, or to alter a true entry in a business record with the intent to defraud. Section 175.10 makes it a Class E felony to falsify business records with the intent to commit another crime or to conceal its commission. Section 175.30 makes it a Class A misdemeanor to present a claim for payment to a public office knowing that it contains false information. Further, section 175.35 makes it a Class E felony to submit a false claim or document for filing with the intent to defraud the state or a political subdivision.

> **N.Y. Penal Law § 176** imposes criminal penalties for making false statements in connection with insurance payments, including Medicaid and other health insurance. Penalties range from Class A misdemeanor for intentionally filing a health insurance claim knowing that it is false (N.Y. Penal Law § 176.10) to a Class B felony involving the filing of an insurance claim for over \$1 million (N.Y. Penal Law § 176.30).

> **N.Y. Penal Law § 177** also imposes criminal penalties for deliberately making false statements or omissions in connection with claims for health insurance payments. Penalties range from a Class A misdemeanor to a Class B felony. (See N.Y. Penal Law §§ 177.05 - 177.25).

III. Additional Statutory Provisions

The corporations comprising the YAI Network requires its employees, agents and contractors to support its commitment to accurate billing and to the prevention and detection of false claims, and to report any problems or concerns to a supervisor or to the Compliance Officer without fear of retaliation. However, under the federal and New York State False Claims Act, any person may notify the government if he or she believes that any corporation in the YAI Network is not responding appropriately to reports of potential violations. Both the federal and New York False Claims Acts permit persons with actual knowledge of false claims to file a lawsuit on behalf of the government and, under certain circumstances, to receive an award of

15-30% of the monies recovered for the government in addition to attorneys' fees and costs. Such person must have direct and independent knowledge of the false claims activity and must voluntarily provide this information to the government. Under the federal and New York False Claims Acts, any potential award may, however, be barred or reduced if (i) a court finds that the person reporting the violation planned or initiated the violation; or (ii) the matter disclosed is already the subject of a federal investigation or the health care provider has previously disclosed the problem to a federal agency. Persons who bring frivolous claims under these false claims acts may be held liable for the defendant's attorneys' fees and costs.

The federal and New York False Claims Acts, N.Y. Labor Law §§ 740 and 741 and the YAI Network's internal policies protect persons who in good faith notify the government of health care fraud from retaliation or discrimination. Under N.Y. Lab. Law § 741, protected disclosures also include those that assert, in good faith, improper quality of patient care. Under N.Y. Lab. Law §§ 740 and 741, the employee's disclosure is protected from retaliatory action only if the employee first notified his or her supervisor and gave YAI a reasonable opportunity to correct the alleged violation. Penalties for retaliatory action under the federal and New York False Claims Acts and under N.Y. Lab. Law §§ 740 and 741 include reinstatement with comparable seniority, back pay with interest, compensation for any special damages, attorneys' fees and, in cases of bad faith, civil penalties.

| Version Number | Summary of Changes | Effective Date |
|----------------|---|----------------|
| 1.0 | Initial Version | 2007 |
| 2.0 | Updated statutory references and reformatted document | May 25, 2012 |
| 3.0 | Minor changes to the scope of policy to include other YAI corporations. | August 1, 2014 |