SALISH BHO

PRIVACY AND SECURITY MEDICAID COMPLIANCE POLICIES AND PROCEDURES

Policy Name: COMPLIANCE PLAN, FY 2018-2019 **Policy Number:** 5.17a

Reference: State and BHO Agreement; State BHP PIHP Contract; 42 CFR 438.610, 42 CFR 438.608(a); 42 CFR 455

Effective Date: 7/2007

Revision Date(s): 5/2013; 5/2016

Reviewed Date: 5/2016; 6/2017; 5/2018

Approved by: SBHO Executive Board

BACKGROUND AND PURPOSE

The Salish Behavioral Health Organization (SBHO) strongly embraces the values of accountability and responsibility in order to ensure compliance with all local, state, and federal laws governing daily operations. The SBHO understands that accountability must be balanced between the expectations of the individuals served, provider agencies, community, and inter-governmental efforts between counties, the state and federal agencies and institutions. The term “compliance” is an ethical and moral commitment to carrying out our mission in the most effective manner possible to reduce the occurrences of Medicaid fraud and abuse in the healthcare industry. The SBHO Compliance Plan establishes a culture within the network that promotes prevention, detection, and resolution of instances of conduct that violate this plan and federal and state law; and federal and state funded health care program requirements, such as the False Claims Act.

SBHO Executive Board, Advisory Board, and Quality Review Team (QRT) members, SBHO Administrator and staff, and network contractors and subcontractors that encompass the operations of the SBHO are expected to comply with the SBHO Compliance Plan. These parties work together to achieve and improve upon outcomes through such efforts as strategic planning, staff training and development, numerous feedback loops to effectively monitor and ensure progressive outcome measurements lead to improved policy and procedure development, and the implementation of agency wide best practices. The SBHO network contractors and subcontractors are required to develop internal compliance plans, with a designated agency Compliance Officer, that complement the SBHO Compliance Plan.

The SBHO is committed to implementing a strong compliance program that includes education, routine monitoring, accessible and responsive network Compliance Officers to reduce the occurrences of Medicaid fraud and abuse in the network.

Input from Individuals Served and Family Members

The SBHO has learned the value of being responsive to our community and individuals within our community. We have learned to keep an open ear and continuously incorporate input from the individuals and families we serve to ensure culturally appropriate and meaningful improvements to our service delivery. In order to ensure continuous feedback from individuals that access our services we have implemented the following benchmarks:

- SBHO Advisory Board. 51% client or family member representation on Advisory Board.
- Quality Review Team membership that includes 100% client or family membership to conduct on-site agency reviews, using standardized protocols they have created. The reviews always include facilitating a local public forum for the community to attend, meeting face to face with local individuals, and face-to-face interviews with ancillary community partners.
- State individual surveys. The SBHO office has requested the Department over sample designated catchment areas to analyze local community feedback, and to help identify local issues versus regional trends.
- SBHO QUIC membership. The client and family membership is added to the network provider membership on the SBHO Quality Improvement Committee (QUIC).

Diversity

The SBHO understands the importance of ensuring the individuals that access our services are treated with dignity and respect in a manner that is consistent with their individual culture, age gender, sexual orientation, spiritual beliefs, socioeconomic status and language. The SBHO strives to provide annual cultural competency training to staff and the network.

Confidentiality

Individuals served by the SBHO network providers have the right to expect total confidentiality regarding their receipt of services, as well as the details of the services. Information designated as confidential should not be discussed with anyone other than on a need to know basis. All SBHO represented parties, such as Advisory Board and QRT members, who access confidential information, must sign the SBHO Oath of Confidentiality Statement. SBHO network contractors and subcontractors authorized to access confidential information must sign a Business Associate Agreement and treat the information as protected and confidential health information.

Standards of Conduct

The SBHO is committed to conducting all business in compliance with all applicable state and federal standards, including state laws and regulations, the SBHO contracts with the

State of Washington, as well as federal regulations and laws. It is the expectation of the SBHO that staff, board members, volunteers and contracted agencies and staff will all comply at all times with all pertinent governing regulations. (See SBHO Policy and Procedure 5.23 Code of Conduct)

Duty to Notify Regarding Federal Exclusion and Legal Status

The SBHO will not willingly contract with nor retain any contractor or subcontractor who has been listed by a state or federal agency as debarred, excluded or otherwise ineligible for federal or state program participation or whose license had been revoked or suspended. If either of these situations apply or if they become applicable, they must be reported to the SBHO Compliance Officer as soon as possible.

Excluded provider verification is conducted at time of hire or appointment, August 2010 and every month thereafter. This verification is conducted through the United States Department of Health and Human Services (HHS) Office of Inspector General (OIG) website (see page 9).

Ownership disclosure. The SBHO, network agencies and subcontractors must disclose whether a person (individual or corporation) with an ownership or controlling interest in the organization is or has a relative with ownership or 5%+ more interest.

- A network agency is required to maintain a list of employees and subcontractors with an ownership or control interest.

The SBHO Corporate Compliance Officer duties also include the writing, monitoring and reporting of violations of policies and procedures that include a no-reprisal approach to the reporting of violations and time frames for investigating violations related to Medicaid fraud and abuse.

Reporting Medicaid Fraud and Abuse

Medicaid Managed Care Fraud means an intentional deception or misrepresentation made by a person that the deception could result in some unauthorized benefit to himself or some other person and includes an act that constitutes fraud under applicable federal or State law.

Medicaid Managed Care Abuse means provider actions that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet the professionally recognized standards for health care.

It is the policy of the SBHO to consistently and fully comply with all laws and regulations pertaining to the delivery and billing for services that apply to the SBHO's participation in the federal Medicaid and state funded behavioral health programs. The SBHO Compliance Medicaid Fraud and Abuse Reporting Standards policies and procedures are developed using applicable state and federal rules and regulations, and licensing boards from various disciplines as a source. As a contractor or subcontractor of the SBHO, it is

the responsibility of the agency to understand and comply with the state and federal regulations that apply to the reporting relationship with the SBHO.
It is also the contractor's or subcontractor's responsibility to support the SBHO's Compliance Plan, Compliance Committee activities, Compliance Charter, reporting standards, and compliance activities by participating in activities, reporting any suspected violations, and cooperating in any investigation.

The SBHO trainings provide information to encourage employees and contractors to report suspected violations of the SBHO Compliance Plan without fear of retaliation.

The SBHO will provide notification to such law enforcement and regulatory authorities as legal counsel advises, which at a minimum includes, for Medicaid fraud, notification to the Medicaid Fraud Unit of the Washington Attorney General's office and the Office of the Inspector General. The network agency Compliance Plan and staff training must include these outside reporting entities as optional reporting contacts.

SBHO, Contractor and Subcontractor Business Records

The SBHO, contractors and subcontractors records are maintained in a manner that provides for an accurate and auditable account of all financial transactions in conformity with generally accepted accounting principles. All entries must contain an appropriate description of the underlying transaction. All reports, vouchers, bills, invoices, service records, client records, and other essential data must be prepared with care and honesty. False or deceptive entries related to the expenditure of Medicaid funds are to be reported as possible Medicaid fraud or abuse and investigated. The SBHO conducts annual fiscal audits to ensure these standards are adequately addressed.

Data and Billing Records

The SBHO is committed to submitting accurate data and billing records for services that are medically necessary, reflect the services and care provided to clients and are justified by medical record documentation. The SBHO considers the following areas those that could potentially rise to the level of constituting fraud and abuse. SBHO contractors and subcontractors are required to report any potential suspected fraud or abuse, such as:

- Duplicate billings
- "Phantom Patients" or enrolling deceased persons
- Failure to identify, pursue and document Third Party resources
- Intentional billing for services not performed or improper billing
- Unnecessary or misrepresented services
- Billing Medicaid enrollees for SBHO covered services
- Billing for services provided to non-Medicaid individuals
- Upcoding
- Unbundling
- Kickbacks
- Evidence of intentional false or altered documents
- Sufficient documentation to support a recorded service
- Unlicensed or excluded professional or facility at time of service
- Falsification of health care provider credentials or no credentials

- Falsification of agency financial solvency
- Agency management knowledge of fraudulent activity
- Incentives that limit services or referral
- Evidence of irregularities following sanctions for same problem
- Embezzlement and theft

Clinical Documentation

Contractors and subcontractors have contractual responsibility requiring documentation in a client record and to abide by the rules and regulations regarding record maintenance, record retention, and record confidentiality. These agents have an obligation to ensure required documentation is maintained, kept confidential, and not falsified.

The SBHO provides trainings and on-going discussions to ensure "Golden Thread" documentation standards are applied in each authorized clinical chart. The Golden Thread term refers to documentation of an **intake assessment** that justifies a **covered diagnosis** and **medically necessary services** tied to a **treatment plan** with **progress notes** documentation to identify progress/measures outlined in the treatment goals.

The SBHO conducts annual clinical chart reviews and encounter data validation studies to ensure "Golden Thread" standards are implemented throughout the region. Clinical documentation standards are routinely discussed in the routine Utilization Management and Clinical Directors meetings.

SBHO Corporate Compliance Officer

The SBHO ensures that the accountability and continuous compliance with immediate oversight of the monitoring and reporting of matters pertaining to compliance are delegated to the SBHO Corporate Compliance Officer (CCO), a SBHO senior management position. The SBHO Compliance Officer has direct access to SBHO legal advisors and the authority to report and investigate concerns. The SBHO Quality Improvement Committee (QUIC) works collaborative with the SBHO Compliance Committee, and the Compliance Officer is responsible for training the committees regarding compliance issues, the Compliance Plan, and informing the committees of all suspected instances of Medicaid fraud and abuse that are reported.

The SBHO Compliance Officer training includes, at a minimum:

- Review of the SBHO Compliance Plan, Compliance Activity Checklist and related policies and procedures
- Review of the SBHO network provider monitoring tools
- Review of the SBHO correspondence and required reports to the Washington State Medicaid Fraud Control Unit (MFCU)
- Review of the Center for Medicare and Medicaid Services (CMS) Medicaid Fraud and Abuse publications and reports
- Review of additional information presented at Medicaid fraud and abuse trainings sponsored by governmental authorities such as a county, Tribe, state, or CMS

- Review of compliance training material from MFCU, External Quality Review Organization (EQRO) and other trainings.

The SBHO Compliance Officer is the contact point for ensuring:

- Policy and procedure development, as it relates to SBHO compliance
- Timely assessment of compliance issues
- Timely investigation of violations
- Violations, suspected or known, are reported to the appropriate governing bodies and agencies.
- Adequate trainings are provided to SBHO staff, SBHO Board members, SBHO Committee members and network providers. Available training opportunities are announced.
- The provision of activities according the SBHO Compliance Plan
- Corrective measures are implemented, when needed
- Revised compliance requirements are communicated to network, such as contract amendments
- Facilitate the SBHO Compliance Committee meetings, maintain Compliance Charter and related documents

Reportage of and Inquiries Regarding Medicaid Fraud and Abuse

SBHO employees, board and committee members, and network contractors have a responsibility to raise questions about business ethics and regulatory compliance, to report incidents of potential noncompliance and to report suspected Medicaid fraud and abuse identified during the course of performing work responsibilities to the Compliance Officer.

A report is made to the Compliance Officer using one of the following options:

1. In person, to the Compliance Officer.
2. Faxing a report to the Compliance Officer at (360) 337-5721
3. Anonymously and confidentially calling the Compliance Officer at (360) 337-4648 or (800) 525-5637.
4. Mailing a written concern or report to:

   SBHO Compliance Officer (identify as Confidential on outside of envelope)
   Salish Behavioral Health Organization
   614 Division St. MS 23
   Port Orchard, WA 98366

5. Contacting the Washington State Medicaid Fraud Control Unit (MFCU)

   Medicaid Fraud Control Unit of Washington
   Office of the Attorney General
   P.O. Box 40116
   Olympia, WA 98504-0116

Phone: (360) 586-8888 Fax: (360) 586-8877

On-line Submission: http://www.atg.wa.gov/MedicaidFraud/default.aspx

7. OIG Hotline: 1-800-HHS-TIPS (1-800-447-8477)

In addition, SBHO and contractor employees may report any potential fraud or abuse to their agency supervisors or agency designated Compliance Officer who has the responsibility to then report the suspected concerns or misconduct to the SBHO Compliance Officer and MFCU, when appropriate .

As a general guideline, all contacts that cannot be resolved in one conversation are documented in a log to track and monitor reported concerns to resolution.

All known reporting persons are advised that they may call back at a later time to receive an update on their reports.

Investigations, Corrective Action Plans and Other Responses

1. All reports of potential violations of laws, regulations, policies or questionable conduct, from any source, shall be logged and reviewed by the SBHO Compliance Officer. If after initial investigation and consultation with the SBHO Regional Administrator and Legal Counsel, the Compliance Officer determines there are genuine compliance concerns, the Compliance Officer forwards reports of potential fraud and abuse to MFCU and all other appropriate regulatory authorities.
2. When an instance of non-compliance has been determined and confirmed, the Compliance Officer (in conjunction with agency management staff) develops or reviews the agency developed initial corrective action plan to the Regional Administrator for review.

   Upon approval, the Compliance Officer will review and approve the implementation of the corrective action plan, with the advice and guidance of the SBHO Regional Administrator and Legal Counsel. The corrective action plan will focus on implementing changes designed to ensure that the specific violation is addressed and, to the extent possible, improve, prevent or detect any additional compliance inadequacies. The corrective action plan may include one or all of the following areas:
   a. Specific areas requiring compliance attention
   b. Requirements of additional training and education
   c. Further audit and/or investigation
   d. Disciplinary Action
   e. Monitoring the results.
3. If the initial investigation reveals possible criminal activity, the corrective action plan includes:
   a. Immediate cessation of the activity until the corrective action plan is in place.

b. Initiation of appropriate disciplinary action against the person or persons involved in the activity.
c. Notification to local law enforcement and regulatory authorities as the SBHO Legal Counsel advises, which at a minimum includes for Medicaid Fraud, notification to the Medicaid Fraud Unit of the Washington Attorney General's Office.
d. Specific requirements for additional training and education of employees to prevent future similar occurrences.
e. Initiation of any necessary action to ensure that no individuals are placed at clinical risk.

4. Any threat of reprisal against a person who makes a good faith report under the SBHO Compliance Plan is against SBHO policy. Reprisal, if found to be substantiated, is subject to appropriate discipline, up to and including termination.
5. Any attempt to harm or slander another through false accusations, malicious rumors, or other irresponsible actions is a violation against SBHO policy. Such attempts, if found to be substantiated, shall be subject to discipline, up to and including termination.
6. The SBHO, at the request of a reporting person, shall provide such anonymity to the reporting person as is possible under the circumstances in the judgment of the Compliance Officer, consistent with the SBHO's obligation to investigate concerns and take necessary corrective action. Anonymous reporting persons are advised that while they may remain anonymous, the content of their reports is not confidential.
7. If the identity of the complainant is known, the Compliance Officer provides a written report to the reporting individual that an investigation has been completed and, if appropriate, the corrective action that has been taken.

Policy Violations and Reporting Requirements

SBHO governing board members, QRT members, SBHO Administrator and staff, network contractors and subcontractors must report all suspected, actual or potential violations of the standards and policies outlined in this SBHO Compliance Plan to the SBHO Compliance Officer. Individuals that report incidents must cooperate in all investigations relating to such violations when they have any personal knowledge of the facts. There shall be no retaliation against the reporting agency or individuals as a result of such good faith reporting. The SBHO ensures protections against retaliation for individuals that report suspected violations, as outlined in the SBHO Protections Against Retaliation policy.

In the event of an investigation by any state or federal government agency, all parties involved will respond promptly and with complete honesty as requested by the investigators. The SBHO requires that if network entities are contacted by federal or state investigators with regards to the entity's operations, that they immediately notify the SBHO Compliance Officer.

The SBHO Compliance Officer records all reported suspected violations, and facilitates an investigation in accordance with the SBHO contracts, subcontracts, Medicaid Fraud and Abuse policy and/or other pertinent SBHO policies. The SBHO will prioritize and make reasonable efforts to complete investigations of suspected fraud and abuse reported to the SBHO in a timely manner and provides documentation of the investigation to the appropriate federal and/ or state authorities.

Disciplinary Guidelines

The SBHO does not and shall not employ or contract with providers excluded from participation in federal health care programs.

If a network provider agency or employee is found to be under investigation for any criminal offense related to health care they are to be removed from direct responsibility for, or involvement with, SBHO funded services.

If a network agency or employee is listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation, as required by current federal and state laws, or found to have a conviction or sanction related to health care they *will be* excluded from SBHO funding and *shall not be* permitted to provide SBHO funded services.

- For a federally excluded network agency, the SBHO will suspend payment, consider terminating the provider contract and may seek repayment of funds. The SBHO will file an investigation through the MFCU hotline.
- For a federally excluded network agency employee, the agency risks not receiving any SBHO funds during the period that the individual is employed. The SBHO will file an investigation through the MFCU hotline.

The SBHO requires network contractors to sign assurances that they are not excluded from participation and do not employ individuals who are excluded. The SBHO requires network contractors to check all newly hired employees against the federal exclusion web sites listed, as follows, prior to hire and monthly thereafter:
https://fortress.wa.gov/atg/formhandler/ago/mfcucomplaintform.aspx

Due to a contract amendment, the SBHO agreed to begin monthly verification for all staff, Board members, volunteers/interns, and subcontractors. Beginning August 2010, each network agency conducted a full review and attested to the verification. Each month following, supplemental verifications are conducted with written attestation sent to the SBHO Compliance Officer.

<u>SBHO Employee Discipline</u>
The SBHO will initiate appropriate disciplinary action against the person(s) who conduct appears to have been intentional, willfully or reckless with disregard of state and federal laws, in accordance with the County's human resources (personnel) policies and procedures.

Contractor Discipline

The SBHO contracts with network agencies include provisions which require compliance with all state and federal laws and regulations, as well as the SBHO Compliance Plan. The Medicaid revenue contract clearly states that breach of these provisions will be events for corrective action or termination of the contract after failure to cure.

Network agencies are required to report suspension of employee criminal activity to law enforcement. In addition, network agencies are required to report employee misconduct concerns and inappropriate conduct terminations to Department of Health (credentialing), Child Protective Services, Adult Protective Services, law enforcement, and/or any other associated regulatory entity.

The SBHO has the option to seek legal and criminal recourse if these disciplinary guidelines are not adhered to.

MONITORING PRACTICES

Fiscal Monitoring

The SBHO conducts ongoing, as well as specific fiscal monitoring, in order to detect financial anomalies which may indicate Medicaid fraud or abuse or other illegal activities on the part of network providers. Network providers are required to complete Revenue and Expenditure reports quarterly which are reviewed by SBHO fiscal staff for inconsistencies. Any inconsistencies are followed up on verbally, and in writing, if verbal clarification was insufficient to explain the inconsistency.

Programs that are funded with specific line items which are tied to expenditures, such as the Federal Block Grant program, Jail Services program, etc. are monitored on-site at each agency by SBHO fiscal staff, who track reported expenditures to the client level. Providers who have billed for funds to which they were not entitled may be required to re-pay the funds. If the billing inconsistency appears to have been made knowingly by agency management staff, legal counsel will be consulted.

Under the Interlocal Agreement which established the SBHO, Kitsap County is designated as the administrative entity for all SBHO business. As a result, all SBHO fiscal activities are conducted through the Kitsap County fiscal structure. The County has extensive checks and balances governing its fiscal activities, and is subject to annual audits by the Washington State Auditor. In addition, the Department conducts fiscal monitoring of the SBHO, ensuring that fiscal reports made to the state are accurate and reflective of accounting reports available through the Kitsap County fiscal reporting system.

Resource Management

The SBHO conducts ongoing and specific monitoring of resource management. The SBHO receives monthly Utilization Management reports which detail at the agency level how many individuals were authorized for care, and the specific level or type of care for which they were authorized. These reports are reviewed by the Utilization Management Committee (UMC) routinely.

Performance statistics for network providers are gathered quarterly by the SBHO. These statistics outline provider performance in terms of numbers of individuals receiving specific modalities of service, crisis service activity, and utilization of facility based programs including community hospital. These statistical reports are reviewed by the Quality Improvement Committee (QUIC), which may request the SBHO to perform additional analysis or garner additional information regarding specific aspects of the reports.

As required, the SBHO shall conduct an analysis of its provider network to ensure compliance with travel standards and network adequacy whenever there are changes in the provider network. Additionally, the SBHO shall annually conduct a review of specialists and licensed personnel working within the provider network for adequacy, as well as maintain a directory of bilingual and evidenced-based specialized trained staff available in the network.

Utilization Management:

The SBHO contracts with an independent contractor, CommCare, to conduct Utilization Management functions. These functions are monitored through a variety of means, including the routine UMC meetings, in which all network providers as well as CommCare and SBHO staff are involved. The committee reviews all authorization data for anomalies, makes suggestions about additional information which would be useful to review, and serves as a mechanism to share practices and inform the provider network of upcoming practice changes.

The SBHO conducts at least 500 clinical chart reviews annually. This is a composition of blended comprehensive reviews and targeted reviews, during which clinical files are reviewed to determine if authorization requests are reflective of the clinical need presented in the clinical chart for each case reviewed. Additionally, denials of care are always subject to review.

Data integrity and encounter data verification with the clinical documentation in a clinical chart, to include all the services provided in one month increments for at least 411 Medicaid encounters (per year).

COMPLIANCE PLAN REVIEW

The SBHO Compliance Plan is reviewed by the SBHO Compliance Officer, under the direction of the SBHO Compliance Committee, on an annual basis at minimum and at any other time that to do so would be advantageous to the promotion of ethics and values for the organization, the individuals we serve, family members, and stakeholders.