



COMMUNITY CARE
OF
B R O O K L Y N

DSRIP Program Compliance Education: *An Overview for CCB Participants*



Updated December 2018

Compliance Program

Welcome to Community Care of Brooklyn's (CCB) 2018 Compliance Education

Maimonides Medical Center (MMC) is the designated lead of and fiduciary for a PPS, known as Community Care of Brooklyn (CCB), within the NY State Department of Health's Delivery System Reform Incentive Payment (DSRIP) program. The following presentation reviews key facts about the New York State Delivery System Reform Incentive Payment (DSRIP) compliance requirements with an emphasis on the following:

- Background on DSRIP compliance
- Review of CCB Compliance Plan
- Code of Conduct
- Fraud, Waste, & Abuse
- HIPAA and Protected Health Information
- Compliance Hotline
- 'Excluded Party' Compliance Checks
- Non-Retaliation and Non-Intimidation Policy
- Conflicts of Interest
- Contact List

Additional information on the DSRIP program can be found at the New York Department of Health website:

https://www.health.ny.gov/health_care/medicaid/redesign/dsrip/

Compliance Program

The Maimonides PPS is known as Community Care of Brooklyn.

Community Care of Brooklyn (CCB), the Maimonides PPS, is not a separate legal entity, but rather a group of organizations and individual practitioners (known as “Participants”) connected via a Master Services Agreement (MSA) to MMC. CCB is governed by an Executive Committee and managed by the Maimonides Central Services Organization (CSO), a team of individuals employed by MMC. Final authority with respect to the Maimonides PPS rests with MMC as fiduciary.

CCB is responsible for plans and projects that will transform the delivery of care to more than 600,000 Medicaid beneficiaries in Brooklyn.

The **CCB network** consists of a broad range of health and human services providers, Brooklyn-based community groups and others, including, but not limited to:

- 7 Hospitals
- 10 FQHCs
- 3 IPAs
- Over 4,600+ practitioners, including 1,600+ primary care physicians
- Clinics & Home Care Services
- Specialty and Behavioral Health Physicians and Services

Compliance Program

Why Do We Have A Compliance Program?

Compliance Programs are **mandated by both Federal and State Law.**

- Officer of Inspector General (OIG)
- New York State Officer of Medicaid Inspector General (OMIG)

A Compliance Program:

- Supports a culture of compliance and ethical business practices throughout;
- Promotes open and clear lines of communication to report compliance and ethical concerns without retaliation or intimidation;
- Assures proper regulatory oversight;
- Mitigates risk by detecting fraud, waste, & abuse; and
- Provides compliance training and education to the organization's leadership, management and associated staff.

Compliance Program

New York State (NYS) General Compliance Requirements for Medicaid Providers

NYS Social Services Law §363-d, 18 NYCRR Part 521 requires providers to annually certify that they have an “effective” compliance program.

Which Providers must have an “effective” compliance program?

- Those providers subject to Article 28 and Article 36 of the Public Health Law;
- Those providers subject to Article 16 and Article 31 of the Mental Hygiene Law; and/or
- **Those providers that claim, order, bill, or receive more than \$500,000 per year from Medicaid**

NYS requires compliance programs to cover the following areas:

- Billings/Payments
- Quality of care and medical necessity determinations
- Governance
- Mandatory Reporting
- Credentialing process; and
- Any other risk areas identified (example: Conflicts of Interest)

**Note: Not all CCB Participants are required to have their own compliance program under NYS law, but all must comply with the requirements of CCB’s Compliance Program. Some CCB Participants that do not have a compliance program may be required to do so by virtue of receipt of DSRIP payments that result in their meeting the \$500,000 threshold.*

DSRIP Program

What is DSRIP?

- Delivery System Reform Incentive Payment (DSRIP) program
- The overall goal is to decrease avoidable hospitalizations by 25% in 5 years.
- Aims to incentivize and invest in provider collaborations, also known as performing provider systems (PPS).
- Up to \$6.4 billion dollars statewide are allocated to this program with payouts based on achieving predefined results in system transformation, clinical management and population health.

Requirements of PPS Participants?

- Participate in good faith in meeting the applicable metrics of DSRIP
- Develop and maintain a compliance program where required under NYS law
- Implement DSRIP-related compliance training and education provided by the PPS Lead
- Observe contractual and other compliance requirements as required by the PPS Lead and state law, regulation and policy

DSRIP Program

Who's Who in DSRIP

PPS: The entities that are responsible for creating and implementing DSRIP projects are called 'Performing Provider Systems' (PPS). Performing Provider Systems are providers that form partnerships and collaborate in one or more DSRIP Projects.

Maimonides PPS: [Community Care of Brooklyn](#)

PPS Lead: The PPS Lead serves as the initiator or convener of the PPS. The PPS Lead is responsible for:

- Overseeing the administration and operation of the PPS in accordance with the PPS governance structure.
- Serving as the recipient of NYS funds.
- Distributing the funds to PPS Participants in accordance with executed Master Services Agreements (MSA) and Schedule B contracts.

Maimonides PPS: [Maimonides Medical Center](#)

PPS Partners: A PPS Partner is a provider or entity that has an executed MSA with the PPS Lead to perform certain services.

Maimonides PPS: [CCB Participants](#)

DSRIP Program

Who's Who (continued)

NYS Office of Medicaid Inspector General (OMIG): OMIG is the lead NYS agency responsible for “enhancing the integrity of the NYS Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting a high quality of patient care.” OMIG is empowered to conduct compliance reviews and audits of Medicaid providers.

DSRIP Independent Assessor (IA): The IA is a DOH vendor responsible for ongoing monitoring of performance and reporting deliverables. The NYSDOH has contracted with Public Consulting Group to serve as the DSRIP IA.

Contractors/Vendors: Individuals or companies that are not PPS Participants but that are engaged by the PPS Lead, or by a PPS Participant, to perform services of their behalf in furtherance of the DSRIP program.

Statewide Health Information Network of New York (SHIN-NY): The Statewide Health Information Network of New York (SHIN-NY) is a statewide “network of networks” of health information technology that links New York’s eight non-profit RHIO/QE (throughout the State. With patient consent, authorized users are able to use the RHIO/QE to share patient health information in a timely and secure manner

Regional Health Information Exchange (RHIO): Regional Health Information Organization is a non-governmental organization that exists as a New York State not-for-profit corporation to enable interoperable health information exchange via a common Statewide Health Information Network for New York (SHIN-NY). There are currently eight (8) RHIOs across the state of NY. Healthix is the RHIO with which CCB works.

Qualified Entities (QE): RHIOs that have been certified by NYS as meeting certain specified criteria. Healthix is a certified QE.

Compliance Program

OMIG Guidance – Eight (8) Elements of an “Effective Compliance Program”:

1. PPS Lead must have written policies/procedures that describe compliance expectations as embodied in a code of conduct.
2. Compliance Officer must be an employee of the PPS Lead organization, reporting to senior leadership and providing reports to the governing body.
3. Training and Education of all persons associated with PPS.
4. Effective lines of communication for reporting compliance issues, including an anonymous/confidential method.
5. Disciplinary policies to encourage good faith participation in compliance program for all persons associated with PPS.
6. PPS Lead must develop/implement systems for routine identification or compliance risk areas.
7. PPS Lead must have system for responding to compliance issues in an effective manner and a system for corrective action.
8. PPS Lead must have policy of non-intimidation and non-retaliation.

Note: The PPS Lead is **NOT** responsible for PPS Participants' compliance program or activities.

Compliance Program

Code of Conduct:

- The Maimonides Code of Conduct applies to all MMC employees and vendors, including the leadership and staff in the Maimonides Central Services Organization (CSO) who are responsible for the management of the DSRIP program and the provision of support to CCB and its Participants.
- The CCB Code of Conduct is specific to DSRIP-related activities and issues. It outlines the compliance principles and standards of legal and ethical conduct that govern both CSO staff and CCB Participants. Additional reference to compliance principles and guidelines appears in the Master Services Agreements (MSAs) that have been executed by all CCB Participants.
- **CCB Participants should familiarize themselves with the contents of the CCB Code of Conduct and ensure that the legal and ethical principles referenced are upheld without exception.** As noted in the MSA, failure to meet these standards may result in corrective action and/or termination from participation as a CCB Participant in the DSRIP program.
- *Link to CCB Code of Conduct is available on CCB's website: <https://www.ccbrooklyn.org/community-care-brooklyn/about-ccb/ccb-compliance-program>*

Fraud, Waste and Abuse Laws

Fraud, Waste and Abuse Laws

Increased requirements in the regulatory landscape of healthcare in past years have results in a growth of suspected fraud reports and outside investigations. Maintaining full adherence to Fraud, Waste and Abuse laws is vital to CCB.

- **Fraud**: an intentional deception or misrepresentation made by someone with knowledge that the deception will result in a benefit or financial gain
- **Waste**: incurring unnecessary cost as a result of deficient management, practices, systems and/or controls
- **Abuse**: a practice that is inconsistent with accepted business or medical practices or standards and that results in unnecessary costs

Fraud, Waste and Abuse Laws

'The Deficit Reduction Act (DRA) of 2005' and 'The False Claims ACT (FCA)'

The Federal Deficit Reduction Act (DRA) of 2005, Section 6032, requires entities that make or receive annual Medicaid payments of \$5 million or more to provide, in writing, policies applicable to all employees, contractors and agents, detailed information about the following:

- **The Federal False Claims Act (FCA)** and any state laws that pertain to civil or criminal penalties for making false claims and statements, as well as the “*whistleblower*” protection under such laws.
- The right of all employees to be protected as “**whistleblowers**” when they report suspected violations of such laws. Employers may not retaliate against employees who report potential misconduct in good faith.
- The organization’s methods for detecting and preventing Fraud, Waste and Abuse.

Fraud, Waste and Abuse Laws

What is the Anti-Kickback Statute (AKS)?

- Provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive *remuneration* to induce or reward the referral of business reimbursable under Federal health care programs.
- **Safe harbor** provisions have been created to specify certain arrangements and practices that would not be treated as criminal offenses under the AKS.
- Effective January 1, 2017, the Office of Inspector General of the US Department of Health and Human Services (OIG) modified certain existing **Safe harbors** to the AKS and also added additional safe harbors that provider new protections.
- More on Safe Harbors: <https://oig.hhs.gov/compliance/safe-harbor-regulations/index.asp>

Fraud, Waste and Abuse Laws

What is the Stark Law?

- Prohibits physician self-referral, specifically a referral by a physician of a Medicare or Medicaid patient to an entity providing designated health services ("DHS") if the physician (or an immediate family member) has a financial relationship with that entity.
- CMS set forth numerous **exceptions** to the Stark Law. These exceptions permit certain financial relationships between providers of DHS and physician referral sources, so long as certain conditions are met.
- These **exceptions** almost uniformly require that the agreement between a provider of DHS and the physician referral source be in writing. For example, the following Stark Law exceptions require a written, signed agreement: office space and equipment rental, personal service arrangements, physician recruitment and group practice arrangements, and fair market value compensation arrangements.
- More on Stark Law and exceptions: <https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/index.html>

Fraud, Waste and Abuse Laws

If you suspect Fraud related to DSRIP activities, PLEASE CALL US!

What are the penalties?

- Those who defraud the government can end up paying triple the damage done to the government or a fine (currently between \$10,957 and \$21,916) for each and every false claim, in addition to the claimant's costs and attorney's fees.
 - The monetary fines listed above are in addition to potential incarceration, revocation or licensures and/or becoming an "excluded" individual.
- You do not have to intend to defraud the Government to violate the False Claims Act.
- You can be punished if you act with **deliberate ignorance or reckless disregard** of the truth.
- **If you are aware of or suspect fraudulent DSRIP-related practices within your organization/agency, you must report it to CCB.**
 - **Compliance Helpline: 1-800-585-7970**

HIPAA & Protected Health Information (PHI)

- **The HIPAA Privacy Rule** provides federal protections for personal health information held by covered entities and gives patients an array of rights with respect to that information. At the same time, the Privacy Rule is balanced so that it permits the disclosure of personal health information needed for patient care and other important purposes.
- **The HIPAA Security Rule** established national standards to protect individuals' electronic PHI (e-PHI) that is created, received, used, or maintained by a covered entity. The Rule requires appropriate administrative, physical and technical safeguards to ensure the confidentiality, integrity, and security of e-PHI.
- **Minimum Necessary Requirement:** PHI should ONLY be shared on a need-to-know basis.
 - The minimum necessary standard does NOT apply for disclosures to or requests by a health care provider for treatment purposes.
- **Need to Report a Breach of PHI?**
 - A breach of PHI is treated as discovered on the first day the breach is known, or in the exercise of diligence, it should have been known.
 - See HHS HIPAA Breach Notification Rule, 45 CFR §§ 164.400-414:
<https://www.hhs.gov/hipaa/for-professionals/breach-notification/index.html>

For more information on HIPAA for Professionals, visit the HHS webpage: <https://www.hhs.gov/hipaa/for-professionals/index.html>

Compliance Violations - Helpline

Why a Compliance Helpline?

- The Compliance Helpline was specifically created to answer your questions if you are unsure about compliance with legal requirements or organizational policies in your DSRIP-related activities with CCB. It can also serve as a resource to report possible violations.
- Effective lines of communication are key to compliance and critical to fostering the atmosphere of openness and inquiry upon which a successful compliance program is based.

How does the Compliance Helpline work?

- The Helpline is staffed by third-party trained professionals. The Helpline is available 24 hours a day, 7 days a week, including holidays. Callers remain anonymous.
- The helpline staff can provide guidance, address concerns and answer questions.
- Reports of misconduct are investigated and monitored by the Compliance Officer to ensure proper follow-up and resolution.

- **Compliance Helpline: 1-800-585-7970**

Compliance Violations

Roles and Responsibilities when a compliance violations occurs:

- ❑ PPS Lead is responsible for disciplining its own staff.
- ❑ PPS Participants must comply with this requirement with respect to their staff. OMIG guidance states that PPS Leads should “support implementation” of this responsibility by their PPS Participants.
- ❑ PPS Lead has a process for sanctioning or terminating participation in the PPS in the event of a PPS Partner’s noncompliance with PPS policies, procedures or contractual requirements.

- ❑ CCB Participants should refer to their signed Master Services Agreement (MSA) for pertinent contractual and other compliance requirements.

- ❑ **CCB Participants must comply with these requirements with respect to its own staff.**

Compliance Violations

Reporting Compliance Violations:

- All staff associated with the Community Care of Brooklyn (CCB), the Maimonides PPS, are expected to come forward and report any/all actual or possible violations of the Code of Conduct or related compliance concerns.
- Reports of compliance violations related to DSRIP or your organization's involvement in the CCB Network should be made in person, by telephone or in writing to any of the following:
 - Your Supervisor
 - MMC Chief Compliance Officer – Sandra Maliszewski: **1-718-283-6002**
 - CSO Director, Contracting & Compliance – Shena Elrington: **1-718-283-7754**
 - The Compliance Helpline: **1-800-585-7970**
- ***There shall be no retaliation for good faith reporting of actual or possible violations of the Code of Conduct or related compliance concerns.***

Excluded Parties

Community Care of Brooklyn's (CCB) 'Excluded Party' Compliance Checks:

- As part of our ongoing compliance efforts, CCB is required to execute monthly checks of its DSRIP Participants against state and federal databases to **ensure that we are not inadvertently passing Medicaid funds to “excluded parties”**.
- CCB uses the SanctionCheck service to facilitate these monthly checks.
- **SanctionCheck validates against 5 key databases:**
 1. Office of Medicaid Inspector General (OMIG)
 2. Federal System for Award Management (SAM)
 3. U.S. Office of Inspector General (OIG)
 4. U.S. Treasury SDN & Blocked Persons (OFAC)
 5. U.S. Treasury Non-SDN OFAC Consolidated Sanctions
- When CCB encounters the name of a CCB Participant organization on one of the lists of excluded parties and is unable to resolve a potential match using information already available, we reach out to the Participant for help.
- **Note:** CCB compliance checks are intended to address CCBs compliance efforts within the DSRIP program. In no way do CCBs compliance checks replace a CCB Participant's obligation to conduct their own monthly compliance checks.

Non-Retaliation

Non-Retaliation & Non-Intimidation Policies:

- CCB follows Federal and New York State Laws that **protect staff from retaliation and all forms of intimidation when they report suspected or known violations or misconduct in good faith.**
- A policy of Non-Intimidation and Non-Retaliation encourages inquiries and leads to increased acceptance and enhanced effectiveness.
- If you are unsure of whether the conduct you are concerned about is improper, the Compliance Helpline can provide information and help clarify the issue.
- Any CCB Participant or staff who believes that he or she has been or is being subject to retaliation or intimidation for making a complaint regarding DSRIP-related matters is encouraged to immediately contact the MMC Compliance Office or the Compliance Helpline.
- For reference, please refer to **MMC Policy: “Protection Against Retaliation”**
<https://www.maimonidesmed.org/media/file/Compl010%5B1%5D.pdf>

Conflicts of Interest

Why do we need to ensure that there are no conflicts of interest?

- ✓ To ensure that decisions are made solely to promote the best interests of the Community Care of Brooklyn (CCB), the Maimonides PPS, and its Participants, and the overall DSRIP program, without favor or preference based on personal considerations.
- ✓ All staff and Participants involved with CCB must exercise the utmost good faith in all transactions related to their duties and responsibilities for, or on behalf of CCB. In Performing their duties, all those involved will not let their judgment become impaired or even appear to be impaired by outside personal or financial interests.
- ✓ Vendors, subcontractors and suppliers of goods and/or services to CCB are selected on objective criteria, including quality, service, price, delivery, capability and technical excellence. Personal relationships and friendships play no part in the selection process. Accepting bribes or kickbacks is strictly prohibited.

Contacts

Compliance Contact List:

Name	Title	Phone Number
Sandra Maliszewski	VP, Chief Compliance Officer	(718) 283-6002
Shena Elrington	Director, Compliance & Contracting	(718) 283-7754

Compliance Helpline:

1-800-585-7970

DSRIP Resources

Helpful Resources:

The links below provide additional guidance on Provider Compliance Program requirements.

NYS OMIG – Mandatory Compliance Program and Certification Obligations
https://www.health.ny.gov/health_care/medicaid/redesign/dsrip/docs/2015-02-26_pps_compliance_program_final.pdf

NYS OMIG – Compliance page and ‘Where to Certify’
<https://www.omig.ny.gov/compliance>

OIG US Dept. of Health and Human Services – Special Fraud Alerts
<https://oig.hhs.gov/compliance/alerts/index.asp>