



CORPORATE COMPLIANCE

Reviewed 09/2020



Community

MENTAL HEALTH

CLINTON • EATON • INGHAM

Incident Reporting

An incident report needs to be completed in the web portal when staff either witness or are the first to become aware/informed of an incident involving a CMHA-CEI consumer who is actively receiving services.

Reported incidents are reviewed by on-site supervising and quality staff to ensure adequate follow-up action is completed.

Incident Reporting

Reportable incidents include:

For all recipients actively receiving services, regardless of when incident occurs:

- **Death**(expected or unexpected)

Incidents occurring while recipient is receiving services from or in the care of CMHA-CEI or contracted staff:

- **Emergency care due to injury or illness**
- **Hospitalization due to injury or illness**
- **Missed medications and medication errors** (if administered by staff)
- **Choking** requiring abdominal thrusts
- **Serious aggressive behavioral events**, including self injury or property damage
- **Exposure to blood/bodily fluids**,
- **Arrest**(if held or taken by law enforcement on the belief a crime may have been committed)
- **Missing recipient**

Incident Reporting

Incidents are reported through the web portal which is available at <https://incident.ceicmh.org> or through the link on the main intranet page:



More detailed information about incident reporting can be found in the CMHA-CEI Incident Report Procedure 3.3.07.



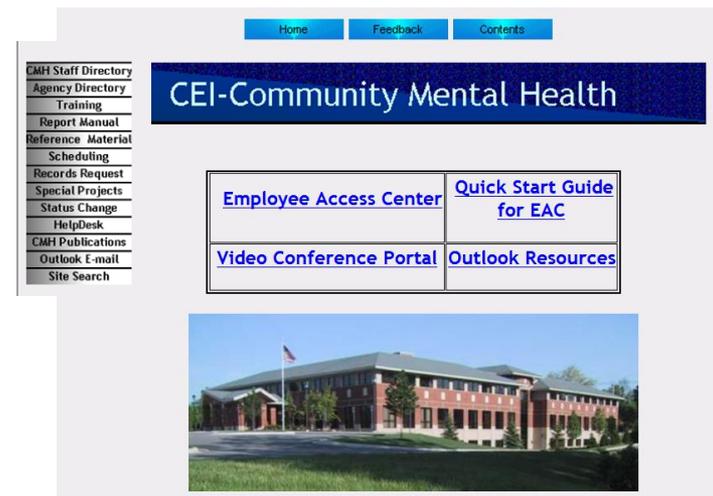
**CORPORATE
COMPLIANCE**

KEY POINTS OF CEI'S CORPORATE COMPLIANCE PLAN

**Mid-State Health Network Corporate COMPLIANCE PLAN
2016/2017**

MSHN's Corporate Compliance Plan

- The most updated copy of CMHA-CEI's Corporate Compliance Plan can be found from the CEI intranet home page by following the steps listed below:
 1. Reference Material
 2. Corporate Compliance - HIPAA
 3. Compliance Information
 4. MSHN Corporate Compliance PlanCMHA-CEI adopted Mid-State Health Network's (MSHN) Corporate Compliance Plan



COMPLIANCE PLAN 2016/2017

- **Introduction and Purpose**

- Mid-State Health Network (MSHN) and CMHA-CEI is committed to consumers, employees, contractual providers, and the community to ensure business is conducted with integrity, in compliance with the requirements of applicable laws and sound business practices, and with the highest standards of excellence.
- The Compliance Plan is prepared as a good-faith effort to summarize our rules, policies and procedures. To the extent that the Plan conflicts with, or misstates any applicable law, the law takes precedence.





COMPLIANCE PLAN

Key intentions



- Minimize organizational risk and improve compliance with billing requirements of Medicare, Medicaid, and all other applicable federal health programs.
- Maintain adequate internal controls (paying special attention to identified areas of risk).
- Reduce the possibility of misconduct and violations through early detection.
- Reduce exposure to civil and criminal sanctions.



COMPLIANCE PLAN

Key intentions

- Encourage the highest level of ethical and legal behavior from all employees, contractual providers, and board members.
- Educate employees, contractual providers, board members and stakeholders of their responsibilities and obligations to comply with applicable local, state, and federal laws and regulations including licensure requirements, as well as accreditation standards.
- Promote a clear commitment to compliance by taking actions to uphold such laws, regulations, and standards.



COMPLIANCE PLAN

Standards of Conduct



- Provide high quality services consistent with CMHA-CEI Vision, Mission, and Values;
- Exercise honesty and integrity in the workplace;
- Prevent fraud, abuse and waste;
- Refrain from knowingly participating in illegal activities;
- Report any actual or suspected violation of the Compliance Plan, Standards of Conduct, agency policies or procedures, or other conduct that is known or suspected to be illegal;

COMPLIANCE PLAN

Standards of Conduct

- Provide accurate information to federal, state, and local authorities and regulatory agencies when applicable;
- Promote confidentiality and safeguard all confidential information according to policy;
- Practice ethical behavior regarding relationships with consumers, payers, and other health care providers;



COMPLIANCE PLAN

Standards of Conduct

- Protect the integrity of clinical decision-making, basing care on identified medical necessity;
- Seek to continually maintain and improve work-related knowledge, skills, and competence; and
- Actively support a safe work environment, free from harassment of any kind.



COMPLIANCE PLAN

Standards of Conduct

- CMHA-CEI further establishes Standards of Conduct through Board of Director's By-Laws, and policy and procedures addressing the following, including but not limited to:
 - Confidentiality and Privileged Communication,
 - Dignity and Respect,
 - Drug/Alcohol Free Workplace,
 - Recipient Abuse and Neglect, and Sexual Harassment.
- Standards of conduct may also be articulated in CMHA-CEI Employee Handbooks and Job Descriptions.

 **Standards**

COMPLIANCE PLAN

Standards of Conduct



- Board Members, employees and contractual providers are responsible for conducting themselves ethically in all aspects of business avoiding even the appearance of impropriety.
- Contractual providers will be required to comply with the Compliance Plan or provide evidence of a sufficient Compliance Plan of their own.

COMPLIANCE PLAN

Standards of Conduct

- Any violation of a provision of the Standards of Conduct, as established in this Plan or related policies, will be subject to disciplinary action, up to and including dismissal from employment or contract termination.





CORPORATE COMPLIANCE

AREAS OF RISK

Areas of risk

Regulatory Compliance



- It is the policy of CMHA-CEI to ensure compliance with all state and federal regulatory agency standards and applicable laws and regulations including, but not limited to, the following:
- State Laws and Rules
- State – Federal Intersection
- Federal Medicaid Law, Regulations and Related Items

Areas of risk

Environmental Compliance

- It is the policy of CMHA-CEI to maintain a hazard-free environment in compliance with all environmental laws and regulations.
- CMHA-CEI will operate with the necessary security systems, permits, approvals and controls.
- Maintenance of a safe environment is the responsibility of all employees and contractual providers.
- In order to maintain a safe environment, CMHA-CEI will enforce policies and procedures designed to protect consumers, employees, providers, visitors, the environment, and the community.



Areas of risk

Workplace Conduct

- In order to safeguard the ethical and legal standards of conduct, CMHA-CEI will enforce policies and procedures that address behaviors and activities within the work setting, including but not limited to the following:
 - (See following slides)



Areas of risk

Workplace Conduct



- ❖ **Confidentiality**: CMHA-CEI is committed to protect the privacy of its consumers. Board members, employees, and contractual providers are to comply with the Michigan Mental Health Code, Section, 330.1748 and all other privacy laws as specified under the Confidentiality section of this document.
- ❖ **Substance Abuse**: CMHA-CEI is committed to an alcohol and drug free environment.

Areas of risk

Workplace Conduct

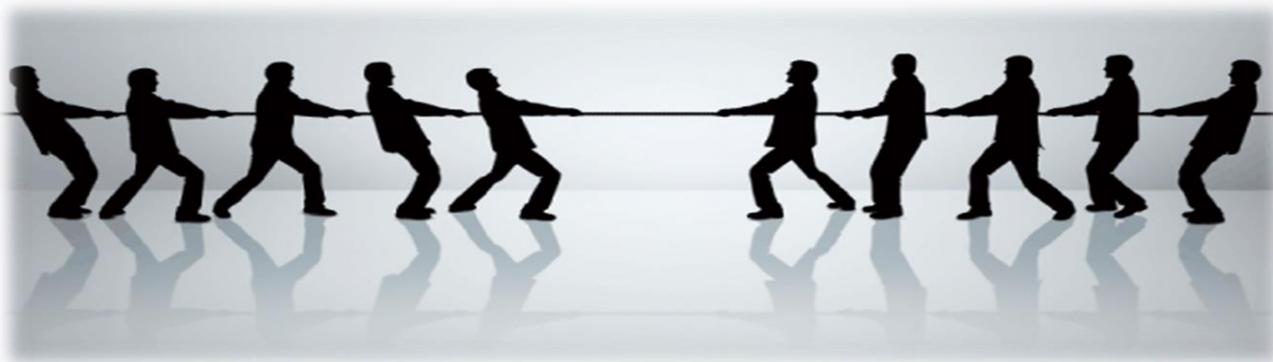
- ❖ **Harassment:** CMHA-CEI is committed to an environment free of harassment for Board members, employees, and contractual providers. CMHA-CEI will not tolerate harassment based on sex, race, color, religion, national origin, citizenship, chronological age, sexual orientation, union activity, or any other condition, which adversely affects their work environment.
- ❖ **Research:** CMHA-CEI will follow ethical standards for any research undertaken or for any aspect of a research grant.



Areas of risk

Workplace Conduct

- ❖ **Conflict of Interest**: CMHA-CEI Board members, employees, and contractual providers will avoid any action that conflicts with the interest of the organization. All Board members, employees, and contractual providers must disclose any potential conflict of interest situations that may arise or exist. CMHA-CEI will maintain standards establishing a clear separation of any supplemental employment in terms of private practice and outside employment from activities performed for CMHA-CEI.



Areas of risk

Workplace Conduct



- **Reporting suspected fraud:** CMHA-CEI Board, staff and contractual providers must report any suspected or actual “fraud, abuse or waste” of any funds, including Medicaid funds, to the organization.
- **Receiving gifts:** CMHA-CEI Board members, staff and providers will not solicit gifts, gratuities or favors. CMHA-CEI Board members, staff and providers will not accept gifts, gratuities or favors of any kind from any individual, consumer, or organization doing business or seeking to do business with CMHA-CEI or its affiliates if the gift has more than a nominal value or where acceptance of the gifts/favors could create a conflict of interest or be construed as resulting in preferential treatment.

No Soliciting

Areas of risk

Workplace Conduct

- ❖ **Workplace violence:** CMHA-CEI is committed to maintaining a work environment that is safe and promotes the treatment of all people with dignity and respect. CMHA-CEI will not tolerate behavior that is disrespectful, intimidating, or threatening.
- ❖ **Political Contributions:** CMHA-CEI will not use agency funds or resources to contribute to political campaigns or activities of any political party.



Areas of risk

Contractual Relationships



- It is the policy of CMHA-CEI to ensure that all contractual arrangements with providers are structured in accordance with federal and state laws and regulations and are in the best interest of the organization and the consumers we serve. In order to ethically and legally meet all standards, CMHA-CEI will strictly adhere to the following:
 - (See the following slides)

Areas of risk

Contractual Relationships



- ❖ **CMHA-CEI does not pay for referrals.** Consumer referrals and intakes will be accepted based on the consumer's needs, eligibility, and our ability to provide the services needed.
- ❖ **CMHA-CEI does not accept payment for referrals of consumers to other providers.** No employee, contractual provider, or any other person acting on behalf of the organization is permitted to solicit or receive anything of value, directly or indirectly, in exchange for the referral of consumers. Similarly, when making consumer referrals to another healthcare provider, CMHA-CEI does not take into account the volume or value of referrals that the provider has made (or may make) to CMHA-CEI.

Areas of risk

Contractual Relationships

- ❖ CMHA-CEI does not enter into financial arrangements with physicians that are designed to provide inappropriate remuneration to the organization in return for the physician's ability to provide services to federal health care program beneficiaries at CMHA-CEI.
- ❖ CMHA-CEI does not enter into contractual relationships with individuals or agents/agencies that have been convicted of a criminal offense related to health care or that are listed by a federal agency as debarred, excluded, or otherwise ineligible for participation in federal health care programs. Reasonable and prudent background investigations will be completed prior to entering into contractual relationships with all individuals and agents/agencies.

Areas of risk

Purchasing and Supplies

- It is the policy of CMHA-CEI to ensure that all rental, lease, and purchasing agreements are structured in accordance with applicable federal and state self-referral and anti-kickback regulations as well as federal guidelines regarding tax-exempt organizations. All agreements must be commensurate with the fair market value for equipment or space.



Areas of risk

Purchasing and Supplies

- All subcontractor and supplier arrangements will be managed in a fair and reasonable manner, consistent with all applicable laws and good business practices. Subcontractors, suppliers, and vendors will be selected based on objective criteria including quality, technical excellence, price, delivery, and adherence to schedules, services and maintenance of adequate sources of supply. Purchasing decisions will be made on the supplier's ability to meet needs and not on personal relationships or friendships. CMHA-CEI will always employ the highest ethical standards in business practices in source selection, negotiation, determination of contract awards, and the administration of purchasing activities.



Areas of risk

Marketing

- Marketing and advertising practices are defined as those activities used by CMHA-CEI to educate the public, provide information to the community, increase awareness of services, and recruit employees or contractual providers. CMHA-CEI will present only truthful, fully informative and non-deceptive information in any materials or announcements. All marketing materials will reflect available services.



Areas of risk

Marketing

- The federal Anti-kickback Statute (section 1128B[b] of the Social Security Act) makes it a felony, punishable by criminal penalties, to offer, pay, solicit, or receive “remuneration” as an inducement to generate business compensated by Medicare or Medicaid programs. Therefore, all direct-to-consumer marketing activities require advance review by the Compliance Committee or designee if the activity involves giving anything of value directly to a consumer.



Areas of risk

Financial Systems Reliability and Integrity



- CMHA-CEI shall ensure integrity of all financial transactions. Transactions shall be executed in accordance with established policies and procedures and with federal and state law and recorded in conformity with generally accepted accounting principles or any other applicable criteria.

Areas of risk

Financial Systems Reliability and Integrity

- CMHA-CEI shall develop internal controls and obtain an annual independent audit of financial records; shall ensure that reimbursement for services billed is accurate, appropriate, and based on complete documentation; and shall maintain accountability of assets.



Areas of risk

Financial Systems Reliability and Integrity

- In accord with the 42 USC 139a(a); Section 1902(a) of the Social Security Act (AKA as the Deficit Reduction Act of 2005) CMHA-CEI's internal process shall monitor for actions by providers of Medicaid services to prevent fraud, abuse, and waste, or are likely to result in unintended expenditures.

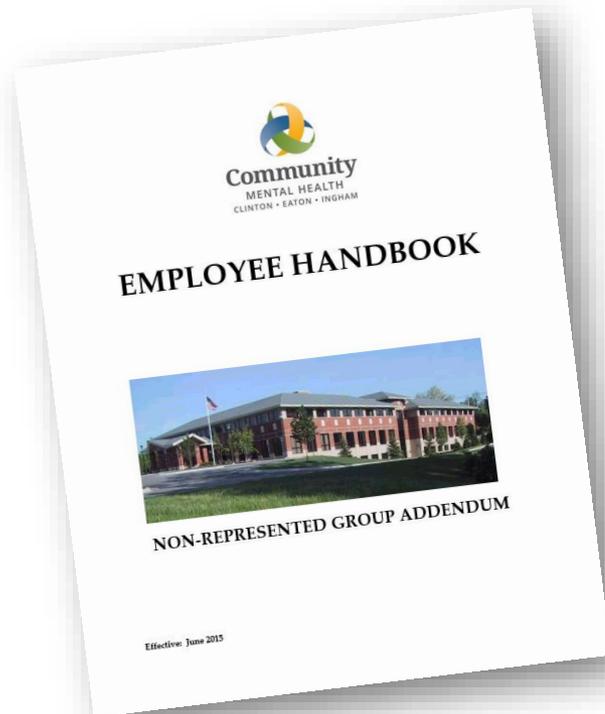
- (See Following Slides)



Areas of risk

Financial Systems Reliability and Integrity

- ❖ CMHA-CEI's Board members, employees and contractual providers will receive detailed training on federal and state False Claims acts and all whistleblower provisions.
- ❖ CMHA-CEI and Affiliates will include material about relevant federal and state regulations in their employee handbook if such exists.



Areas of risk

Financial Systems Reliability and Integrity

- ❖ All CMHA-CEI's Board members, employees and contractual providers are required to report any suspected occurrences of fraud, abuse and waste. The responsible Affiliate Compliance Officer must investigate. The MSHN Compliance Administrator will be responsible for investigating any PIHP level reports of suspected fraud, abuse or waste.
- ❖ Annually a summary report of compliance activities will be provided to the Board of Directors, MSHN's Quality and Improvement council, and CMHA-CEI Leadership.

Areas of risk

Information Systems Reliability

- CMHA-CEI shall ensure the reliability of information systems. Information Services will be responsible for monitoring the reliability and integrity of the electronic information system, including but not limited to the following:

- (See following slide)



Areas of risk

Information Systems Reliability

- Maintaining security, assuring integrity, and protecting consumer confidentiality.
- Controlling access to computerized data.
- Training staff to use the system based on job function.
- Assuring reliability validity and accuracy of data.
- Following procedures that will assure confidentiality of electronic information pursuant to HIPAA, the Michigan Mental Health Code and other applicable laws and regulations.



Areas of risk

Confidentiality and Privacy



- CMHA-CEI is committed to protecting the privacy of its consumers and shall strictly govern the disclosure of any information to anyone other than those authorized in the current published Privacy Notice. Any Board member, employee, or contractual provider who engages in unauthorized disclosure of consumer information is subject to disciplinary action which may result in removal from the Board, termination of employment, or termination of the contract.

Areas of risk

Confidentiality and Privacy

- To ensure that all consumer information remains confidential, employees and contractual providers are required to comply with all confidentiality policies and procedures in effect, specifically to include the HIPAA Privacy regulations outlined below:
 - (See following slides)



Areas of risk

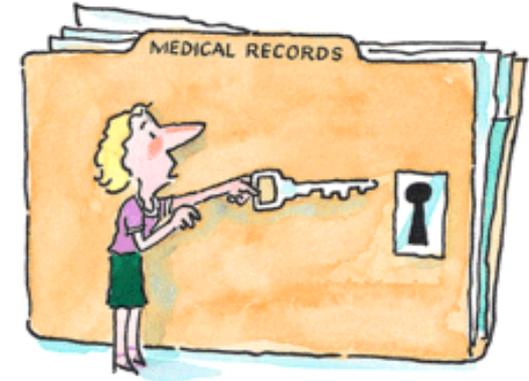
Confidentiality and Privacy

- Privacy Notice - CMHA-CEI will have a notice of privacy practices to be posted at each site and given to each consumer at intake.
- Consent - Prior to treatment, CMHA-CEI will obtain a signed consent for permission for CMHA-CEI to treat, bill for and carry out health care operations described in the Privacy Notice.
- Authorization - If information is shared, outside of those described in the Privacy Notice, a signed authorization will be obtained from the consumer.



Areas of risk

Confidentiality and Privacy



- Business Associate Agreement - CMHA-CEI will obtain assurances with all business associates that protected health care information, shared with them, will be protected and appropriately safeguarded.
- CMHA-CEI shall investigate any reports of suspected violations and respond to findings of the investigations in compliance with the HIPAA privacy and security regulations.
- CMHA-CEI will perform any necessary risk analyses or assessments to ensure compliance.

Areas of risk

Compliance Administrator/Officers

- CMHA-CEI will designate a Compliance Administrator, who will be given sufficient authority and control to oversee and monitor the Compliance Plan, including but not limited to the following:

- (See following slides)



Stefanie Zin
CMHA-CEI
Compliance/HIPAA Privacy Officer,
Access & UM supervisor

Areas of risk

Compliance Administrator/Officers

- Recommending revisions/updates to the Compliance Plan, policies, and procedures to reflect organizational, regulatory, and statutory changes.
- Reporting on a regular basis the status of implementation of the Compliance Plan and related compliance activities.
- Developing and maintaining a training and education program and documenting all training efforts.



Areas of risk

Compliance Administrator/Officers

- Coordinating efforts with human resources or other relevant departments regarding employee certifications/licensures, background checks, and privileging and credentialing.
- Coordinating internal audits and monitoring activities outlined in the compliance plan.
- Developing and modifying policy and programs that encourage the reporting of suspected fraud and other potential problems without fear of retaliation.
- Independently investigating and acting on matters related to compliance.

Areas of risk

Compliance Administrator/Officers



- The authority given the Compliance Administrator will include the ability to review all documents and other information relevant to compliance activities, including, but not limited to, consumer records, billing records, employee records and contracts and obligations of CMHA-CEI.

Areas of risk

Compliance Committee

- The MSHN Quality Improvement Council will consist of the Affiliate Compliance Officers, or designees. Each Affiliate shall have a Compliance Committee which will meet at regular intervals and shall be responsible for the following:
 - (See following slides)



Areas of risk

Compliance Committee

- Advising the Compliance Officer and assisting with the development, implementation, operation, and distribution of the Compliance Plan and supporting CMHA-CEI policies and procedures.
- Reviewing and recommending changes/revisions to the Compliance Plan and related policies and procedures.
- Evaluating the effectiveness of the Compliance Plan.
- Determining the appropriate strategy/approach to promote compliance with the Compliance Plan and detect potential violations and areas of risk.

Areas of risk

Compliance Committee

- Recommending and monitoring the development of internal systems and controls to carry out the Compliance Plan and supporting policies as part of daily operations.
- Reviewing audit results and corrective action plans.
- Approving the training and education program and monitoring attendance.
- Developing a system to solicit, evaluate, and respond to complaints and problems.



Areas of risk

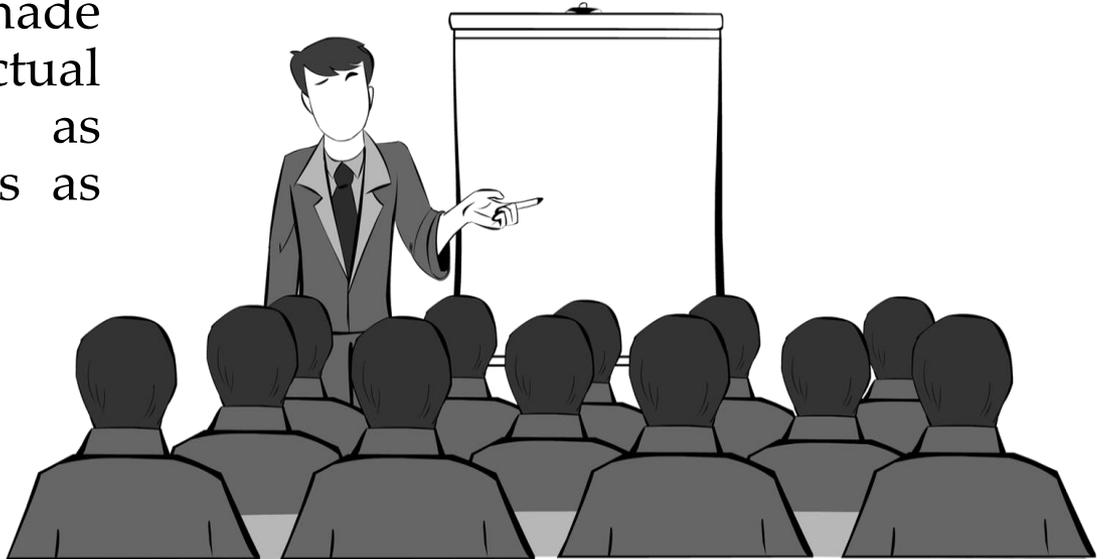
Training and Education

- All Board members and employees will receive training on the Corporate Compliance Plan. Additional training may be required for employees involved in specific areas of risk or as new regulations are issued. Informational updates will be provided through newsletters, emails, and in-services. Records will be maintained on all formal training and educational activities. Training is considered a condition of employment and failure to comply will result in disciplinary action up to and including termination.

Areas of risk

Training and Education

- Training and educational opportunities related to Compliance may be made available to contractual providers, as well as consumers and others as appropriate.



Areas of risk

Open Lines of Communication

- Open lines of communication between the Compliance Officers and employees of CMHA-CEI are essential to the successful implementation of the Compliance Plan and the reduction of any potential for fraud or abuse. Methods for maintaining open lines of communication may include, but not be limited to the following:



- (See next slide)

Areas of risk

Open Lines of Communication

- There shall be access to the CMHA-CEI Affiliate Compliance Officer for employees seeking clarification on specific standards, policies, procedures, or other compliance related questions that may arise on a day-to-day basis. Questions and responses will be documented, dated, and may be shared with all employees, as appropriate, to increase awareness/understanding.



Areas of risk

Open Lines of Communication

- Information may be communicated to employees through a variety of methods such as formal trainings, impromptu information calls or "help desk" calls, e-mails, newsletters, intranet resource pages, or other methods identified that facilitate access to compliance related information as a preventative means to reduce the potential for fraud and abuse.



Areas of risk

Reporting of Suspected Violations or Misconduct

- Employees, contractual providers, consumers, and others are to report suspected violations or misconduct to their Compliance Officer as outlined below and further detailed in the Compliance Investigation, Resolution and Documentation Process
 - (See following slides)



Areas of risk

Reporting of Suspected Violations or Misconduct



- Suspected violations or misconduct may be reported to the Compliance Officer by phone/voicemail, email, in person, in writing, or to one of the Affiliate CMH Compliance Officers.
- Employees with firsthand knowledge of activities or omissions that may violate applicable laws and regulations are required to report such wrongdoing to the Compliance Officer.

Areas of risk

Reporting of Suspected Violations or Misconduct

- Reports of suspected violations or misconduct might be made on a confidential basis.
- No employee, consumer, or contractual provider making such a report in good faith shall be retaliated against by CMHA-CEI, its employees or agents.
- All employees will be asked to report any known or suspected violations as part of the Exit Interview process.

Areas of risk Investigation

- All reports of suspected wrongdoing, however received, shall be investigated and documented as outlined in the CMHA-CEI Compliance Investigation, Resolution and Documentation Process (Attachment D).
- No one involved in the process of receiving and investigating reports shall communicate any information about a report or investigation, including the fact that a report has been received or an investigation is ongoing, to anyone within CMHA-CEI who is not involved in the investigation process or to anyone outside of CMHA-CEI without the prior approval of the CMHA-CEI Compliance Administrator.



Areas of risk Investigation



- All employees and agents are expected to cooperate fully with investigation efforts. Investigations will be conducted by the local Compliance Officer.
- If the allegation that needs to be investigated includes the CEO of the CMHA-CEI then the investigation will be handled by the MSHN Compliance Administrator.
- If the allegation needing to be investigated involves the CEO of the PIHP then the investigation will be handled by the Compliance Administrator of another PIHP

Areas of risk

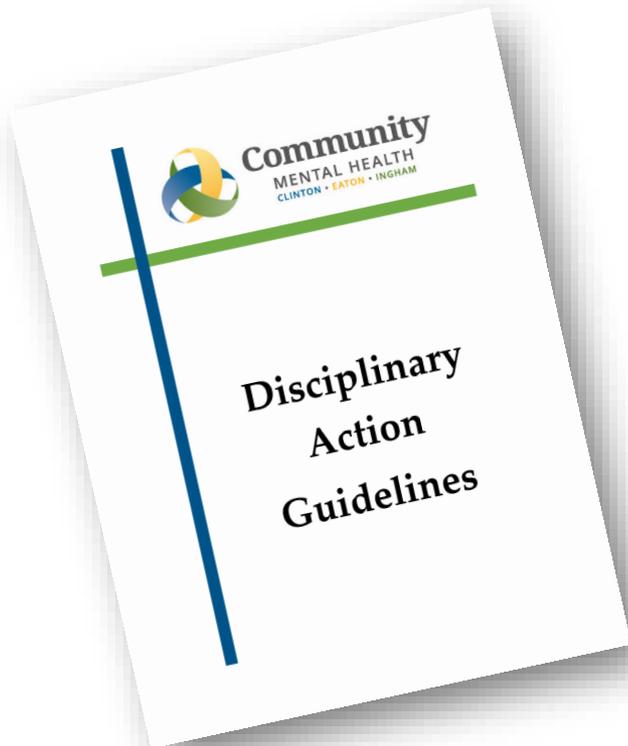
Corrective Actions

- Where an internal investigation substantiates a reported violation, corrective action will be initiated including, as appropriate, making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, instituting whatever disciplinary action is necessary, and implementing system changes to prevent a similar violation from recurring in the future.
- For further information see MSHN Compliance Policy (Attachment A) and MSHN Compliance Investigation, Resolution and Documentation Process (Attachment G).



Areas of risk

Disciplinary Action



- CMHA-CEI will follow established disciplinary guidelines for all employees who have failed to comply with the Standards of Conduct, policies, and procedures, federal and state law, or otherwise engage in wrongdoing. The guidelines will be consistently enforced at all levels of the organization,
- (See following slide)

Areas of risk

Disciplinary Action

- For a CMH with a collective bargaining agreement: If any provision of a collective bargaining agreement between a CMH and its employees conflicts with any provision of the compliance plan, the collective bargaining agreement shall take precedence *unless* the compliance plan is citing a law, the application of which cannot be modified through collective bargaining.



Areas of risk

Grievance Process



- CMHA-CEI strives to promote fairness and equity among employees and to treat everyone with dignity and respect at all times. Any disciplinary action taken in response to violations of the Compliance Plan is subject to appeal through the formal grievance processes.

Areas of risk

Monitoring and Auditing

- Monitoring and auditing of CMHA-CEI's operations are key to ensuring compliance and adherence to policies and procedures. Monitoring and auditing can also identify areas of potential risk and those areas where additional education is required.
- The following monitoring and auditing activities will occur at each CMH:

- (See following slides)



Areas of risk Monitoring and Auditing



- Financial and Billing Integrity
 - An independent audit of financial records each year
 - Contract providers have signed contracts and adhere to the contract requirements
 - Medicaid claims verification
- Information Systems Reliability and Integrity
 - IS staff will monitor the reliability and integrity of the information system and data
 - Staff will be trained on use of information systems and provided access based on role and job function.

Areas of risk

Monitoring and Auditing

- Clinical/Quality of Care

- Performance indicators are monitored and reviewed in an effort to continually improve services
- Staff are evaluated in writing on their performance and are provided with detailed job descriptions and individualized development plans.
- New staff are hired through a detailed pre-employment screening and hiring process and complete a comprehensive orientation program.
- Clinical supervision is provided and documented to ensure competency.



Areas of risk

Monitoring and Auditing

- Consumer Rights and Protections
 - Rights complaints and issues are reviewed and investigations are completed as required.
 - A Rights Advisory Committee has been established and meets regularly for the purpose of supporting/protecting the office of recipient rights and serving in an advisory capacity.
 - Incident reports and trends are reviewed and there is follow up action as needed.



Areas of risk

Monitoring and Auditing

- Environmental Risks
 - Affiliate CMH safety committees meet regularly to assure the safety of facilities and consumers.
 - Comprehensive maintenance reviews of facilities, equipment, and vehicles are completed as required but not less than annually.
 - Emergency drills are conducted and evaluated on a regular basis.
 - Initial and ongoing education on health, safety, and emergency issues are routinely provided.



Areas of risk

Monitoring and Auditing



- Quality and Utilization Reviews
 - CMHA-CEI has a Quality Improvement Program, which addresses clinical record reviews, utilization management, privileging and credentialing and other quality improvement initiatives.

Areas of risk Monitoring and Auditing



- Additional External Monitoring and Auditing Activities:
 - External Quality Reviews
 - MDHHS Site Visits
 - MDHHS Rights Reviews
 - Independent Financial Audits
 - Accreditation Surveys

Areas of risk

Monitoring and Auditing

- The CMH Compliance Officer and Quality Improvement Council will review monitoring and auditing efforts for effectiveness, identification of additional areas of risk, and follow up and response for potential compliance issues on an ongoing basis.
- Implementation and effectiveness of the Compliance Plan will be monitored and evaluated by MSHN at least annually.



CMHA-CEI's Corporate Compliance Plan

- The most updated copy of CMHA-CEI's Corporate Compliance Plan can be found from the CEI intranet home page by following the steps listed below:



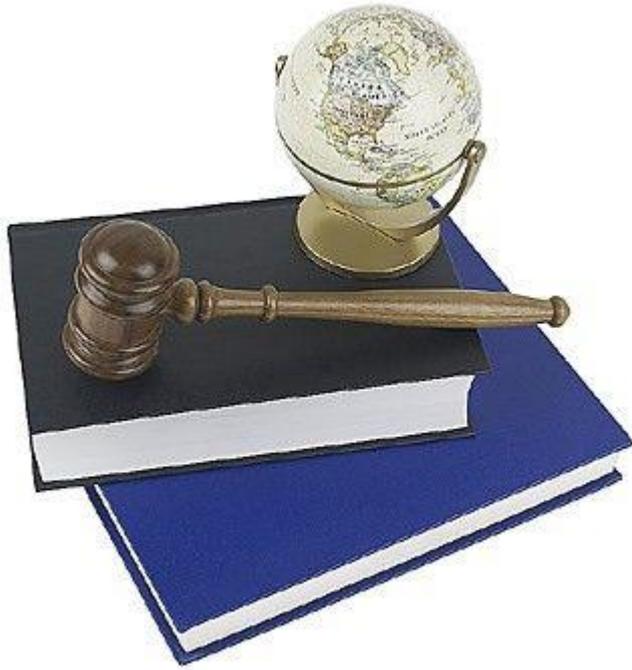
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2. Corporate Compliance - HIPAA
3. Compliance Information
4. MSHN Compliance Plan

CMHA-CEI adopted Mid-State Health Network's (MSHN) Corporate Compliance Plan

MSHN's Corporate Compliance Plan

- Includes the following:
 - Compliance Procedure
 - Guidelines and Forms to be used to Report Suspected Compliance Violations
 - Compliance Investigation, Resolution and Documentation Processes
- These documents can be found in Attachments A - H





CORPORATE COMPLIANCE

The Deficit Reduction Act, 2005

The Deficit Reduction Act, 2005

CMHA-CEI

Staff Training

“The only reasonable conclusion is that after years of significant and impressive funding for enforcement efforts directed toward Medicare compliance, the tide has turned and now (to the delight of many at the federal level) it is now Medicaid’s turn.”

Issue Brief, New Medicaid Compliance Issues from the Deficit
Reduction Act

National Council for Community Behavioral Healthcare

Mary Thornton, BSRN, MBA

The Deficit Reduction Act, 2005

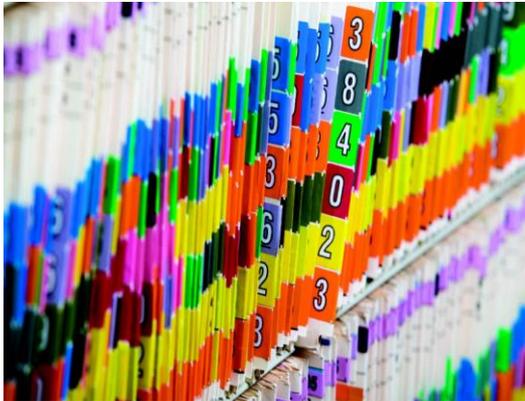
- **Training Objectives**

- Understand the Provisions of the Act (Relative to Compliance)
- Understand what CEI has to do to comply with the Act
- Review CEI's Compliance Activities
- Review the Federal and State False Claims Acts, and Whistleblowers Protection Act
- Learn about Next Steps



The Deficit Reduction Act, 2005

- Provisions of the Act (cont.)
 - The new “Medicaid Integrity Program”
 - The program’s activities encompass four areas:
 - **Reviewing** the actions of Medicaid providers under any type of payment system to determine if their actions have produced fraud, abuse or waste, are likely to, or may potentially result in unintended expenditures on the part of the Medicaid program.
 - **Auditing** of claims for payment of Medicaid services, items, or administrative services rendered including cost reporting, consulting contracts, and various risk contracts.
 - **Identification** of overpayments to individuals or entities receiving Medicaid Federal funds.
 - **Education** of providers, managed care companies, beneficiaries, and others with respect to payment integrity and quality of care.



The Deficit Reduction Act, 2005



- **Provisions of the Act (cont.)**

- Incentives for States to Create False Claims Acts
- The federal False Claims Act is one of the most well known and powerful weapons in the arsenal of the Office of Inspector General (OIG). Three notable provisions:
 1. Civil prosecutions do not require proof of fraud, but only proof that provider acted in “reckless disregard” or “deliberate ignorance.” No “ostrich defense.”
 2. Qui tam, or “whistleblower” provisions that allow private citizens to bring suit against providers and collect a portion of monies recovered.
 3. Very high penalties assessed on a per claim basis for violators. As much as \$11,000 per claim!

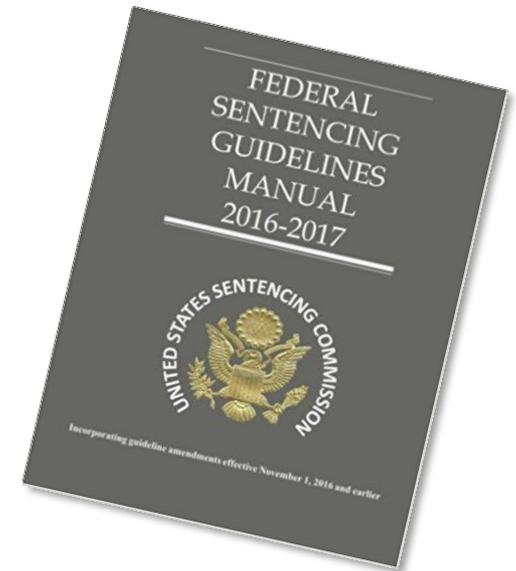
The Deficit Reduction Act, 2005



- **Provisions of the Act (cont.)**
 - A number of states already have a False Claim Act, including Michigan.
 - Under the Deficit Reduction Act (DRA), states which pass false claims laws that are as tough as the federal law keep an additional 10% of recoveries. This is in addition to state share of payments!
 - Providers Required to Have Compliance Programs

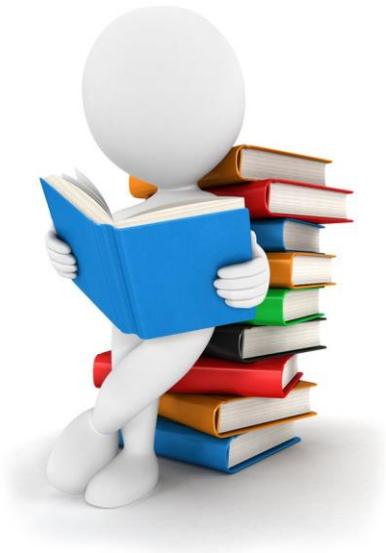
The Deficit Reduction Act, 2005

- **Provisions of the Act (cont.)**
 - The federal government has, for many years, encouraged health care providers and managed care plans to have compliance programs, built on the federal sentencing guidelines. The DRA, it is now a requirement for all providers or organizations that pay out over \$5 Million a year.



The Deficit Reduction Act, 2005

- Provisions of the Act (cont.)
- Education Requirements
 - The provisions of the DRA are very specific regarding **compliance education**:
 - Implement employee, contractor and agent education containing “detailed” information about the federal and state False Claims Acts, any other administrative remedies for false claims and all whistleblower provisions
 - Develop written policies that include “detailed provisions” regarding the policies and procedures of the entity for detecting and/or preventing fraud, abuse and waste.
 - Include fraud and abuse laws in employee handbook.



The Deficit Reduction Act, 2005

- **What CEI Will Be Doing**

- CEI already has a compliance program, so current efforts to comply with the DRA will include:

- Educational efforts with staff (annual training) and contractors
- Curriculum driven by DRA requirements
- Updating employee handbook to include information
- Reviewing Compliance Plan and related P&P to assure adequacy
- Re-iterating internal processes for reporting



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- **What CEI Will Be Doing (cont.)**
 - That plan states, on page 15 --
“The Affiliation’s Compliance Plan addresses two types of non-compliance reporting. The first type of reporting involves the obligation to and avenues for, employees and agents reporting non-compliance. The second type of reporting involves the regular reporting of data and information pertinent to the compliance activities of the Affiliation.”



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- **Compliance Activities**
 - As employees of CEI Community Mental Health Authority, you have an obligation to report any “fraud, abuse or waste” of Medicaid to the organization.
 - The Compliance Plan details several methods of doing this.
 - If you have lost or misplaced your copy of the Compliance Plan, we will be happy to give you another one.



The Deficit Reduction Act, 2005

- **Federal False Claims Act**

- First signed into law in 1863, the False Claims Act underwent significant changes in 1986. The False Claims Act applies when a company or person:
 - Knowingly presents (or causes to be presented) to the Federal Government a false or fraudulent claim for payment,
 - Knowingly uses (or causes to be used) a false record or statement to get a claim paid by the Federal Government,
 - Conspires with others to get a false or fraudulent claim paid by the Federal Government,
 - Knowingly uses (or causes to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Federal Government.

The Deficit Reduction Act, 2005



- **Federal False Claims Act (cont.)**
 - Time Period for a Claim to be Brought
 - The statute of limitations for suits under the False Claims Act is the later of:
 - Within six years of the illegal conduct, or
 - With three years after the Government knows or should have known about the illegal conduct, but in no event later than ten years after the illegal activity.

The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - A person who brings a False Claims Act (or qui tam) case is entitled to a proportional share of the funds that are recovered for the government. As a part of the process, the individual must provide the government with all of his or her information.
 - If the government joins the case – individual usually entitled to 15 – 25% of recovered funds.
 - If government does not join case – individual is entitled to 25 – 30% of the recovered funds.
 - Attorneys fees also.....



The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - Protections for People Who Bring Qui Tam Cases:
 - Anyone who lawfully acts to bring suit is protected from: discharge, demotion, suspension, threats, harassment, and discrimination. If violated, individual is entitled to reinstatement with seniority, double back pay, interest on back pay, compensation for discriminatory treatment and attorney's fees.



The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - An Act to prohibit fraud in the obtaining of benefits or payments in connection with the medical assistance program; to prohibit kickbacks or bribes in connection with the program; to prohibit conspiracies in obtaining benefits or payments; to authorize the attorney general to investigate alleged violations of this act; ... to provide for civil actions to recover money received by reason of fraudulent conduct; ... to prohibit retaliation; to provide for certain civil fines; and to prescribe remedies and penalties.



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- **Federal False Claims Act (cont.)**

- Some Definitions:

- Claim – means any attempt to cause the department of social services (now DCH) to pay out sums of money under the social welfare act
- Deceptive – means making a claim or causing a claim to be made which contains a statement of fact or which fails to reveal a material fact, which statement or failure leads the department to believe the represented or suggested state of affair to be other than it actually is
- False – means wholly or partially untrue or deceptive
- Knowing or knowingly – means that a person is in possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a Medicaid benefit. Knowing or knowingly does not include conduct which is an error or mistake unless the person's course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present.

The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - Any person may bring a civil action in the name of the State to recover losses
 - At the time of filing, the person shall disclose, in writing, substantially all material evidence and information supporting the complaint
 - Attorney general may proceed, or if not, the individual may proceed with action



The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - If a person other than the attorney general prevails in an action that the person initiates, the court shall award that person: costs, reasonable attorneys fees, and based on effort, a percentage of monetary proceeds –
 - If attorney general intervenes, 15 – 25 %
 - If attorney general does not intervene, 25 – 30%



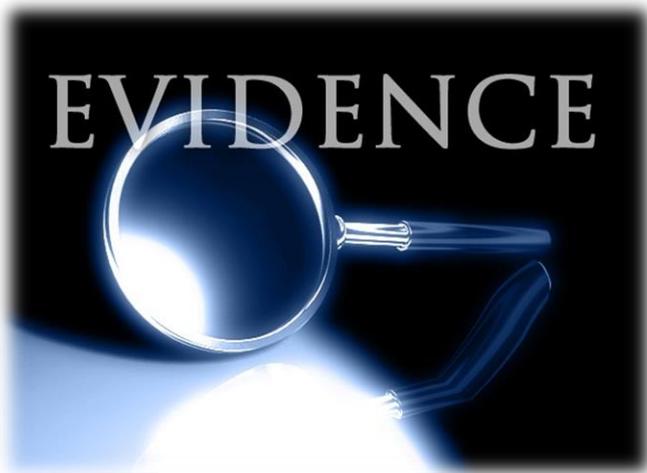
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- **Federal False Claims Act (cont.)**
 - If the court finds an action under this section based primary on information from other than the person bringing the action, the court shall award costs, reasonable attorneys fees, and not more than 10% of monetary recovery
 - If court finds that the person bringing the action planned, initiated, or participated in the conduct upon which the action is brought, then court may reduce or eliminate the share of proceeds.



The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - A person other than the attorney general shall not bring an action that is already the subject of a civil suit, criminal investigation, prosecution or administrative investigation
- **Frivolous Actions!**
 - If a person proceeds with an action after the attorney general declines, and the court finds it to be frivolous, the court shall award prevailing defendant actual and reasonable attorneys fees and expenses and impose a civil fine of not more than \$10,000



The Deficit Reduction Act, 2005

- **Federal False Claims Act (cont.)**
 - An employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee who initiates, assists, or participates in a proceeding or court action.
 - An employer who violates this, is liable to the employee for all of the following:
 - Reinstatement to position without loss of seniority
 - 2 X back pay
 - Interest on back pay
 - Compensatory damages



FRAUD, WASTE, & ABUSE

ABUSE

Practices that are inconsistent with sound fiscal, business or medical practices & result in an unnecessary cost to the payor, or in reimbursement for services that are not medically necessary or fail to meet professionally recognized standards for healthcare.

Can include submitting claims that do not comply with billing guidelines, providing services that are not medically necessary or do not meet professionally recognized standards, submitting bills to Medicare/Medicaid instead of the primary insurer.

CAUTION – Abuse can develop in to Fraud if there is evidence that the individual knowingly and willfully (on purpose) conducted the abusive practices.

EXAMPLE

Provider A has multiple sites and determined it made billing easier if all claims were submitted listing a single location of service, and a clinician associated with that location of service, rather than the claims reflecting the clinician who actually furnished the service, and the location where it was actually furnished.

The Deficit Reduction Act, 2005



- **Whistleblowers' Protection Act**
 - An ACT to provide protection to employees who report a violation or suspected violation of state, local, or federal law; to provide protection to employees who participate in hearing, investigations, legislative inquiries, or court actions; and to prescribe remedies and penalties.

The Deficit Reduction Act, 2005

- **Whistleblowers' Protection Act (cont.)**
 - An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding compensation, terms, conditions, location, or privileges of employment because the employee reports or is about to report a violation....
 - A person who alleges a violation of this act may bring a civil action for appropriate injunctive relief, or actual damages, within 90 days after the occurrence of the alleged violation
 - An employer is not required to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with this Act.
 - An employer shall post notices and use other appropriate means to keep employees informed of these protections.

The Deficit Reduction Act, 2005

- **Next Steps**
 - Now what?
 - This really isn't anything new. This legislation (False Claims and Whistleblowers' Protection Acts) has been in place for years.
 - Postings are up in the offices.
 - CMHA-CEI has a Compliance Plan
 - Providing education as required.
 - Reviewing existing plan and policies to assure adequacy.
 - Reviewing employee's obligation to report...
 - this is an affirmative obligation of your employment....page 15 of the plan

ATTENTION EMPLOYEES

The Michigan Whistleblowers' Protection Act (469 P. A. 1980) creates certain protections and obligations for employees and employers under Michigan law.

PROTECTIONS:

It is illegal for employers in Michigan to discharge, threaten or otherwise discriminate against you regarding your compensation, terms, conditions, location or privileges of employment because you or a person acting on your behalf reports or is about to report a violation or a suspected violation of federal, state or local laws, rules or regulations to a public body.

It is illegal for employers in Michigan to discharge, threaten or otherwise discriminate against you regarding your compensation, terms, conditions, location or privileges of employment because you take part in a public hearing, investigation, inquiry or court action.

OBLIGATIONS:

The Act does not diminish or impair either your rights or the rights of your employer under any collective bargaining agreement.

The Act does not require your employer to compensate you for your participation in a public hearing, investigation, inquiry or court action.

The Act does not protect you from disciplinary action if you make a report to a public body that you know is false.

ENFORCEMENT:

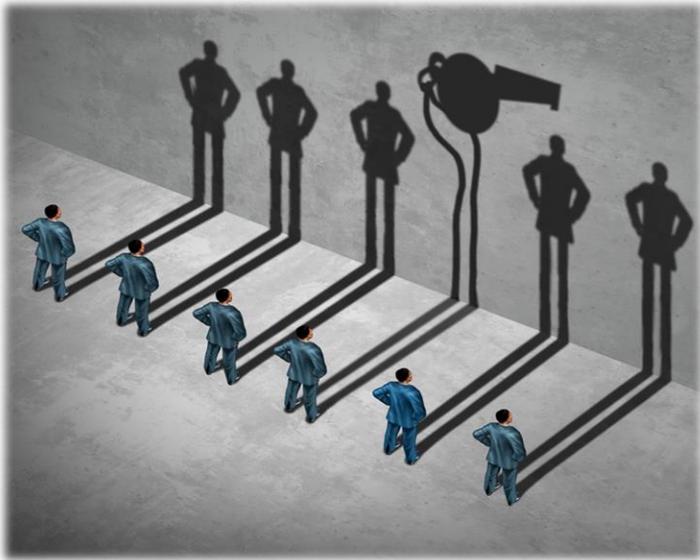
If you believe that your employer has violated this Act you may bring civil action in circuit court within 90 days of the alleged violation of the Act.

PENALTIES:

Persons found in violation of this Act may be subject to a civil fine of up to \$500.00. If your employer has violated this Act the court can order your reinstatement, the payment of back wages, full reinstatement of fringe benefits and seniority rights, actual damages, or any combination of these remedies. The court may also award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees to the complainant if the court believes such an award is appropriate.

This poster is provided as a courtesy of the Michigan Occupational Safety and Health Administration (MIOSHA). Visit our website at www.michigan.gov/miosha.

The Deficit Reduction Act, 2005



- **Summary**
 - Provisions of the Act (Relative to Compliance)
 - What CMHA-CEI has to do to comply with the Act
 - CMHA-CEI Compliance Activities
 - Federal and State False Claims Acts, Whistleblowers Protection Act

THANK YOU!

for completing
“Corporate Compliance”

You must complete the test to receive credit
for this course.