Family Service Association
Policy and Procedure
For
Fraud Prevention, Detection and Whistleblower Protection

I. Policy
It is the policy of Family Service Association (FSA) to comply with state and federal laws relevant to fraud prevention and detection; to encourage its employees to disclose misconduct or questionable practices, and to create an environment where employees can act without fear of retaliatory action for said disclosures.

II. Scope
This policy applies to all FSA programs and personnel including contracted employees and consultants.

III. Purpose
The purpose of this policy is to:
   a) Discourage illegal activity
   b) Encourage reporting of misconduct and questionable practices
   c) Promote a climate of accountability
   d) Prevent retaliation or reprisal against whistleblowers

IV. Definitions
   Good Faith – a reasonably held belief that disclosures are true or fact-based and have not been made out of malice, spite, jealousy, for personal gain or for any ulterior motive
   Retaliatory action – the discharge, suspension or demotion of an employee, or any other adverse employment action taken against an employee related to whistleblower activities
   Whistleblower – an employee who in good faith reports misconduct or questionable practices or provides information in connection with an investigation regarding such a disclosure

V. Procedures
   A. Legal Citations
      The False Claims Act is a federal law that allows people to file actions against contractors who are committing fraud against the government. The Act is a legal tool to counteract fraudulent billing. Since FSA is a provider of services to Medicaid and Medicare recipients, federal and state False Claims Act statutes apply to this agency and each of its employees. The filing of a claim under the False Claim Act is informally known as “whistleblowing”.

   B. Whistleblower Protection
      (1) In keeping with federal and state laws, FSA will not take retaliatory action against any employee who in good faith:

         (a) Discloses or threatens to disclose to a supervisor or to any public entity an activity, policy or practice that the employee reasonably believes is in violation of a law, rule or regulation; or which the employee reasonably believes poses a risk to the health or safety of others or the environment
(b) Provides information to, or testifies before any supervisor or public entity conducting an investigation, hearing or inquiry into any violation of a law, rule or regulation; or activity that may pose a risk to the health or safety of others or the environment.

(c) Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of a law, rule or regulation; or which the employee reasonably believes poses a risk to the health or safety of the public or the environment.

(2) Employees who believe they have been the subject of reprisal or retaliatory acts because of a good faith disclosure of misconduct or questionable practices should immediately notify the Director of Human Resources. Such reports will be handled in keeping with established policy for Employee Grievances (See Employee Guide).

(3) Baseless allegations waste time and resources and undermine the intent of the Whistleblower Protection policy. Employees must avoid baseless allegations. Any employee found to initiate a disclosure without reasonable belief of misconduct or questionable practices, or who initiates a disclosure out of malice, spite, jealousy, or for personal gain or other ulterior motives will be subject to the full scope of disciplinary action.

(4) FSA will conspicuously display notices designed to inform employees of Whistleblower Protection and reporting protocols.

C. Reporting Misconduct

(1) The state and federal False Claims Acts require employers to establish protocols that provide confidential, anonymous mechanisms for employees to report misconduct or questionable practices of, or endorsed by, any other employee regardless of rank or authority.

(2) Misconduct or questionable practices include any action which is:
   - undertaken in the performance of the employee’s official duties, whether or not the action is within the scope of the employee’s job description
   - a violation of federal or state law, rule or regulation
   - a fraudulent or false claim against a payee
   - an abuse of authority
   - of substantial and specific danger to public health or safety
   - a gross misappropriation or waste of public and/or private funds
   - an attempt to conceal misconduct or questionable practices

(3) Employees who in good faith believe that misconduct or questionable practices are occurring or have occurred in the past, are encouraged to report all relevant information as soon as possible. Reports should be submitted in written form with all details of the alleged misconduct or questionable practices specified. Reports should be submitted to the Program Leadership of the employee(s) involved in the misconduct or questionable practices. In the event that Program Leadership is also involved in the misconduct or questionable practices, the report should be made to appropriate Senior Leadership staff.

(4) Employees are not required to report to Program or Senior Leadership if there is a reasonable belief that the misconduct or questionable practices are known to Program or Senior Leadership. In such instances, the report should be made directly to the President and Chief Executive Officer.
(5) Employees are not required to report to the President and Chief Executive Officer if there is a reasonable belief that the misconduct or questionable practices are known to the President and Chief Executive Officer. Employees may report directly to any member of the Board of Directors or a public entity if:

- the allegations involve the President and Chief Executive Officer
- the situation is of an emergency nature, or
- the employee reasonably fears physical harm as a result of the disclosure

(6) All written reports will be held in the strictest confidence. Only individuals with a direct need-to-know will be apprised of the report and any subsequent actions. Employees will be kept informed of the status of the written report and any ensuing investigations or inquiries within ten business days from the date the report is submitted.

(7) Employees may submit written reports anonymously. In such instances, the employee waives all rights to further knowledge of the actions or response to the written report. Whistleblower protections apply in full, whether the report is made anonymously or openly.

Individual employees, as agents of Family Service Association, are also required to ensure that documentation and service delivery comply with legal and regulatory requirements. Individuals are expected to know and understand their job responsibilities and to function within established standards. Failure to comply will result in disciplinary action, up to and including termination. This includes deliberate ignorance or reckless disregard of legal and regulatory statutes that apply to an individual's personal responsibility.

D. Fraud Prevention and Detection

FSA has a long history of sound and ethical fiscal operations with comprehensive internal and external safeguards in place to prevent and detect fraud. The agency’s established auditing process serves as the external safeguard. Each year the agency undergoes a full fiscal review conducted by an external auditor to confirm that existing operations are in concert with generally accepted accounting practices. The selection of the auditor, as well as the entire audit process, is overseen by the Finance Committee, an arm of the Board of Directors. The final audit report is presented to and voted on by the entire Board of Directors and evidenced in meeting minutes. External auditors are selected via a competitive bidding process every five years.

Internal safeguards are extensive. Individuals responsible for billing or for documenting evidence of service delivery are qualified for the positions they hold by education and experience. Structured supervision processes are in place and consistently implemented to ensure that each level of employee receives supervision from an individual qualified to serve in a supervisory capacity. Supervision meetings are evidenced in notes held by the supervisor of record. Individuals with billing responsibilities within programs are supervised by Program Leadership personnel. Client records provide evidence of service provision. Records in all programs undergo review at least once every other year through a multidisciplinary peer review process that ensures compliance with documentation, regulatory and accrediting standards.

Funds coming into the agency flow through the Billing and Accounting departments and are deposited into agency accounts. Funds reimbursed by third party payers are mailed to a post office box designated exclusively for that purpose and are payable only to the organization. Only approved personnel have access to the Post Office box and authority to deposit checks on behalf of the agency. Approved signatories to disburse agency funds are limited to the President and Chief Executive Officer, the Chief Financial Officer, the Chairman of the Board of Directors, the Treasurer.
and the Assistant Treasurer. All receipts and disbursements are recorded through the Billing and Accounting departments.

Program and agency budgets, which are established on an annual basis, drive fiscal operations and also serve as internal fraud controls. Through the agency’s accounting department, fiscal status is monitored. Monthly profit and loss statements carefully track expenses and revenues against established budgets. The Accounting department has the capacity to provide historical data for comparison from previous year’s performance and alert Leadership to significant changes in fiscal trends. The Board of Directors is apprised of the agency’s fiscal status on a monthly basis via the Treasurer’s fiscal report. Members are required to vote to accept this report which is evidenced in meeting minutes. Budgets are presented annually to the Board of Directors who review and vote to accept these program and agency fiscal plans. The entire Billing and Accounting departments are overseen by the Chief Financial Officer who reports directly to the Chief Executive Officer. All Billing and Accounting activities are scrutinized annually through the external audit. Accounting and billing procedures are detailed in the Fiscal Policies and Procedures.

E. Training
FSA has a clearly defined policy for employee education and professional development. This policy mandates training in key areas, including fiscal accountability on an annual basis for all leadership personnel.

In compliance with mandates from The Centers for Medicare and Medicaid Services (CMS), all employees providing services under the Medicare Advantage – Prescription Drug health plans participate annually in web-based training on Fraud, Waste and Abuse. This training is mandated by FSA for all clinical direct service and leadership personnel, fiscal/billing personnel, Continuous Quality Improvement staff and the Chief Financial Officer. Evidence of training compliance is maintained in individual Human Resource records and aggregated in the FSA employee training database.

VI. Statutes, Regulations, Standards
Sarbanes-Oxley Act of 2002
M.G.L – chapter 149, Section 185
Council on Accreditation, 8th edition, ETH 4
130 CMR 450.205 (F)