



Policy/Procedure Statement

- POLICY NO.: C 004
- POLICY: NEW
- EFFECTIVE DATE: 5/1/15
- REVISED: 1/1/2017

Compliance Committee
REVIEWED BY

APPROVED BY: M.Tawakkul, Compliance

Compliance
DEPARTMENT

5-12-2015

INITIAL APPROVAL DATE

SUBJECT: FRAUD, WASTE & ABUSE POLICY

I. POLICY

The Detroit Wayne Mental Health Authority (“Authority”) will make every effort to remain in compliance with all state and federal regulations, including federal Anti-Kickback statute, federal False Claims Act (“FCA”), other applicable state and federal regulations, and the terms of various contracts with state and federal agencies. The Authority is committed to combating fraud, waste, and abuse, (“FWA”) and follows strict guidelines in the event of any reported or suspected cases of fraud, waste, or abuse within the Authority, or against any contract that the Authority is responsible for administering. All suspicions reported will be investigated confidentially and in a timely manner, as specified in this Fraud, Waste & Abuse Policy (“Policy”).

In addition, this Policy should be read in conjunction with the Authority’s Compliance Plan, employee Standards of Conduct, and Conflict of Interest Policy, to understand the strong emphasis that the Authority places on complying with various federal and state laws.

II. PURPOSE

The purpose of this Policy is to inform the employees, contractors, volunteers, and agents of the Authority of the various applicable statutes and regulations governing fraud, waste, and abuse to provide general information regarding the Authority’s efforts to combat fraud, waste, and abuse, and to describe the remedies and fines for violations that can result from certain types of fraudulent activities.

III. APPLICATION

This Policy applies to all Authority employees, contractors, providers, volunteers, and agents. When the term “individual” is used it encompasses all these entities.



IV. DEFINITIONS

- A. Abuse means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicare or Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that unintentionally result in unnecessary cost to the Medicare/Medicaid program. (42 CFR 455.2). This usually is a lesser offense than fraud (examples include excessive charges, improper billing, or overpayment due to lack of documentation).
- B. Anti-Kickback is Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b[b]) which provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive remuneration in order to induce or reward business payable (or reimbursable) under the Medicaid program or other Federal health care programs. For the purpose of the anti-kickback statute, "remuneration" includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind.
- C. False Claims Act (31 U.S.C. §3729) prohibits knowingly presenting (or causing to be presented) to the federal government a false or fraudulent claim for payment or approval. Additionally, it prohibits knowingly making or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved by the federal government, or state Medicaid program.
- D. Fraud means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law (42 CFR 455.2). Some examples include:
- Theft or misappropriation of funds, supplies, property, or other resources;
 - Forgery or alteration of documents or records (whether financial or operational); and
 - Falsification of reports to management or external agencies.
- E. Waste means overutilization of services or other practices that, directly or indirectly, results in unnecessary costs to the health care system, including the Medicare and Medicaid programs. It is not generally considered to be caused by criminally negligent actions, but by the misuse of resources or inefficient practices.
- F. Whistleblower/Whistleblower Protection means that individuals are ensured, pursuant to applicable federal and state statutes, that they will not be retaliated against, sanctioned, or penalized by the Authority for reporting any good faith FWA violations.



V. STANDARDS

A. RESPONSIBILITY FOR COMPLIANCE:

All individuals have the responsibility to comply with applicable statutory, regulatory and other requirements, including, but not limited to, the following:

1. False Claims Act
2. Anti-Kickback Statute
3. Health Insurance Portability and Accountability Act (HIPAA)
4. Criminal statutes
5. Applicable Code of Federal Regulations
6. All sub-regulatory guidance produced by Center for Medicare and Medicaid Services (CMS)
7. State laws
8. Contractual commitments

B. REPORTING

Any individual having a reasonable basis for believing FWA or other wrongful acts have occurred is responsible for reporting such incidents to the Authority's Compliance Officer or the issue may be reported through use of the Authority's Compliance Hotline **(313-833-3502)**. **Reports to the Authority or State may be made anonymously.** In reporting incidents, Individuals should endeavor to provide, at a minimum, the following information:

1. Description of alleged event or policy violation;
2. The date and location of the event or violation;
3. Identity of the persons involved in alleged event or violation;
4. Names of witnesses
5. Unless maintaining anonymity, the name and contact information of the individual reporting.

It is not necessary to have proof of wrong-doing at the time of reporting, however, the report shall be made upon a good faith or reasonable belief of a violation. All investigations will be conducted by the Authority pursuant to its Compliance Plan and Investigation Policy.

In addition to reporting the potential FWA violation to the Authority's Compliance Officer, an individual may report the violation to the State:

MDCH Office of Health Services Inspector General
P.O. Box 30479
Lansing, MI 48909-7979
Toll Free Phone: (855) 643-7283

or



State Attorney General
Health Care Fraud Division
Department of Attorney General
Medicaid Fraud Control Unit
P.O. Box 30218
Lansing, MI 48909
Toll Free Phone: (855) 242-2873

C. WHISTLEBLOWER PROTECTION

No individual, who in good faith reports an actual or suspected violation of law, shall experience any retaliation or retribution from the Authority as a result of such reporting, regardless of whether or not, upon investigation, a violation is found to have occurred. Retaliation, itself, is a violation of the Authority's Compliance Plan, which will not be tolerated and must be reported immediately. All individuals will be ensured Whistleblower Protection pursuant to federal and state law.

Reports of retaliation or retribution will be investigated thoroughly and expeditiously to determine appropriate sanctions, including employment or contractual termination, and/or notification to the appropriate federal or state law enforcement agencies.

A reporting party will not be afforded the protection of Whistleblower Protection if his or her allegation of a violation was knowingly fabricated, knowingly exaggerated, or otherwise distorted to adversely affect another person or to protect the reporting party.

D. TRAINING

Authority requires an education and training program concerning fraud, waste, and abuse awareness for its Board of Directors, administrative staff and all other employees annually. In addition, the Authority utilizes the computer based training program that is sponsored by CMS via the Medical Learning Network. Additionally, the Authority provides annual training in fraud, waste, and abuse issues to all staff as part of such staff's annual compliance training.

Agents, contractors, and or providers of the Authority are required by contract to have fraud, waste, and abuse educational training and shall utilize the CMS web-based training via the Medical Learning Network.

E. MONITORING

All Authority divisions shall maintain policies and procedures to monitor/audit their respective areas for FWA. For example, the Authority's Quality division has adopted a "Claims Verification" policy to monitor provider claims on a quarterly basis and require the appropriate corrective action plan for any deficiency. In addition, the Authority performs additional monitoring and proactive measures:

1. Prior to contracting, review all providers and contractors against the federal and state excluded individuals and entities list;



2. Requiring providers to perform monthly review of provider clinical staff licensing and sanctions; and
3. Annual provider environmental and clinical documentation reviews.

In addition, all Authority contracts with providers and/or contractors include general language that require:

1. Compliance with all Authority policies and procedures (as amended) or any appropriate regulatory agency for the detection and prevention of fraud and abuse committed by providers, employees, or agents.
2. Any payments made to the providers or contractors are derived from federal and state funds and that the provider or contractor shall be held civilly and/or criminally liable, in the event of nonperformance, misrepresentation, fraud, or abuse of services rendered to Authority consumers.

VI. QUALITY ASSURANCE/IMPROVEMENT

The Authority shall review and monitor contractor adherence to this policy as one element in its network management program.

The MCPNs, their subcontractors' and direct contractors' quality improvement programs must include measures for both the monitoring of and the continuous improvement of the program or process described in this policy.

VII. COMPLIANCE WITH ALL APPLICABLE LAWS

Authority staff, providers, their subcontractors, direct contractors, and MCPNs and their subcontractors are bound by all applicable local, state, and federal laws, rules, regulations, and policies, all federal waiver requirements, state and county contractual requirements, policies and administrative directives in effect as may be amended.

VIII. CROSS-REFERENCE

- A. Compliance Plan
- B. Standard of Conduct Policy
- C. Conflict of Interest Policy



Please Check:

Policy: New Revised Annual Review

Effective Date:	Reviewed By:	Reviewed Date:	Fiscal Year:
5/1/15	Compliance Committee	5/12/2015	2015