103 –FRAUD, WASTE, AND ABUSE

EFFECTIVE DATE: 10/01/94, 10/25/12, 12/01/12, 09/01/14, 07/01/16

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STAFF RESPONSIBLE FOR POLICY: OFFICE OF INSPECTOR GENERAL

I. PURPOSE

This Policy applies to Acute Care, ALTCS/EPD, CRS, DCS/CMDP (CMDP), DES/DDD (DDD), and RBHA Contractors. The purpose of this Policy is to outline the corporate compliance requirements including the reporting responsibilities for alleged fraud, waste, and abuse involving AHCCCS program funds regardless of the source. This Policy also addresses additional responsibilities regarding compliance with broader program integrity regulatory and programmatic requirements.

II. DEFINITIONS

ADMINISTRATIVE SERVICES SUBCONTRACT

An agreement that delegates any of the requirements of the contract with AHCCCS, including, but not limited to the following:

1. Claims processing, including pharmacy claims;
2. Credentialing, including those for only primary source verification (i.e. Credential Verification Organization);
3. Management Service Agreements;
4. Service Level Agreements with any Division or Subsidiary of a corporate parent owner;
5. DDD acute care and behavioral health subcontractors.

Providers are not Administrative Services Subcontractors.

ABUSE OF THE PROGRAM

Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the AHCCCS 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 beneficiary practices that result in unnecessary cost to the AHCCCS Program. 42 CFR 455.2.

AGENT

Any person who has been delegated the authority to obligate or act on behalf of a Provider. [42 CFR 455.101]

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CORPORATE COMPLIANCE OFFICER	The on-site management official designated by each Contractor to implement, oversee and administer the Contractors' compliance program. The Corporate Compliance Officer must be available to all of the Contractor's employees, and possess the authority to access and provide records, and make independent referrals to the AHCCCS Office of Inspector General. 42 CFR 438.608
CREDIBLE ALLEGATION OF FRAUD	A credible allegation of fraud may be an allegation, which has been verified by the State, from any source, including but not limited to the following: 1. Fraud hotline complaints; 2. Claims data mining, and 3. Patterns identified through provider audits, civil false claims cases, and law enforcement investigations. Allegations are considered to be credible when they have indicia of reliability and the State Medicaid agency has reviewed all allegations, facts and evidence carefully and acts judiciously on a case-by-case basis. 42 CFR 455.2.
FRAUD	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 State or Federal law, as defined in 42 CFR 455.2.
MANAGING EMPLOYEE	A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency. [42 CFR455.101]
PROVIDER	Any person or entity that furnishes AHCCCS funded services.
WASTE	Over-utilization or inappropriate utilization of services, misuse of resources, or practices that result in unnecessary costs to the Medicaid Program.

III. POLICY

A. AUTHORITY

The AHCCCS Office of Inspector General (AHCCCS-OIG) is the division of AHCCCS that has the authority to conduct preliminary and full investigations relating to fraud, waste, and

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abuse involving the programs administered by AHCCCS. Pursuant to 42 CFR Part 455, Subpart A, and an Intergovernmental Agreement with the Arizona Attorney General's Office, AHCCCS-OIG refers case of suspected Medicaid fraud to the State Medicaid Fraud Control Unit for appropriate legal action. AHCCCS-OIG also has the authority to make independent referrals to other law enforcement entities.

1. Pursuant to A.R.S. § 36-2918, AHCCCS-OIG has the authority to issue subpoena and enforce the attendance of witnesses, administer oaths or affirmations, examine witnesses under oath, and take testimony as the Inspector General deems relevant or material to an investigation, examination, or review undertaken by the Office.

2. Pursuant to A.R.S. §§ 36-2918 and 2957, AHCCCS-OIG has the authority to impose a civil monetary penalty of up to $2,000.00 for each item or service claimed, and/or an assessment of an amount not to exceed twice the amount claimed.

3. AHCCCS-OIG has been designated as a Criminal Justice Agency through the Federal Bureau of Investigations (FBI). This designation authorizes AHCCCS-OIG to access the National Crime Information Center (NCIC) data base as well as the Arizona Criminal Justice Information System. Additionally, OIG is authorized to receive and share restricted criminal justice information with other federal, state and local agencies.

4. If AHCCCS-OIG determines that a credible allegation of fraud exists, AHCCCS-OIG may suspend payments to Providers pursuant to 42 CFR 455.23.

B. CONTRACTOR RESPONSIBILITIES

The Contractor must:

1. Have in place internal controls, policies and procedures to prevent, detect, and report fraud, waste, and abuse activities to AHCCCS-OIG.,

2. Have a Corporate Compliance Program that complies with the Contractor's contract with AHCCCS, and all state and federal laws, including 42 CFR Part 438, Subpart G. The program must be developed by a plan that includes:
   a. Program integrity goals and objectives;
   b. Descriptions of internal and external controls employed by the Contractor;
   c. The Contractor's corporate compliance activities; and
   d. The roles and responsibilities of the Contractor's staff as they relate to the Corporate Compliance Program.

   The contractor can use the sample provided under Attachment B of this Policy for guidance on how to present such compliance activities. The Contractor's written Corporate Compliance Plan must be submitted to AHCCCS-OIG annually as specified in Contract, Attachment F3, Contractor Chart of Deliverables.

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3. The Corporate Compliance Plan must include a program integrity audit/review program designed to identify fraud, waste and abuse. Such program will ensure that the Contractor tracks inadequate billing practices and identifies emerging trends in an effort to provide technical assistance to contracted Providers and avoid future occurrences of problematic billing.

4. The Contractor shall provide the external auditing schedule and executive summary of all individual Provider audits to AHCCCS-OIG as specified in Contract Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9 Deliverables.

5. Obtain and disclose the information regarding Ownership and Control, and Disclosure of Information on Persons Convicted of Crimes in accordance with 42 CFR Part 455, Subpart B, 42 CFR 455.436, State Medicaid Director Letters 08-003 and 09-001, and the contractual provisions contained in the contract. The Contractor must also obtain and disclose the same information regarding its Administrative Services Subcontractors. The results of the Disclosure of Ownership and Control and the Disclosure of Information on Persons Convicted of Crimes shall be held by the Contractor. The Contractor and its Administrative Services Subcontractors shall disclose to AHCCCS-OIG the identity of any person excluded from participation in federal healthcare programs.

6. Submit annually, Attachment A, Attestation of: Disclosure of Ownership and Control and Disclosure of Information of Persons Convicted of a Crime, as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables and RBHA Contract, Exhibit-9, Deliverables, attesting that the information has been obtained and verified by the Contractor, or upon request, provide this information to AHCCCS-OIG.

7. Comply with Section 6032 of the Deficit Reduction Act.

8. Ensure all employees, subcontracted Providers and members receive adequate training and ongoing education on the following aspects of the Federal False Claims Act provisions:
   a. The administrative remedies for false claims and statements;
   b. Any State laws relating to civil or criminal penalties for false claims and statements; and
   c. The whistleblower protections under such laws.

9. Ensure adequate training addressing fraud, waste, and abuse prevention, recognition and reporting, and encourage employees, contracted Providers, and members to report fraud, waste, and abuse without fear of retaliation.

10. Ensure an internal reporting process that is well defined and made known to all employees.

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11. Conduct research and proactively identify changes for program integrity that are relevant to their program, and periodically review and revise the fraud, waste, and abuse policies or guidance from AHCCCS to reflect such changes due to rules, regulations or new initiatives.

12. Regularly attend and participate in AHCCCS-OIG work group meetings.

13. Respond promptly and no later than 30 days to requests for information from AHCCCS-OIG

14. Cooperate with AHCCCS-OIG regarding any allegation of member billing in violation of A.R.S. §36-2903.01(L) and A.A.C. R9-22-702.

15. The Contractor must have a method of verifying with AHCCCS members that they received the services billed by Providers to identify potential service/claim fraud. The Contractor must perform periodic audits through member contact and to report the results of these audits as described in ACOM Policy 424.

16. In addition to the specific requirements stated above, it is required that the Contractor be in compliance with all State and Federal laws and regulations related to fraud, waste, and abuse even if not directly detailed in this Policy.

C. REPORTING RESPONSIBILITIES

1. Fraud, Waste, and Abuse
   a. If a Contractor discovers, or is made aware, that an incident of alleged fraud, waste, or abuse has occurred, the Contractor shall immediately report the incident to AHCCCS-OIG within ten business days, by completing and submitting the reporting form available on the AHCCCS-OIG webpage: Report Suspected Fraud or Abuse of the Program. All pertinent documentation that would assist AHCCCS in its investigation shall be attached to the form.
   b. If a Contractor, Administrative Services Subcontractor, or Provider identifies an incident which warrants self-disclosure, the incident must be reported within ten business days to AHCCCS-OIG by completing and submitting the Provider Self-Disclosure form available on the AHCCCS-OIG webpage. All pertinent documentation that would assist AHCCCS in its investigation shall be attached to the form.
   c. Once the Contractor has referred a case of alleged fraud, waste, or abuse to AHCCCS-OIG, the Contractor shall take no action to recoup or otherwise offset any suspected overpayments.
   d. In the event AHCCCS-OIG feels it would be beneficial to seek additional and/or clarifying details regarding a referral from the Contractor, AHCCCS-OIG may first choose to request preliminary review work from the Contractor in order to expand the allegation and to obtain further documentation that will support an investigation by AHCCCS-OIG.

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e. If AHCCCS-OIG chooses to seek additional and/or clarifying details regarding a referral from the Contractor, the Contactor will have 30 business days or more to provide the requested documentation, or provide an update as to the status of completing such request.
f. Once AHCCCS-OIG receives a referral, it will conduct a preliminary investigation to determine if there is sufficient basis to warrant a full investigation.
g. AHCCCS-OIG will notify the Contractor when the investigation concludes in a manner that safeguards the integrity and confidentiality of the investigation.
h. If it is determined by AHCCCS-OIG not to be a fraud, waste, or abuse case, AHCCCS-OIG will return the matter to the Contractor for disposition in accordance with any applicable laws and/or contracts.
i. The Contractor agrees that AHCCCS has the sole authority to handle and dispose of any matter involving fraud, waste or abuse. The Contractor assigns to AHCCCS the right to recoup any amounts overpaid to a Provider as a result of fraud, waste or abuse. If the Contractor receives anything of value that could be construed to represent the repayment of any amount expended due to fraud, waste or abuse, the Contractor shall forward that recovery to AHCCCS-OIG within 30 days of its receipt. The Contractor relinquishes any and all claims to any monies received by AHCCCS as a result of any program integrity efforts which include, but are not limited to:
   i. Civil monetary penalties and/or assessments;
   ii. Civil settlements and/or judgments;
   iii. Criminal restitution; etc.
j. The Contractor must also report to AHCCCS, as specified in Contract, Section F, Attachment F3, Contractor Chart of Deliverables, RBHA Contract, Exhibit-9, Deliverables, and AMPM Policy 950, any credentialing denials including, but not limited to:
   i. Those which are the result of licensure issues,
   ii. Quality of care concerns,
   iii. Excluded Providers, and/or
   iv. Alleged fraud, waste, or abuse.

D. AHCCCS-OIG RESPONSIBILITIES RELATED TO FRAUD, WASTE AND ABUSE

1. Investigate all allegations of member and provider fraud;

2. Oversee, monitor and be the focal point for AHCCCS' compliance program, with the authority to review all documents and functions as they relate to fraud, waste and abuse prevention, detection and reporting;

3. Maintain and monitor a tracking system of fraud, waste and abuse investigations;

4. Ensure all employees, Contractors, Providers and members receive adequate training and information regarding fraud, waste and abuse prevention, identification and reporting. Assure employees, Contractors, Providers and members that they can report fraud, waste and abuse without fear of retaliation;

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5. Suspend Provider payments when there is a credible allegation of fraud;

6. Develop and maintain open channels of communication with Contractors to combat fraud, waste, and abuse at all levels in the System;

7. Develop and maintain open channels of communication with other law enforcement agencies in the prevention and detection of fraud, waste, and abuse;

8. Investigate cases of potential member billing in violation of A.R.S. §36-2903.01(L) and A.A.C. R9-22-702;

9. Perform all functions required by Section 6032 of the Deficit Reduction Act, including the auditing of Providers to ensure their compliance; and

10. Ensure that AHCCCS is in compliance with its federal obligations with regard to Disclosure of Ownership and Control, Managing Employees Database Exclusion, and Checks, and Criminal Convictions Checks, and all other federal requirements related to Provider Screening and Enrollment.

IV. REFERENCES

- Acute Care Contract, Section D
- ALTCS/EPD Contract, Section D
- CRS Contract, Section D
- DES/DDD Contract, Section D
- DCS/CMDP Contract, Section D
- Contract Section F, Attachment F3, Contractor Chart of Deliverables
- RBHA Contract, Scope of Work
- RBHA Contract, Exhibit-9, Deliverables
- A.R.S. §36-2903.01(L)
- A.R.S. §36-2918
- A.R.S. §36-2957
- A.A.C. R9-22-702
- 42 CFR 438
- 42 CFR 438
- 42 CFR 455,
- Deficit Reduction Act, Section 6032
- State Medicaid Director Letter (SMDL) 08-003
- State Medicaid Director Letter (SMDL) 09-001
- ACOM Policy 424
- AMPM Policy 950
- Attachment A, Attestation of: Disclosure of Ownership and Control and Disclosure of Information of Persons Convicted of a Crime
- Attachment B, Corporate Compliance Work Plan - Sample

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ATTACHMENT A, ATTESTATION OF: DISCLOSURE OF OWNERSHIP AND CONTROL AND DISCLOSURE OF INFORMATION OF PERSONS CONVICTED OF A CRIME

SEE THE ACOM WEBPAGE FOR ATTACHMENT A OF THIS POLICY

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ATTACHMENT B, CORPORATE COMPLIANCE WORK PLAN - SAMPLE

SEE THE ACOM WEBPAGE FOR ATTACHMENT B OF THIS POLICY

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