

Policy and Procedure

Steward Health Care Network			
Department	Compliance	Unit/Division	Compliance
Policy/Procedure Name	Compliance Reporting and Non-Retaliation	Policy/Procedure Number	7.09
Effective Date	09/10/2020	Review Date	8/21

1.0 Scope/Purpose

The purpose of this policy is to ensure Steward Health Care Network, Inc. (“SHCN”) Partners who learn of or suspect illegal or wrongful behavior within SHCN’s entities, programs, and/or business relationships report their concern to SHCN immediately utilizing methods provided by SHCN. Additionally, this policy serves to inform SHCN Partners and about their obligations to avoid retaliation, retribution, or any form of harassment.

This policy applies to all SHCN Partners, defined below.

2.0 Definitions

SHCN Partner – Any SHCN entity board member, officer, physician, contractor, vendor, agent, participating provider, and such staff of SHCN performing certain operational functions for SHCN entities and programs. SHCN’s Accountable Care Organization (“ACO”) Participants; First-Tier, Downstream, and Related Entities (“FDRs”) under Medicare; and Material Subcontractors under the Massachusetts Executive Office of Health and Human Services (“EOHHS”) are included in this definition.

- **ACO Participant** – An entity identified by a Medicare-enrolled billing TIN through which one or more ACO Providers/Suppliers bill Medicare, that alone or together with one or more other ACO Participants compose an ACO, and that is included on the list of ACO Participants that is required under 42 C.F.R. § 425.118.
 - **ACO Provider** – A hospital, skilled nursing facility, outpatient rehabilitation facility, home health agency, or hospice that is Medicare-enrolled and bills for items and services furnished to Medicare fee-for-service beneficiaries under a Medicare billing number assigned to the TIN of an ACO Participant in accordance with applicable Medicare regulations, and is included on the list of ACO Providers/Suppliers that is required under 42 CFR § 425.118.
 - **ACO Supplier** – A physician or other practitioner, or an entity other than a provider, who is Medicare-enrolled and bills for items and services furnished to Medicare fee-for-service beneficiaries under a Medicare billing number assigned to the TIN of an ACO Participant in accordance with applicable Medicare regulations, and is included on the list of ACO Providers/Suppliers that is required under 42 CFR § 425.118.
- **First-Tier, Downstream, and Related Entity (“FDR”) under 42 C.F.R. § 423.501** –
 - A **First Tier Entity** is any party that enters into a written arrangement, acceptable to the Centers for Medicare and Medicaid Services (“CMS”), with a Medicare Advantage Organization (“MAO”) or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program.
 - A **Downstream Entity** is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a First-Tier

Entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.

- A **Related Entity** means any entity that is related to an MAO or Part D sponsor by common ownership or control and (1) Performs some of the MAO or Part D plan sponsor’s management functions under contract or delegation; (2) Furnishes services to Medicare enrollees under an oral or written agreement; or (3) Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than \$2,500 during a contract period.
- **Material Subcontractor** – Any entity for which Steward Medicaid Care Network (“SMCN”), a subsidiary of SHCN, procures, or proposes to subcontract with, for the provision of all, or part, of its contractual responsibilities for care delivery, care coordination, care management, data analysis, enrollee services, and/or risk stratification, or any other contractual responsibilities defined by EOHHS.

Fraud, Waste, and Abuse (“FWA”) under 18 U.S.C. § 1347 –

- **Fraud** is knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.
- **Waste** is the overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.
- **Abuse** includes actions that may, directly or indirectly, result in: unnecessary costs to the Medicare Program, improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

Fraud and Abuse under the EOHHS Primary Care ACO Second Amended and Restated Contract –

- **Fraud** – An intentional deception or misrepresentation made by a person or corporation with the knowledge that the deception could result in some unauthorized benefit under the MassHealth program to himself, the corporation, or some other person. It also includes any act that constitutes fraud under applicable federal or state health care fraud laws.
- **Abuse** – Actions or inactions by providers (including the contractor) and/or members that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary cost to the MassHealth program, including, but not limited to practices that result in MassHealth reimbursement for services that are not medically necessary, or that fail to meet professionally recognized standards for health care.

3.0 Policy

SHCN is committed to ensuring that its entities, programs, and business activities comply with all applicable federal and state laws and regulations, sub-regulatory guidance, contractual agreements, and internal policies and procedures.

SHCN Partners who learn of or suspect illegal or wrongful behavior related to SHCN’s entities, programs, and/or business activities must report their concern immediately to the SHCN Compliance and Privacy Officer,

individual SHCN entity compliance lead, and/or to Steward Health Care System LLC's Office of Corporate Compliance and Privacy ("OCCP") for internal investigation.

Multiple methods of communication are made accessible to all SHCN Partners to allow for suspected or detected instances noncompliance to be reported as they are identified, including a method for anonymous and confidential reporting.

SHCN has a policy of non-intimidation and non-retaliation for good faith reporting of suspected or detected noncompliance or potential FWA.

4.0 Procedure

HOW TO REPORT

1. Any SHCN Partner who learns of or suspects any behavior or activity related to SHCN entities, programs, and/or business activities which violates a state or federal law or regulation, guideline, contractual agreement, or internal policy must immediately report such concern to the SHCN Compliance and Privacy Officer at **469-341-8839** or SHCN.FWA@steward.org, SHCN compliance lead at **781-493-7951**, or the OCCP at **617-419-4732** or compliance@steward.org.
2. SHCN Partners may make anonymous and confidential reports to the Compliance Support Line via phone at **800-699-1202** or online at www.reportanissue.com. The Compliance Support Line is available 24 hours a day, 7 days a week.
3. SHCN Partners who learn of or suspect retaliation, harassment, or any other activity related to the SHCN which constitutes prohibited action under this policy must immediately report this activity via one of the methods provided by SHCN and the OCCP as outlined above. NOTE: Individuals who purposely contrive, exaggerate, distort, or in any other way do not act in good faith when reporting a compliance concern will not be protected by this policy.

INTERNAL HANDLING OF REPORTS

4. The OCCP—including the SHCN Compliance and Privacy Officer and individual SHCN entity compliance lead—has mechanisms in place to receive, record, investigate, respond to, and track compliance questions or reports of suspected or detected noncompliance or potential FWA. This includes initiating a prompt and reasonable inquiry and internal investigation upon discovery of any issue.
5. The OCCP makes every effort to protect the anonymity and confidentiality of individuals who make reports by any means.

EXTERNAL REPORTING

6. When SHCN acts as an FDR to an MAO or Part D sponsor, any confirmed compliance and/or FWA violations related to contracted functions are reported to the associated contracted MAO or Part D sponsor by the SHCN Compliance and Privacy Officer.
7. Upon a complaint of FWA from any source or upon identifying any questionable practices, the SHCN compliance lead reports the matter in writing to EOHHS within five (5) business days as required by contract.
8. When deemed warranted, the SHCN Compliance and Privacy Officer may voluntarily self-report potential fraud or misconduct related to government programs, including the Medicare ACO, to law enforcement, applicable government agency designees, or CMS or its designee.

5.0 References (Regulatory or Accreditation) and Related Policies

- 42 C.F.R. § 164.530(g), § 422.503(b)(4)(vi)(D), § 423.501, § 425.118
- 18 U.S.C. § 1347
- 31 U.S.C. § 3730(h)
- CMS Managed Care Manual 50.4.2 – Communication and Reporting Mechanisms
- Federal Sentencing Guidelines, Chapter 8 - §8B2.1. Effective Compliance and Ethics Program
- EOHHS Primary Care ACO Second Amended and Restated Contract
- Steward Health Care System LLC Code of Conduct
- Individual SHCN Entity Compliance and Privacy Program Plans
- COM 4 – Compliance Reporting Policy
- COM 13 – Non-Retaliation Policy
- HR 21 – Standards of Performance / Disciplinary Action Policy

6.0 Attachment[s]

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7.0 Review and Approval

Content By	SHCN Compliance Department SMEs and Leadership	
Reviewed By	SHCN Leadership	DATE
Approved By	SHCN Compliance Committee	9/10/20

8.0 Revision History – Policies and procedures are reviewed on an annual basis

Date	Reason for Change

SHCN Template v 1.0 eff 12/12/2019

9.0 Contact

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