


COMPLIANCE	 From DentaQuest			
	<i>Policy and Procedure</i>			
	Policy Name:	Compliance Investigation	Policy ID:	PLANCG-63
	Approved By:	Courtney Barnes Ransom, Head of Risk Management, Ethics & Compliance	Last Revision Date:	9/5/2023
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PURPOSE

This policy establishes the process to be used in all compliance investigations, and to assure complete and proper fulfillment of the DCO’s Compliance Program.

POLICY

The DCO’s Head of Risk Management, Ethics & Compliance (Compliance Officer) is responsible for objectively, uniformly, and consistently coordinating and/or completing the investigation of all suspected fraud, waste, and abuse; reported violations of applicable laws, regulations, and guidelines; reported violations of applicable DCO policies; and/or systemic violations of contractual obligations to our clients. All credible evidence or reports will be appropriately investigated, and investigations may be conducted by the Compliance Department, or may be assigned to the Legal Department, Fraud Prevention & Recovery Department, Human Resources, or to other internal or external resources, as appropriate.

REFERENCES

- 42 C.F.R. §422.503(b)(4)(vi)(G)
- 42 C.F.R. §438.608(a)(1)(vii)
- Medicare Managed Care Manual, Chapter 21

DEFINITIONS

- **“Abuse”** means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program.
- **“Compliance Incident”** means the observation or study of suspected fraud, waste, abuse, or reported violations of applicable laws and regulations by close examination and systematic inquiry. This includes, but is not limited to:
 - A suspected violation of law;
 - A suspected violation of a health plan’s contract requirements;
 - A suspected violation of the Code of Conduct and Ethics or other DCO policies and procedures;

- Compliance Incidents include suspected violations by Advantage Dental Services employees, contingent workers, first-tier, downstream and related entities, providers or health plan members.
- **“Contingent Workers”** mean workers who are not employees; likely third parties such as contractors, consultants, vendors, temporary workers, lobbyists, auditors, building maintenance personnel, property managers, etc.
- **“Downstream Entity”** means any party that enters into a written arrangement, below the level of the arrangement between Advantage Dental Services and a First-Tier Entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.
- **“First-Tier Entity”** means any party that enters into a written arrangement to provide administrative or health care services.
- **“Fraud”** means an intentional deception or misrepresentation made by a person with the **knowledge** that the deception could result in some unauthorized benefit to him/herself or some other person. It includes any act that constitutes fraud under applicable Federal or State law, including but not limited to the Federal False Claims Act. (42 CFR § 455.2)
- **“Related Entity”** means an entity that is related to the common ownership or control and performs some of the Advantage Dental Services management functions under contract or delegation; furnishes services to enrollees under an oral or written agreement.
- **“Waste”** means overutilization of services, or other practices that result in unnecessary costs. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.

PROCEDURE

A. Purpose of Investigation

1. The purpose of an investigation is to identify those situations in which the laws, rules and/or standards of federal programs and/or DCO policy may not have been followed. This includes, but is not limited to, the following:
 - a. To identify individuals or processes which may have knowingly or inadvertently caused services to be provided or coded and/or claims to be submitted or processed in a manner which violated federal, state and/or local laws, rules, or standards;
 - b. To identify individuals or processes which may violate the DCO’s Code of Conduct & Ethics, contractual obligations, or contractual requirements;
 - c. To facilitate correction to any other practices not in compliance with federal, state and/or local laws, rules, or standards;
 - d. To implement procedures necessary to ensure future compliance;
 - e. To protect the DCO in the event of civil or criminal enforcement actions; and
 - f. To preserve and protect DCO assets.

B. Initial Review

1. A member of the Compliance Department will log suspected or reported Compliance Incidents in the Compliance Department Case Management System. In compliance with Chapter 21-Compliance Program Guidelines for Medicaid and Medicare, Advantage Dental Services will begin an inquiry within two weeks of notification of program non-compliance.
2. In instances where the concern was previously investigated, the Compliance Department will review the details of the previous investigation and actions taken, if any

3. If the Compliance Department concludes, based on the initial review of the issues that no Compliance Investigation is necessary, the Compliance Department will:
 - a. Respond to the inquiry or question
 - b. Document the results in the Compliance Case Management System;
 - c. Close the compliance review in the Compliance Helpline Case Management System; and
 - d. Inform the Compliance Officer of the decision as applicable and appropriate, with detail available to the DCO's Corporate Compliance Committee upon request.
4. The matter shall be considered an open compliance investigation and a Compliance Investigation shall commence if the initial review indicates that the conduct reported likely or possibly constitutes noncompliance with any of the following:
 - a. Medicaid or Medicare regulations;
 - b. DCO Policies & Procedures,
 - c. Applicable client contractual obligations; or
 - d. Applicable state and/or federal laws.

The DCO's Corporate Compliance Committee and/or representative(s) from impacted business units shall be informed of the matter as required and/or necessary to facilitate the investigation and resolution of the inquiry.

C. Investigative Process

1. The investigation will begin as soon as reasonably possible following the receipt of the report or a potential incident of noncompliance. After the potential Compliance Issue is logged into the Compliance Department Case Management System, the Compliance Department will initiate an investigation or will seek the support of, or assign the investigation to, another corporate department, including but not limited to the Fraud Prevention & Recovery Department, Human Resources Department, or Legal Department. When necessary, the Compliance Department may engage the services of outside counsel or other independent subject matter experts to conduct or support an investigation.
2. Where appropriate, the Compliance Department resource(s) assigned to the investigation will develop a written plan of investigation in consultation with the identified investigative team. The plan may be revised as the investigation proceeds. The investigation may include, but is not limited to:
 - a. Identify documents for review/create document request;
 - b. Identify appropriate individuals to be interviewed;
 - c. Identify questions to be asked during interviews;
 - d. Reviewing documents, (i.e., EMR, billing/claims, training records, state and federal laws, rules, regulations, etc.);
 - e. Reviewing policies and researching procedures;
 - f. Define sampling methodology, if applicable;
 - g. Collaborating with an internal oversight authority;
 - h. Contracting with an external authority and documenting recommendations of legal counsel, if appropriate.
3. Following a thorough investigation, a summary report will be written and include:
 - a. Nature of the Compliance Incident;

- b. A list of all known facts;
 - c. Summary of investigative process;
 - d. Any person(s) or process(es) which the investigator believes to have contributed deliberately or with reckless disregard or intentional indifference or otherwise toward the suspected violation;
 - e. Document findings, recommendations, actions taken;
 - f. As applicable, if possible, and with the assistance from the Finance Department, estimates the nature and extent of any resulting overpayment by the payer, if any.
4. The Compliance Department may solicit the voluntary assistance of any DCO resources in conducting any of the specific investigative tasks noted above.
 5. If required by client contract, the DCO will report any identified issues of noncompliance or nonperformance with contractual obligations to the impacted client.
 6. Investigation Outcome
 - a. If the Compliance Investigation results show that the incident did not occur as alleged, or that no violation of applicable laws/regulations/policies occurred, the investigation shall be closed subject to Compliance Officer and Corporate Compliance Committee concurrence (if applicable), and a written report filed, briefed. Once complete, documentation is to be preserved in accordance with DCO Records Retention policies.
 - b. If the Compliance Investigation results show that a compliance violation exists, all documentation related to the investigation is kept as an “open” case until remedial actions are complete and a corrective action plan has been successfully implemented and any related monitoring is completed and certified.
 7. Follow-Up After Investigation
 - a. DCO will provide general feedback to the source regarding the investigation, provided the issue was not anonymously reported. Sources who report anonymously may call to receive feedback. Responses should be general in nature and not reveal information of a confidential nature such as an individual’s name or corrective action taken.
 - b. Unless advised otherwise by DCO Counsel, the Corporate Compliance Committee, will be similarly and timely informed and briefed.
 8. No Retaliation/Reprisal
Under no circumstances is retaliation for submitting a compliance issue, inquiry, or any good faith reporting acceptable. This includes but is not limited to, questions and concerns an employee may discuss with an immediate supervisor, the affiliate’s compliance officer, Compliance Officer, other Compliance Department resource, or with the Corporate Compliance Committee.

D. Organizational Response

1. Fraud, Waste, and/or Abuse: In the event the Compliance Investigation uncovers what appears to be fraud, waste, and/or abuse on the part of any DCO employee or business unit, subcontracted entity, first-tier, downstream and related entity, provider, or health plan member, the DCO shall undertake the following steps:
 - a. If findings relate to a DCO staff or subcontractor, DCO shall initiate appropriate disciplinary action against the person or persons whose conduct appears

- to have been intentional, willfully indifferent or undertaken with reckless disregard for the applicable laws and/or regulations.
- b. If findings relate to a Downstream or Related Entity, network provider or provider staff, or health plan member, the Compliance Department will refer the inquiry to the Fraud, Prevention & Recovery Department (FPR) for investigation and management. All FPR investigative material will be provided to the Compliance Department to be maintained in the Compliance Case Management System.
2. Possible Criminal Activity: In any case in which there are indications of criminal activity or other wrongdoing, the Chief Ethics & Compliance Officer, in consultation with General Counsel and Executive Leadership, shall determine whether an investigation is warranted. Depending on the circumstances, either an internal investigation may be conducted, or external resources such as auditors, independent counsel, or health care experts may be retained to conduct an investigation. In cases in which the information establishes a substantial probability that criminal activity has occurred, either the Chief Ethics & Compliance Officer or General Counsel will promptly report such information to the appropriate law enforcement agency, and will consult with that agency before investigating or taking any steps that might hinder or interfere with a criminal investigation and/or prosecution.
 3. Other Non-Compliance: In the event the Compliance Investigation reveals problems which do not appear to be the result of conduct, which is intentional, willfully indifferent, or with reckless disregard for the applicable laws, DCO shall undertake the following:
 - a. Improper Payments/Encounter Reporting: In the event the problem results in duplicate payments/encounters reported, or payments/encounters reported for services not rendered or provided other than as claimed, DCO shall:
 - i. Define and summarize the defective practice or procedures as quickly as possible;
 - ii. Calculate and make recommendations regarding repayment to the appropriate governmental entity, duplicate payments or improper payments resulting from the act or omission;
 - iii. Reverse claims and encounter data in all systems which generated data submitted to the State that may have been affected;
 - iv. Initiate training and/or disciplinary action as appropriate given the facts and circumstances;
 - v. Undertake a program of education at the appropriate business unit to prevent future problems; and
 - vi. Convene a business process review team to analyze and remedy DCO process, functional or information system deficits.
 - b. No improper Payment/Encounter Reporting: In the event the problem has or does not result in overpayment/duplicate encounter reporting, DCO shall:
 - i. Define and summarize the defective practice or procedures as quickly as possible;
 - ii. Initiate training and/or disciplinary action as appropriate given the facts and circumstances;
 - iii. Undertake a program of education at the appropriate business unit to prevent future problems; and
 - iv. Undertake business process review team to analyze and remedy DCO process, functional or information system deficits.

E. Confidentiality

To the extent permitted by law, requests by persons who report a Compliance Issue to Advantage Dental Services or who assist in a subsequent internal investigation to keep their identity confidential will be honored.

FORMS AND RELATED DOCUMENTS

- **LGL01-ENT-Response to Government Inquiries**