

NorthCare Network Compliance Plan –FY19

(Effective 10/1/18)

OVERVIEW

This Compliance Plan documents NorthCare Network’s (hereinafter referred to as “NorthCare”) approach to assuring that federal and state regulatory and contractual obligations related to compliance of the Prepaid Inpatient Health Plan (PIHP) are fulfilled. This plan addresses NorthCare’s regulatory compliance obligations as a Prepaid Inpatient Health Plan (PIHP) and how, where it has obligations, it will oversee the PIHP Managed Care functions it delegates to the Member Community Mental Health Service Providers (CMHSP).

The Compliance Program is designed to further NorthCare’s commitment to comply with applicable laws, promote quality performance throughout the NorthCare Network, and maintain a working environment for all NorthCare Board members, employees, volunteers, students, and interns (hereinafter referred to as “NorthCare Personnel”) that promotes honesty, integrity and high ethical standards. NorthCare’s Compliance Program is an integral part of NorthCare’s mission, and all NorthCare Personnel, and Member CMHSPs, contracted providers and subcontracted providers (hereinafter referred to as “Network Providers”) are expected to follow the compliance program. NorthCare’s compliance plan is comprised of the following principal elements:

1. The development and distribution of written standards of conduct as well as written policies and procedures that promote NorthCare’s commitment to compliance; and address specific areas of potential fraud, waste and abuse;
2. The designation of a Compliance Officer and other appropriate bodies,(e.g., a Compliance Oversight and Risk Management Committee), charged with the responsibility and authority of operating and monitoring the compliance program;
3. The development and implementation of regular, effective education and training programs for all included personnel;
4. The development of effective lines of communication between the Compliance Officer and all employees, including a reporting system to receive complaints and the adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation;
5. The use of audits and ongoing monitoring to assist in the reduction of identified problem areas, including fraud, waste and abuse, within delivered services, claims processing and delegated managed care functions in striving for continual improvement on compliance activities;

6. The development of disciplinary mechanisms to consistently enforce standards and the development of policies addressing dealings with sanctioned and other specific individuals; and
7. The development of policies to respond to detected offenses, including potential fraud, waste and abuse, to initiate corrective action to prevent similar offenses, and to report to Government authorities when appropriate.

NorthCare is committed to:

- Minimizing organizational risk and improving compliance with the service provision, documentation, and billing requirements of Medicaid and other payers;
- Complying with State and Federal laws and their applicable regulations, including, but not limited to, those outlined in NorthCare's *Regulatory Standards Policy*;
- Maintaining adequate internal controls throughout the region and provider network;
- Encouraging the highest level of ethical and legal behavior from all NorthCare personnel and network providers;
- Educating or ensuring the education of personnel, network providers, board members, and stakeholders on their responsibilities and obligations to comply with applicable local, state, and federal laws;
- Providing oversight and monitoring functions.

The NorthCare Compliance Plan is subject to the following conditions:

- NorthCare reserves the right to change, modify, or amend the Compliance Plan and/or the compliance policies as deemed necessary by NorthCare without notice.
- NorthCare will attempt to communicate changes to or modification of the Compliance Plan prior to or concurrent with the implementation of such changes or modification.
- This document is not intended to, nor should be construed as, a contract or agreement and does not grant any individual or entity employment or contract rights.

APPLICATION OF COMPLIANCE PLAN

NorthCare contracts services for adults and children with mental illness, developmental disabilities, substance use disorders, and co-occurring mental health and substance use disorders, within the fifteen counties of the Upper Peninsula. This Plan addresses NorthCare as the Prepaid Inpatient Health Plan (PIHP) whose primary function is to manage the Medicaid, Healthy Michigan, MiChild, MI Health Link Demonstration Project and Block Grant benefits for individuals receiving Michigan Mental Health Specialty Supports and Services and MI Health Link behavioral health services in the Upper Peninsula of Michigan.

It is the intent of NorthCare that the scope of all its compliance policies and procedures promote integrity, support objectivity and foster trust throughout the service region. This Plan applies to all NorthCare operational activities and administrative actions, and includes those activities that come within federal and state regulations relating to Prepaid Inpatient Health Plans (PIHPs). NorthCare Personnel are subject to the requirements of this plan as a condition of employment. All NorthCare Personnel are required to fulfill

their duties in accordance with NorthCare's Compliance Plan, Human Resource and Operational policies, and to promote and protect the integrity of NorthCare. Failure to do so by NorthCare Personnel will result in discipline, up to and including termination of employment, depending on the seriousness of the offense. Disciplinary action may also be taken against a supervisory employee who directs or approves an employee's improper conduct; is aware of the improper conduct and does not act appropriately to correct it; or who fails to exercise appropriate supervision over an employee.

This Plan applies to all Network Providers receiving Medicaid or other payment under the PIHP and/or through the PIHP managed care functions. All Network Providers, including their officers, employees, servants, volunteers, interns, and agents, are subject to the requirements of this Plan as applicable to them and as stated within the applicable contracts. All Network Providers that provide services directly or indirectly to consumers within the NorthCare Network are expected to follow principles that promote ethical health care, and uphold the integrity of ethical business practice. Failure to do so will result in remediation effort attempts and/or contract action, if needed. NorthCare has the responsibility of regulating, overseeing and monitoring the Medicaid processes of business conducted throughout its service area and to support business practices conducted with integrity and in compliance with the requirements of applicable laws and sound business practices. The NorthCare Compliance Plan, standards, and policies included or referenced herein are not exhaustive or all inclusive. All NorthCare Personnel and Network Providers are required to comply with all applicable laws, rules and regulations including those that are not specifically addressed in the Compliance Plan. NorthCare will monitor compliance efforts of Network Providers during annual site reviews, at minimum.

DEFINITIONS AND TERMS

- **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. (42 CFR § 455.2)
- **Compliance investigation:** the observation or study of suspected fraud, abuse, waste, or reported violations of applicable laws and regulations for all Medicaid covered services by close examination and systematic inquiry.
- **Contracted Providers:** Member CMHSPs, substance use disorder providers, hospitals and other providers throughout the NorthCare Network with which NorthCare directly holds a contract to provide Medicaid covered mental health and substance use disorder services.
- **Fraud (Federal False Claims Act):** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/her 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 and the Michigan False Claims Act. (42 CFR § 455.2)

- **Fraud (MI Medicaid False Claims Act):** Michigan law permits a finding of Medicaid fraud based upon “constructive knowledge.” This means that if the course of conduct reflects a systematic or persistent tendency to cause inaccuracies” then it may be fraud, rather than simply a good faith error or mistake. (Public Act 421 of 2008, effective 1/6/2009)
- **Member CMHSP:** CMHSPs that hold a contract with NorthCare to provide Medicaid specialty mental health and substance use disorder supports and services to enrollees and to perform various delegated managed care functions consistent with NorthCare delegation agreement and policy. “Member CMHSP” includes the agency itself as well as those acting on its behalf, regardless of the employment or contractual relationship.
- **Provider:** means a Member CMHSP or other provider who has entered into a written agreement with NorthCare either directly or indirectly through a third Party, to provide behavioral health services in exchange for reimbursement.
- **Waste:** means over-utilization of services, or other practices that result in unnecessary costs. Generally not considered caused by criminally negligent actions but rather the misuse of resources.

SECTION I - CODE OF CONDUCT

An important component of NorthCare’s Compliance Program is the Code of Conduct (referred to as “Code”), which sets basic principles that all NorthCare Personnel and Network Providers must follow.

NorthCare’s Governing Board and management establishes and encourages throughout its region, a culture that promotes prevention, detection, and resolution of instances of misconduct in order to conform to applicable laws and regulations. NorthCare will assist Network Providers in adopting practices that promote compliance with Medicaid fraud, abuse and waste program requirements. The NorthCare Compliance Plan and Program will be enforced consistently.

The Compliance Program and the Code of Conduct are not intended to and shall not be deemed or construed to provide any rights, contractual or otherwise, to any personnel, network providers, or to any third parties.

NorthCare will distribute the written Code of Conduct, as well as written policies and procedures to all personnel and network providers at the time of hire/contract. These standards of conduct demonstrate NorthCare’s commitment to ethical practices and system wide emphasis on compliance with all applicable laws and regulations. All NorthCare policies and Code of Conduct can also be accessed anytime on our website at: www.northcarenetwork.org

NorthCare will perform or cause to be performed criminal record checks on potential NorthCare Personnel, and shall avoid placing untrustworthy or unreliable employees in key positions. In addition, NorthCare will perform or cause to be performed a review of the OIG Cumulative Sanctions List and the General Services Administration Sanctions Report to determine whether any current or prospective NorthCare Personnel have been excluded from participation in Federal Health Care Programs. Further, NorthCare Board and management will use due care not to delegate substantial discretionary authority to individuals whom they know, or should have known through due diligence, have a propensity to engage in illegal activities.

Should any NorthCare Personnel or Network Provider have any questions or uncertainties regarding compliance with applicable state or federal law, or any aspect of the Compliance Plan, including related policies or procedures, they should seek immediate clarification from the Compliance Officer.

The PIHP and Network Providers may not have relationships with an individual or entity that is excluded from participating in Federal health care programs. NorthCare and Network Providers will comply with federal regulations to obtain, maintain, disclose and furnish required information about ownership, control interests, business transactions and criminal convictions as specified in applicable laws, regulations, contracts and policy/procedure.

SECTION II - COMPLIANCE OFFICER AND COMPLIANCE OVERSIGHT AND RISK MANAGEMENT COMMITTEE

The overall responsibility for operation and oversight of the Compliance Plan belongs to the Board; however, the day-to-day responsibility for operation and oversight of the Compliance Plan rests with the Compliance Officer.

NorthCare's CEO (or designee) will designate a Compliance Officer (CO), who will be given sufficient authority to carry out operational responsibility of the Compliance Program. To carry out such responsibility, the CO shall be given adequate resources, direct access to the governing authority or an appropriate subgroup of the governing authority, the CEO, all other senior management and legal counsel. The Compliance Officer has authority to provide unfiltered, in-person reports to the board of directors at his or her discretion. The authority given the CO will include the ability to review all NorthCare, Member CMHSP, Contracted and Subcontracted Provider Medicaid, Dual Eligible and Block Grant documents and other information relevant to compliance activities, including, but not limited to, consumer records, billing records, employee records and contracts and obligations of NorthCare. In the event the Compliance Officer is conducting a compliance investigation relative to the CEO, the CEO cannot terminate the Compliance Officer without approval of the Board of Directors.

NorthCare shall maintain a Compliance Oversight and Risk Management Committee (CORMC) that will advise the Compliance Officer and assist with the implementation, operation and evaluation of the Compliance Program. This will be a permanent

committee with the authority, responsibility and specific duties as described in NorthCare's *Compliance Oversight and Risk Management Committee Policy*. Their charge is to ensure compliance with applicable state and federal laws, including HIPAA and to ensure adequate operation and evaluation of the NorthCare Network Compliance Program.

SECTION III - COMPLIANCE TRAINING AND EDUCATION

Proper and continuous training and education of NorthCare personnel at all levels is a significant element of an effective compliance program. Therefore, NorthCare will establish a regular training program that covers the provisions of the Code of Conduct and Compliance Program. Training is provided upon hire for new Personnel; annual and periodic retraining is provided to existing NorthCare Personnel and, as applicable, Network Providers and other stakeholders.

NorthCare Personnel will be scheduled to receive compliance training at orientation or within thirty (30) days of employment/appointment. Tailored training may be required for employees involved in specific areas of risk and the CO, or designee, will coordinate and schedule as needed. Training may be supplemented with newsletters, e-mails and in-services. Records will be maintained on all formal training and educational activities.

Training is considered a condition of employment and failure to comply will result in disciplinary action.

- **Initial training:** The Compliance Officer, or designee, shall ensure the scheduling and documentation of initial trainings for all NorthCare personnel regarding NorthCare's Compliance Plan. Subsequent compliance instruction will occur annually.
- **Continuing Education:** The CO shall review and circulate periodic revisions to the Compliance Oversight and Risk Management Committee regarding any health care fraud issues as received from the Office of Inspector General (OIG), Centers for Medicare and Medicaid (CMS), Michigan Department of Health and Human Services (MDHHS), and other updated compliance materials.
- Network Providers are expected to provide the following minimum compliance training, at orientation and as needed, to all staff and agents working on their behalf:
 - ✓ Overview of the organization's Compliance Program and Policies, including, but not limited to:
 - Code of Conduct
 - Reporting Requirements and Procedures
 - Organization's policies/procedures relating to prevention of fraud, waste and abuse; and
 - Organization's policies and procedures relating to whistleblower provisions and non-retaliation protections
 - ✓ Deficit Reduction Act including, but not limited to:
 - Federal False Claims Act;
 - MI State False Claims Act;

- Whistleblowers Act
- NorthCare reserves the right to review and approve all compliance related training materials used by Network Providers covering the elements noted above.

The Compliance Oversight and Risk Management Committee shall ensure current mandates are instituted in both initial and refresher education/training that will assist in carrying out job responsibilities. Continued compliance training will be documented. These training sessions are obligatory, personnel initiated, or instituted upon request of the supervisor. Failure to participate in mandatory training session(s) will result in verbal/written reprimand, suspension, or termination of employment as deemed appropriate by NorthCare's CEO, or designee. The CO and members of the Compliance Oversight and Risk Management Committee will be available to all Personnel to answer questions regarding modifications of governmental guidelines.

It is the responsibility of NorthCare Personnel to maintain job specific certifications and/or licensing requirements, proficiencies, and competencies set forth by the State of Michigan, licensing body and job descriptions.

Upon employment/appointment, all NorthCare Personnel will be provided an orientation to the Compliance Program and will have access to an electronic copy and/or receive a written copy of the Compliance Plan, Code of Conduct and NorthCare Compliance Policies upon request.

Modifications to the Compliance Plan are made as necessary. The updated Plan is posted to NorthCare's website and notice of this posting provided to all Personnel after revisions have been approved by the NorthCare Compliance and Risk Management Committee and accepted by the Board.

A copy of all Compliance Program documents (Compliance Plan, Code of Conduct and Policies) will be kept on file by the CO and maintained at NorthCare's office. Compliance Program documents can also be accessed on NorthCare's shared network drive, N:\Policies-Plans-SOPs\Current Policies,Plans,SOPs-PDF) and on the web at www.northcarenetwork.org

SECTION IV - COMPLIANCE REPORTING AND ONGOING COMMUNICATION

All NorthCare Personnel must be familiar with applicable federal and state laws and regulations as well as NorthCare Policies and Procedures. Any NorthCare Personnel that know, or has reason to believe, that an employee of, or independent professional providing services to, NorthCare is not acting in compliance with federal and state laws and regulations should report such matters to their supervisor, the CEO or the CO consistent with NorthCare's *Responsibilities for Reporting Non-Compliance Policy*.

Personnel who make good faith reports of violations of federal or state law are protected by state and federal whistleblower statutes, as more fully described below.

Under the *Federal False Claims Act* and the *Michigan Medicaid False Claims Act*, personnel who report violations in good faith are entitled to protection from disciplinary actions taken by their employer.

The *Federal False Claims Act*, 31 USC §§3729 through 3731, provides for administrative remedies; encourages enactment of parallel State laws pertaining to civil and criminal penalties for false claims and statements; and provides “whistle-blower” protection for those making good faith reports of statutory violations.

Under the *False Claims Acts*, an employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists with, or participates in a proceeding or court action under this act or because the employee cooperates with or assists with an investigation under this act. This prohibition does not apply to an employment action against an employee who the court finds: (i) brought a frivolous claim, as defined in section 2591 of the revised judicature act of 1961, 1961PA 236, MCL §600.2591; or, (ii) planned, initiated, or participated in the conduct upon which the action is brought; or, (iii) is convicted of criminal conduct arising from a violation of that act.

An employer who takes action against an employee in violation of the *False Claims Act* is liable to the employee for all of the following:

1. reinstatement to the employee’s position without loss of seniority;
2. two times the amount of lost back pay;
3. interest on the back pay;
4. compensation for any special damages; and,
5. any other relief necessary to make the employee whole.

SECTION V - COMPLIANCE MONITORING, AUDITING AND RISK EVALUATION

All NorthCare Personnel are responsible for monitoring compliance activities and operations within NorthCare. Any determination of non-compliance must be reported to NorthCare’s CO.

NorthCare believes that a thorough and ongoing evaluation of the various aspects of NorthCare’s Compliance Program is crucial to its success. In order to evaluate the effectiveness of the Plan, NorthCare may employ a variety of monitoring and auditing techniques, including but not limited to:

1. Annual Provider Reviews conducted by various NorthCare Review Committees as outlined on the NorthCare Network Committee Organizational Chart and Committee Fact Sheets;
2. Periodic interviews with NorthCare and Provider personnel regarding their perceived levels of compliance within their departments or areas of responsibilities;
3. Questionnaires developed to poll personnel within NorthCare and Provider organizations regarding compliance matters including the effectiveness of training/education;

4. Information gained from written reports from Provider compliance officers utilizing assessment tools developed to track all areas of compliance;
5. Audits designed and performed by internal and/or external auditors utilizing specific compliance guidelines;
6. Investigations of alleged noncompliance reports as described in NorthCare's *Compliance Review and Investigations Policy*; and
7. Exit interviews with departing employees/Network Providers.

Information obtained through monitoring and auditing efforts will be retained in written form and provided to the NorthCare CORMC in full or aggregate.

NorthCare's CORMC will evaluate, no less than annually, the effectiveness of the Compliance Program. Compliance issue topics identified from monitoring and auditing will be presented to the NorthCare Board of Directors at least annually in complete and/or summary format.

Network Providers are encouraged to perform auditing and monitoring functions involving Medicaid, MIChild, MI Health Link, Healthy Michigan, and Block Grant covered services through their own compliance program efforts.

The NorthCare CO, Leadership Committee, Compliance Oversight and Risk Management Committee, and as appropriate, other NorthCare Committees/Personnel will take actions to ensure the following:

- ✓ Access to and familiarity with the latest HHS OIG compliance guidelines and current enforcement priorities; and
- ✓ Assessment of the baseline risk of any significant issues regarding noncompliance with laws or regulations in accordance with this Plan and Compliance Policies.

SECTION VI - ENFORCEMENT and DISCIPLINE

Corrective action is used as a means of facilitating the overall goal of the NorthCare Compliance Plan which is full compliance. Corrective action plans should assist NorthCare Personnel and Network Providers to understand specific issues and reduce the likelihood of future noncompliance. Corrective action sufficient to address the particular instance of noncompliance should reflect the severity of the noncompliance. The following Corrective Action Plan Guidelines are to be used with NorthCare Personnel and Network Providers:

Violation	Possible Disciplinary Action
Knowingly and willfully committing fraud and/or violation of a federal or state billing or documentation practice(s). Knowingly and willfully providing false or misleading information in a compliance context to NorthCare, governmental agency, consumer or MDHHS. [E.g. billing for services not performed, forging	<p>First Offense for NorthCare Personnel: Immediate termination of employment.</p> <p>First Offense for Network Provider: Termination of subcontract or provider contract.</p>

documentation or signatures, upcoding, kickbacks, bribes]	
Unknowingly violating federal or state billing or documentation practice(s).	<p>First Offense for NorthCare Personnel: Possible disciplinary action as warranted and based upon CEO judgment up to and including: written reprimand for Personnel file, mandatory compliance refresher training, individual counseling with Manager and/or Compliance Officer, probation, etc.</p> <p>Second Offense for NorthCare Personnel: Possible/potential disciplinary action as warranted and based upon COO.</p> <p>First Offense for Network Provider: Written notice of noncompliance for Contract file, mandatory compliance training approved by NorthCare Compliance Oversight and Risk Management Committee (CORMC) or provided by NorthCare, Corrective Action Plan to be submitted to CORMC, may be placed on probationary period. Related individual(s) may be barred from Medicaid service provision or administrative activity.</p> <p>Second Offense for Network Provider: Possible termination of contract or subcontract.</p>
Knowingly violating policies and/or procedures as set forth in the Compliance Plan.	<p>First Offense for NorthCare Personnel: Written reprimand for Personnel file, individual counseling with Manager and/or Compliance Officer, and placed on 60-day probation.</p> <p>Second Offense for NorthCare Personnel: Unpaid suspension and possible termination.</p> <p>First Offense for Network Provider: Written notice of noncompliance for Contract file, Corrective Action Plan to be submitted to CORMC, maybe placed on probationary period. Related individual(s)</p>

	<p>may be barred from Medicaid service provision or administrative activity.</p> <p>Second Offense for Network Provider: Possible termination of contract or subcontract.</p>
<p>Detection of, but, failure to report or failure to detect substantive violations of federal and state mandates in duties where a reasonable person could be expected to detect violation(s).</p>	<p>First Offense for NorthCare Personnel: Written reprimand for Personnel file, mandatory compliance refresher training, individual counseling with Manager and/or Compliance Officer, and placed on 60-day probation.</p> <p>Second Offense for NorthCare Personnel: Suspension and possible termination.</p> <p>First Offense for Network Provider: Written notice of noncompliance for Contract file, mandatory compliance training approved by NorthCare CORMC or provided by NorthCare, Corrective Action Plan to be submitted to CORMC, may be placed on probationary period. Related individual(s) may be barred from Medicaid service provision or administrative activity.</p> <p>Second Offense for Network Provider: Possible termination of contract or subcontract.</p>

Basis for Network Provider Corrective Action: Monitoring and auditing, and reports of questionable practices may form the basis for imposing corrective action.

Elements of a Network Provider Corrective Action Plan: As appropriate given the nature of the noncompliance, a corrective action plan submitted to NorthCare for approval shall include:

- ✓ A description of how the issue(s) identified was immediately corrected OR the reason the issue(s) cannot be immediately corrected (i.e. the consumer has been discharged).
- ✓ A description of the steps put or to be put into place to prevent the issue(s), or a similar issue(s), from occurring again (i.e. staff training, process redesign, etc.)
- ✓ A description of the quality assurance program put into place for monitoring purposes to ensure the corrective action plan is effective and/or similar issues do not occur.
- ✓ Action items are to include position or group responsible for implementation of corrective action and target date for completion.

SECTION VII –RESPONSE and PREVENTION

NorthCare and Network Providers are expected to respond to suspected misconduct or wrongdoing in a timely manner. Each report of suspected misconduct or wrongdoing reported to NorthCare will be documented and reviewed to determine how serious the misconduct or wrongdoing is and develop an appropriate plan of action. An investigation will commence any time a potential violation is identified. NorthCare's Compliance Officer will assemble an investigation team that may include outside counsel and/or content experts, depending on the extent and seriousness of the alleged infraction. While an internal investigation is the first step, NorthCare will also take necessary steps immediately to stop or modify the procedures that are the alleged source of wrongdoing.

Prompt reporting of misconduct to the appropriate governmental authority within a reasonable period, but not more than 60 days after determining that there is a credible evidence of a violation is expected.

Detailed documentation is critical and must include:

- ✓ A description of the potential misconduct and how it was reported
- ✓ A description of the investigative process
- ✓ List of relevant documents reviewed
- ✓ List of employees interviewed
- ✓ Changes to policies and procedures, if appropriate
- ✓ Documentation of any disciplinary actions
- ✓ Investigation final report with recommended remedial actions.

The final report and any attached documentation are sensitive materials and distribution should be limited.

If the investigation finds that there was no violation, the investigation will be closed. However, if after the internal investigation, there is reason to believe the organization's misconduct constituted a material violation of the civil law or the rules and regulations governing federally funded health care programs, then the organization is expected to steps to disclose the violation to the government. Voluntary disclosure is the right thing to do. NorthCare may seek legal advice to ensure proper reporting prior to any voluntary disclosure.