NORTHCARE NETWORK

POLICY TITLE: Compliance Review & Investigation Policy	**CATEGORY:** Compliance	
EFFECTIVE DATE: 3/21/13	**BOARD APPROVAL DATE:** 3/21/13	
REVIEWED DATE: 8/26/24	**REVISION(S) TO POLICY STATEMENT:** ☐ **Yes** ☒ **No**	**OTHER REVISION** ☒ **Yes** ☐ **No**
RESPONSIBLE PARTY: Compliance & Privacy Officer	**CEO APPROVAL DATE:** 9/3/24 Megan Rooney, CEO	

APPLIES TO

NorthCare Network Personnel
Network Providers

POLICY

NorthCare Network's Compliance & Privacy Officer (CO) is responsible for objectively, uniformly, and consistently coordinating and/or completing the investigation of suspected fraud, waste and abuse or reported violations of applicable laws, regulations, policy, and guidelines. The extent of the investigation will vary depending upon the issue. NorthCare Network will cooperate fully with any further investigation or prosecution by any duly authorized government agency, whether administrative, civil, or criminal.

PURPOSE

To articulate the process used by NorthCare Network regionally in Medicaid compliance investigations. And, to assure complete and proper fulfillment of NorthCare Network's Compliance Program.

DEFINITIONS

1. ***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.

2. ***Abuse*** (CMS): 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 costs to the Medicaid program. (42 CFR § 455.2)

3. ***Fraud*** (CMS): 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 and the Michigan False Claims Act. (42 CFR § 455.2)

4. ***Waste****:* (CMS) means overutilization of services, or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.

REFERENCES

- Balanced Budget Act Section 438.608
- MDHHS/PIHP Contract
- NorthCare Network Compliance Plan & Policies

HISTORY

REVISION DATE: 12/18/13, 12/3/14, 8/30/16, 6/14/17, 3/25/19, 12/11/19, 10/21/20, 6/9/21, 4/15/22, 2/14/23, 8/9/24, 8/21/24, 8/26/24
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CEO APPROVAL DATE: 10/21/20, 3/13/13, 12/18/13, 12/3/14, 11/9/15, 9/6/16, 7/13/17, 5/10/18, 4/1/19, 1/7/20, 11/3/20, 7/12/21, 5/3/22, 3/7/23, 8/12/24, 8/21/24, 9/3/24
BOARD APPROVAL DATE: 3/21/13

PROCEDURES

A. Responsible for Investigation
    1. All suspected or known cases of fraud, waste, abuse will be immediately reported to NorthCare Network with as much information and supporting documentation as possible.
        a. Reports from Network Providers should be made utilizing the Fraud Referral Form.
        b. Reports can be made directly to NorthCare Network:
            i. By phone at: 1-906-936-6843 (voice messages are confidential).
            ii. By email to: scoleman@northcarenetwork.org
            iii. By mail at: 1230 Wilson Street, Marquette, MI 49855
        c. Reports can be filed with our anonymous reporting service:
            i. By phone at: 1-844-260-0003
            ii. By email at: reports@lighthouseservices.com
            iii. Online at: http://www.lighthouse-services.com/northcare
            iv. Fax at: 215-689-3885.

    2. Reports can be made to the MDHHS-OIG:
        a. online at https://www.michigan.gov/mdhhs/doing-business/providers/providers/billingreimbursement/report-medicaid-fraud-and-abuse
        b. By calling **855-MI-FRAUD (643-7283)**
        c. Sending a letter to:
        Office of Inspector General
        PO Box 30062
        Lansing, MI 48909

    3. Suspected or known cases of fraud, waste, abuse may be made anonymously.

    4. If a potential allegation of fraud exists, NorthCare will refer the matter to the MDHHS-OIG promptly and pause any recoupment/recovery in connection with the potential credible allegation of fraud until receiving further instructions from the

MDHHS-OIG.

5. NorthCare Network CO will refer on to the MDHHS-OIG (Michigan Department of Health and Human Services – Office of Inspector General) and/or MFCU (Medicaid Fraud Control Unit) all cases with an estimated fraud amount of $5,000 or more using the Contractor Fraud Referral Template who will determine if they will accept the case or require NorthCare to investigate further and/or move forward with recoupment. Cases under $5,000 will be reported on quarterly OIG-PI (Program Integrity) report.

6. After reporting a potential credible allegation of fraud, Contractor shall not take any of the following actions unless other side instructed by the OIG:
    a. Contact the subject of the referral about any matters related to the referral.
    b. Enter or attempt to negotiate any settlement or agreement regarding the referral with the subject of the referral; or
    c. Accept any monetary or other things of valuable consideration offered by the subject of the referral in connection with findings/overpayment.
    d. If the State makes a recovery from the investigation and/or corresponding legal action where Contractor has sustained a documented loss, the state shall not be obligated to repay moneys recovered to Contractor.

7. NorthCare Network CO may consult with the MDHHS-OIG on any case, as necessary. This includes questions regarding whether suspicions should be classified as Fraud, Waste, or Abuse for clarification.

B. Purpose of Investigation
    1. The purpose of an investigation is to identify those situations in which the laws, rules, and/or standards of federal or state programs and/or NorthCare Network Contract or Policy may not have been followed and/or issues related to fraud, abuse, and waste. This includes, but is not limited to, the following:
        a. Identification of 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 facilitate corrective action for any practices not in compliance with federal, state and/or local laws, rules, or standards.
        c. To implement procedures necessary to ensure future compliance.
        d. To protect NorthCare Network in the event of civil or criminal enforcement actions; and
        e. To preserve and protect NorthCare Network’s assets.

C. Initial Review
    1. The CO will log suspected compliance issues/inquiries.

    2. If a potential allegation of fraud exists, NorthCare will refer the matter to the MDHHS-OIG via sFTP promptly and pause any recoupment/recovery in connection with the potential credible allegation of fraud until receiving further instructions from the MDHHS-OIG and MFCU.

3. In instances where the concern was previously investigated, the CO will review the details of the previous investigation and any actions taken.

4. If the CO concludes, based on the Initial Review of the issues, that no Formal Compliance Investigation is necessary, the CO will:
    a. Respond to the inquiry or question,
    b. Document the results,
    c. Close the compliance review, and
    d. Inform contracted Provider's CEO and/or representative and NorthCare Network Compliance Oversight and Risk Management Committee of the decision as applicable and appropriate, with detail available upon request.

5. If the CO concludes, based on the Initial Review, that the conduct reported or constitutes noncompliance with applicable Federal or State regulations or NorthCare Network Contract or Policies or Procedures, the matter shall be considered an open compliance investigation.

6. If the issue/inquiry has been filed regarding the conduct or actions of the Chief Executive Officer or any Board Member, the Compliance & Privacy Officer will refer the matter to the Board Executive Committee and/or Legal Counsel. The process outlined below will be followed by legal counsel and the investigative team. If the matter involves a member of the Executive Committee, that member shall be excluded from meetings as deemed appropriate by the review/investigation team.

D. Investigative Process
    1. NorthCare Network CO will notify and brief NorthCare's CEO of suspected compliance issue(s) and of the commencement of a formal Compliance Investigation. Unless contraindicated or upon advice of NorthCare Network's Compliance Counsel, the contracted Provider's CEO (or designee) will also be informed and briefed, unless party to the suspected complaint. The investigation will begin as soon as reasonably possible, but in no event more than ten business days following the receipt of the report/information/complaint regarding the potential issue of noncompliance.

    2. The CO will develop a written plan of investigation in consultation with the identified investigative team prior to the start of the formal Compliance Investigation. 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. A summary report will be written and include:
        a. Nature of the problem,

b. A list of all known facts,
c. Summary of investigative process,
d. Identified 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. If possible, and with the assistance from financial or supervisory staff, estimates of the nature and extent of any resulting overpayment by the payer, if any.

4. NorthCare Network's CO may solicit the voluntary assistance of network provider staff in conducting any of the specific investigative tasks noted above. The NorthCare Network CO may seek information on background, context, prior history, and recommended approach from network providers. All original products resulting from any tasks assigned by the NorthCare Network CO will be forwarded to the NorthCare Network CO when completed.

5. The NorthCare Network CO may also solicit the support of internal and external resources with knowledge of the applicable laws and regulations that relate to the specific concern in question. External resources may include legal counsel, consultants, statisticians, and auditors. These internal and/or external persons may function under the direction of legal counsel and under attorney-client privilege (which may be joint with network provider as appropriate and requested) and if so, the contracted network provider shall be required to submit relevant evidence, notes, findings, and conclusions to legal counsel.

6. The CO shall review all investigative findings with NorthCare's CEO and as necessary the Compliance Oversight and Risk Management Committee, contracted network provider CEO unless contraindicated or upon contrary advice of counsel, and NorthCare Network legal counsel, prior to developing remediation and recoupment plans and closing the case.

7. Investigation Outcome
    a. If the formal Compliance Investigation results show that the act did not occur as alleged, or that no violation of applicable laws/regulations/contract/policies occurred, the investigation shall be closed subject to NorthCare Network CEO and as necessary, Compliance Oversight and/or Risk Management Committee concurrence, a written report filed, and the contracted network provider CEO, or designee, briefed. Once complete, documentation is to be preserved for a minimum of six (6) years.
    b. If the formal 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.

8. Follow-Up After Investigation
    a. NorthCare Network 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 will be general

in nature and not reveal information of a confidential nature such as an individual's name or corrective action taken.

b. Unless contraindicated or upon advice of NorthCare Network Counsel, the contracted network provider CEO, or designee, will be similarly and timely informed and briefed.

9. Appeal
    a. The contracted network provider CEO, or designee, may appeal the investigative findings and/or determination consistent with NorthCare Network Policy.

10. No Retaliation/Reprisal
    a. Under no circumstances is retaliation for submitting a compliance complaint or inquiry acceptable. This includes but is not limited to, questions, and concerns an employee may discuss with an immediate supervisor, the affiliate's compliance officer, NorthCare Network's CO, CEO or Compliance Oversight and Risk Management Committee member(s).

E. Organizational Response
    1. Possible Criminal Activity: In the event the formal Compliance Review uncovers criminal activity on the part of any network provider, contracted or subcontracted provider, or NorthCare Network employee or business unit, NorthCare Network shall undertake the following steps:
        a. If violations are found related to Medicare or Medicaid compliance, NorthCare's Compliance & Privacy Officer and/or counsel for NorthCare Network shall notify the Michigan Department of Health and Human Services (MDHHS) or other appropriate authority as deemed necessary and as authorized by the NorthCare Network's CEO, or designee, and after consultation with the NorthCare Network Governing Board Chair. NorthCare Network, through compliance counsel, shall attempt to negotiate a settlement of the matter with MDHHS or other authority.
        b. If findings relate to a NorthCare Network staff or contractor, NorthCare Network 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.
        c. If findings relate to a network provider staff or sub-contractor, the network provider CEO, or designee, 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. NorthCare Network may implement additional remedies as applicable.
        d. Report all suspicions of fraud, waste, and abuse on Quarterly Submissions to the MDHHS-OIG as scheduled.

F. NorthCare Network will cooperate fully with any further investigation or prosecution by any duly authorized government agency, whether administrative, civil, or criminal.
    1. Cooperation must include providing, upon request, information, access to records and access to interview employees and consultants, including but not limited to those with expertise in the administration of the program and/or in medical or pharmaceutical questions or in any matter related to an investigation or prosecution.

2. NorthCare Network must disclose Protected Health Information to MDHHS-OIG or the Department of the Attorney General upon their written request, without first obtaining authorization from the beneficiary to disclose such information.

G. Other Non-Compliance:
   1. In the event the formal Compliance Review reveals billing or other problems which do not appear to be the result of conduct, which is intentional, willfully indifferent, or with reckless disregard for the applicable laws, NorthCare Network shall nevertheless 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, NorthCare Network shall:
         i. Define, summarize, and mitigate 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. Calculations must be reconciled between NorthCare Network and the network provider.
         iii. Void and resubmit the encounter to adjust the claim payment, as necessary.
         iv. Reallocate payment to the proper fund source, as necessary.
         v. Initiate training and/or disciplinary action as appropriate given the facts and circumstances.
         vi. Promptly undertake a program of education at the appropriate business unit to prevent future problems; and
         vii. Analyze and remedy business process, functional or information system deficits.
         viii. The contracted network provider CEO, or designee, shall submit a plan of action for NorthCare Network CEO/CO and/or Compliance Oversight and Risk Management Committee approval intended to remediate affiliate specific process, functional or information system deficits. Network provider CEO, or designee, may appeal corrective action plan decisions consistent with NorthCare Network's Appeal Process for Compliance Decisions Policy.

      b. No improper Payment/Encounter Reporting: In the event the problem does not result in overpayment/duplicate encounter reporting, NorthCare Network shall:
         i. Define, summarize, and mitigate the defective practice or procedures as quickly as possible,
         ii. Initiate training and/or disciplinary action as appropriate given the facts and circumstances,
         iii. Promptly undertake a program of education at the appropriate business unit to prevent future problems; and
         iv. Analyze and remedy business process, functional or information system deficits.
         v. The contracted network provider CEO, or designee, shall submit a plan of action for NorthCare Network CEO/CO and/or Compliance Oversight and Risk Management Committee approval intended to

remediate affiliate specific process, functional or information system deficits. Network provider CEO, or designee, may appeal corrective action plan decisions consistent with NorthCare Network's Appeal Process for Compliance Decisions Policy.

c. NorthCare must report overpayments due to fraud, waste, or abuse to MDHHS-OIG.
    i. If NorthCare identifies an overpayment involving potential fraud prior to identification by MDHHS OIG the contractor will refer the findings to MDHHS-OIG and await further instruction from MDHHS-OIG prior to recovering the overpayment.
    ii. If NorthCare identifies an overpayment involving waste or abuse prior to identification by MDHHS-OIG, Contractor must void or correct applicable encounters, should recover the overpayment, and will must report the overpayment on the quarterly submission.
    iii. If a Network Provider identifies an overpayment, they must agree to:
        a. Notify NorthCare, in writing< of the reason for the overpayment and the date the overpayment was identified.
        b. Return the overpayment to NorthCare within sixty calendar days of the date the overpayment was identified.

H. CMHSPs will ensure that up to date contact information for reporting allegations of noncompliance is provided to all subcontracted providers at a minimum of annually and they are aware that reporting may be made anonymously.