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### Program Integrity

- 1.1. The Contractor shall ensure compliance with the program integrity provisions of this Agreement, including proper payments to subcontractors and methods for detection of fraud, waste, and abuse.
- 1.2. The Contractor shall include Program Integrity requirements in its subcontracts and provider application, credentialing and re-credentialing processes.
- 1.3. The following are relevant citations for Program Integrity compliance. The Contractor is expected to be familiar with, comply with and require subcontractor compliance with all regulations related to Program Integrity whether those regulations are listed or not.
  - 1.3.1. 42 CFR 438.608(a)
  - 1.3.2. 42 CFR 455
  - 1.3.3. 42 CFR 1000 through 1008
- 1.4. Credentialing: The contractor shall have written policies that require monitoring of employee credentials. The contractor shall use only CMHAs that are licensed and/or certified by the State.
  - 1.4.1. The Contractor shall require detailed disclosure of all individuals and entities with an ownership or control interest.
  - 1.4.2. The Contractor shall maintain a list of Contractor and subcontractor individuals and entities with an ownership or control interest.
  - 1.4.3. The Contractor shall not subcontract with an individual provider or an entity with an individual who is an officer, director, agent, or manager, or who owns or has a controlling interest in the entity, and who has been convicted of crimes as specified in 42 USC §1320a section 1128 of the Social Security Act.
- 1.5. Disclosure of Ownership and Control Interests: The Contractor must provide the following disclosures to DSHS (42 CFR 455.104):
  - 1.5.1. The name and address of any person (individual or corporation) with an ownership or control interest in the Contractor. The address for corporate entities must include as applicable primary business address, every business location, and P.O. Box address.
  - 1.5.2. Date of birth and Social Security Number (in the case of an individual).
  - 1.5.3. Any other tax identification number (in the case of a corporation) with an ownership or control interest in the Contractor or in any subcontractor in which the Contractor has a 5 percent or more interest.
  - 1.5.4. Whether the person (individual or corporation) with an ownership or control interest in the managed care organization is related to another person with ownership or control interest in the managed care organization as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the managed care organization has a 5 percent or more interest is related to another person with ownership or control interest in the managed care organization as a spouse, parent, child, or sibling.
  - 1.5.5. The name of any other managed care organization in which an owner of the Contractor has an ownership or control interest.

- 1.5.6. The name, address, date of birth, and Social Security Number of any managing employee of the Contractor.
- 1.5.7. Disclosures from the Contractor are due at any of the following times:
  - 1.5.7.1. Upon the Contractor executing the Contract with North Sound BHO
  - 1.5.7.2. At the time any new or newly merged PIHP executes a contract with Contractor.
  - 1.5.7.3. Upon renewal or extension of the contract
  - 1.5.7.4. Within 35 days after any change in ownership of the managed care entity.
- 1.6.** Fraud and Abuse: Fraud means 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 and includes any act that constitutes fraud under applicable federal or State law. Abuse means provider actions that are inconsistent with sound fiscal, business, or medical 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 for health care.
  - 1.6.1. The Contractor shall report suspected fraud or abuse directly to North Sound BHO as soon as it is discovered and cooperate in any investigation or prosecution conducted by the North Sound BHO or the Medicaid Fraud Compliance Unit (MFCU).
  - 1.6.2. When the Contractor notifies North Sound BHO about potential fraud and abuse, the Contractor must send all information to North Sound BHO within one (1) working day, to include the source of the complaint, the involved CMHA, the nature of the suspected fraud, waste, abuse or neglect, the approximate dollars involved, and the legal and administrative disposition of the case. The report must also include:
    - 1.6.2.1. The Subject(s) of complaint by name and either provider/subcontractor type or employee position;
    - 1.6.2.2. The source of the complaint;
    - 1.6.2.3. The nature of fraud or abuse;
    - 1.6.2.4. The approximate dollar amount;
    - 1.6.2.5. The legal and administrative disposition of the case.
  - 1.6.3. The Contractor's Program Integrity, Fraud and Abuse program shall have:
    - 1.6.3.1. In effect a process to inform officers, employees, agents and subcontractors regarding the False Claims Act.
    - 1.6.3.2. Administrative and management arrangements or procedures, and a mandatory compliance plan.
    - 1.6.3.3. Written policies, procedures, and standards of conduct that requires the Contractor and the Contractor's officers, employees, agents and subcontractors compliance with the requirements of this section.
    - 1.6.3.4. A process to inform officers, employees, agents and subcontractors about the False Claims Act.

- 1.6.3.5. A designated compliance officer and a compliance committee that is accountable to senior management;
- 1.6.3.6. Effective ongoing training and education for the compliance officer, staff of the Contractor, and selected staff of the CMHAs.
- 1.6.3.7. Effective communication between the compliance officer, the Contractor's employees, and the Contractor's network of CMHAs.
- 1.6.3.8. Enforcement of standards through well-publicized disciplinary guidelines.
- 1.6.3.9. Internal monitoring and auditing of the Contractor and subcontractors.
- 1.6.3.10. Provisions for prompt response to detected offenses and develop corrective action initiatives.
- 1.6.3.11. Provision of detailed information to employees and subcontractors regarding fraud and abuse policies and procedures and the False Claims Act as identified in Section 1902(a) (68) of the Social Security Act.
- 1.6.3.12. Provision for full cooperation with North Sound BHO and any federal, HCA or Attorney General Medicaid Fraud Control Unit (MFCU) investigation including promptly supplying all data and information requested for their investigation.
- 1.6.3.13. Verification that services billed by subcontractors were actually provided to enrollees.

**1.7. Subcontractor Payment Suspensions:** The Contractor shall establish policies and procedures for suspending a subcontractor's payments when the Contractor determines a credible allegation of fraud exists and there is a pending investigation (42 CFR 455.23).

- 1.7.1. All suspensions of payment actions under this section will be temporary and will not continue after either of the following:
  - 1.7.1.1. The Contractor or the prosecuting authorities determine that there is insufficient evidence of fraud by the provider; or
  - 1.7.1.2. Legal proceedings related to the provider's alleged fraud are completed.
- 1.7.2. The Contractor must send notice of its suspension of program payments to the subcontractor within the following timeframes:
  - 1.7.2.1. Five days of taking such action unless requested in writing by North Sound BHO, the Medicaid Fraud Control Unit (MFCU) or law enforcement agency to temporarily withhold such notice.
  - 1.7.2.2. Thirty days if requested by law enforcement in writing to delay sending such notice. The request for delay may be renewed in writing as many as two times and in no event may the delay exceed 90 days.
- 1.7.3. The notice of payment suspension must include or address the following:
  - 1.7.3.1. State that payment is being suspended in accordance with this provision.
  - 1.7.3.2. Set forth the general allegations as to the nature of the suspension action, but need not disclose any specific information concerning an ongoing investigation.

- 1.7.3.3. State that the suspension is for a temporary period and cite the circumstances under which the suspension will be terminated.
    - 1.7.3.4. Specify, when applicable, to which type or types of claims or business units of a provider suspension is effective.
    - 1.7.3.5. Inform the provider of the right to submit written evidence for consideration by the Contractor.
  - 1.7.4. The Contractor must document in writing the termination of a suspension including, where applicable and appropriate, any appeal rights available to a subcontractor.
  - 1.7.5. Whenever the Contractor's investigation leads to the initiation of a payment suspension in whole or part, the Contractor must make a fraud referral to North Sound BHO.
  - 1.7.6. The fraud referral must be made in writing and provided to the North Sound BHO no later than the next business day after the suspension is enacted.
  - 1.7.7. If the North Sound BHO, MFCU or other law enforcement agency accepts the fraud referral for investigation, the payment suspension may be continued until the investigation and any associated enforcement proceedings are completed.
  - 1.7.8. On a quarterly basis, the Contractor must request a certification from the North Sound BHO/MFCU or other law enforcement agency that any matter accepted on the basis of a referral continues to be under investigation thus warranting continuation of the suspension.
  - 1.7.9. If the North Sound BHO/MFCU or other law enforcement agency declines to accept the fraud referral for investigation the payment suspension must be discontinued.
  - 1.7.10. A Contractor's decision to exercise the good cause exceptions in this contract not to suspend payments or to suspend payments only in part does not relieve the Contractor of the obligation to refer any credible allegation.
  - 1.7.11. The Contractor may find that good cause exists not to suspend payments, or not to continue a payment suspension previously imposed, to an individual or entity against which there is an investigation of a credible allegation of fraud if any of the following are applicable:
    - 1.7.11.1. Law enforcement officials have specifically requested that a payment suspension not be imposed because such a payment suspension may compromise or jeopardize an investigation.
    - 1.7.11.2. Other available remedies implemented by the Contractor more effectively or quickly protect Medicaid funds.
    - 1.7.11.3. The Contractor in consultation with North Sound BHO determines, based upon the submission of written evidence by the individual or entity that is the subject of the payment suspension, that the suspension should be removed.
    - 1.7.11.4. Enrollee access to items or services would be jeopardized by a payment suspension because the individual or entity serves a large number of enrollees within a federal Health Resources and Services Administration (HRSA) designated medically underserved area.

- 1.7.11.5. Law enforcement declines to certify that a matter continues to be under investigation.
- 1.7.11.6. The Contractor in consultation with North Sound BHO determines that payment suspension is not in the best interests of the Medicaid program.
- 1.7.12. The Contractor may find that good cause exists to suspend payments in part, or to convert a payment suspension previously imposed in whole to one only in part, to an individual or entity against which there is an investigation of a credible allegation of fraud if any of the following are applicable:
  - 1.7.12.1. Enrollee access to items or services would be jeopardized by a payment suspension in whole or part because of either of the following:
  - 1.7.12.2. An individual or entity is the sole community physician or the sole source of essential specialized services in a community.
  - 1.7.12.3. The individual or entity serves a large number of enrollees within a federal HRSA designated medically underserved area.
  - 1.7.12.4. The Contractor in consultation with North Sound BHO determines based upon the submission of written evidence by the individual or entity that is the subject of a whole payment suspension, that such suspension should be imposed only in part.
  - 1.7.12.5. The credible allegation focuses solely and definitively on only a specific type of claim or arises from only a specific business unit of a subcontractor; and the Contractor determines and documents in writing that a payment suspension in part would effectively ensure that potentially fraudulent claims were not continuing to be paid.
  - 1.7.12.6. Law enforcement declines to certify that a matter continues to be under investigation.
  - 1.7.12.7. The Contractor in consultation North Sound BHO determines that payment suspension only in part is in the best interests of the Medicaid program.
- 1.7.13. The Contractor must meet the following documentation and record retention requirements.
  - 1.7.13.1. Maintain for a minimum of 5 years from the date of issuance all materials documenting the life cycle of a payment suspension that was imposed in whole or part, including the following:
  - 1.7.13.2. All notices of suspension of payment in whole or part,
  - 1.7.13.3. All fraud referrals to the North Sound BHO/MFCU or other law enforcement agency,
  - 1.7.13.4. All quarterly certifications of continuing investigation status by law enforcement,
  - 1.7.13.5. All notices documenting the termination of a suspension.
  - 1.7.13.6. Maintain for a minimum of 5 years from the date of issuance all materials documenting each instance where a payment suspension was not imposed, imposed only in part, or discontinued for good cause.

- 1.7.13.7. This type of documentation must include, at a minimum, detailed information on the basis for the existence of the good cause not to suspend payments, to suspend payments only in part, or to discontinue a payment suspension and, where applicable, must specify how long the Contractor anticipates such good cause will exist.
  - 1.7.13.8. Annually report to North Sound BHO summary information on each of the following:
    - 1.7.13.8.1. Suspension of payment, including the nature of the suspected fraud, the basis for suspension, and the outcome of the suspension.
    - 1.7.13.8.2. Situations in which the Contractor determined good cause existed to not suspend payments, to suspend payments only in part, or to discontinue a payment suspension as described in this section, including describing the nature of the suspected fraud and the nature of the good cause.
  - 1.7.14. If the Contractor fails to suspend payments to an entity or individual for which there is a pending investigation of a credible allegation of fraud, without good cause, North Sound BHO may withhold monthly payments.
- 1.8. Excluded Providers:** The Contractor is prohibited from paying with funds received under this Contract for goods and services furnished, ordered or prescribed by excluded individuals and entities (Social Security Act (SSA) section 1903(i)(2) of the Act; 42 CFR 455.104, 42 CFR 455.106, and 42 CFR 1001.1901(b)).
- 1.8.1. The Contractor must monitor for excluded individuals and entities by:
    - 1.8.1.1. Screening the Contractor's and subcontractor's directors, officer, and partners prior to entering into a contractual or other relationship.
    - 1.8.1.2. Screening individuals and entities with an ownership or control interest of at least 5% of the Contractor's equity prior to entering into a contractual or other relationship.
    - 1.8.1.3. Screening individuals with an employment, consulting, or other arrangement with the Contractor for the provision of items and services that are significant and material to the Contractor's obligations under this Agreement.
    - 1.8.1.4. Screening monthly newly added Contractor and subcontractor's employees, individuals and entities with an ownership or control interest for excluded individuals and entities that would benefit directly or indirectly from funds received under this Contract.
    - 1.8.1.5. Screening monthly Contractor and subcontractor's employees, individuals and entities with an ownership or control interest that would benefit from funds received under this Contract for newly added excluded individuals and entities.
  - 1.8.2. The contractor must report to North Sound BHO:
    - 1.8.2.1. Any excluded individuals and entities discovered in the screening within ten (10) business days.
    - 1.8.2.2. Any payments made by the Contractor that directly or indirectly benefit excluded individuals and entities and the recovery of such payments.

- 1.8.2.3. Any actions taken by the Contractor to terminate relationships with Contractor and subcontractor's employees and individuals with an ownership or control interest discovered in the screening.
- 1.8.2.4. Any Contractor and subcontractor's employees and individuals with an ownership or control interest convicted of any criminal or civil offense described in SSA section 1128.with ten (10) business days of the Contractor becoming aware of the conviction.
- 1.8.2.5. Any subcontractor terminated for cause within ten (10) business days of the effective date of termination to include full details of the reason for termination.
- 1.8.2.6. Any Contractor and subcontractor's individuals and entities with an ownership or control interest. The Contractor must provide a list with details of ownership and control no later than October 1, 2010 and keep that list up-to-date thereafter.
- 1.8.3. The Contractor will not make any payments for goods or services that directly or indirectly benefit any excluded individual or entity. The Contractor will immediately recover any payments for goods and services that benefit excluded individuals and entities that it discovers.
  - 1.8.3.1. The Contractor will immediately terminate any employment, contractual, and control relationships with an excluded individual and entity that it discovers.
  - 1.8.3.2. Civil monetary penalties may be imposed against the Contractor if it employs or enters into a contract with an excluded individual or entity to provide goods or services to enrollees. (SSA section 1128A(a)(6) and 42 CFR 1003.102(a)(2))
  - 1.8.3.3. An individual or entity is considered to have an ownership or control interest if they have direct or indirect ownership of 5 percent or more, or are a managing employee (e.g., a general manager, business manager, administrator, or director) who exercises operational or managerial control, or who directly or indirectly conducts day-to-day operations (SSA section 1126(b), 42 CFR 455.104(a), and 42 CFR 1001.1001(a)(1)).
  - 1.8.3.4. In addition, if North Sound BHO/DSHS notifies the Contractor that an individual or entity is excluded from participation by DSHS in RSN's, the Contractor shall terminate all beneficial, employment and contractual, and control relationships with the excluded individual or entity immediately (WAC 388-502-0030).
  - 1.8.3.5. The list of excluded individuals will be found at:  
<http://www.oig.hhs.gov/fraud/exclusions.asp>
  - 1.8.3.6. SSA section 1128 will be found at:  
[http://www.ssa.gov/OP\\_Home/ssact/title11/1128.htm](http://www.ssa.gov/OP_Home/ssact/title11/1128.htm)