Title: Fraud, Waste, and Abuse (FWA)

Department/Line of Business: Compliance Department / All Lines of Business

Approver(s): VP of Compliance / Executive Compliance Committee (ECC)

Location/Region/Division: Scott & White Health Plan

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**LINE OF BUSINESS**

This document applies to the following line(s) of business:

All SWHP & ICSW

**DEFINITIONS**

*When used in this document with initial capital letter(s), the following word(s)/phrase(s) have the meaning(s) set forth below unless a different meaning is required by context. Additional defined terms may be found in the BSWH P&P Definitions document.*

**Abuse** - Actions that may, directly or indirectly, result in: unnecessary costs to Federal health care programs (e.g. Medicare and Medicaid), 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, intentionally and/or with reckless indifference misrepresented facts to obtain payment.

**Corrective Action Plan (CAP)** is a written document issued to an internal business area or FDR in response to compliance/operational deficiencies identified in connection with the activities conducted to support the Medicare Advantage and Prescription Drug program and to prevent future misconduct.

**Fraud** - 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, promises, or reckless indifference) any of the money or property owned by, or under the custody or control of, any health care benefit program. (title - 18 U.S.C. § 1347).

**Inconclusive** is an investigation outcome in which a determination of whether a violation of the Code of Conduct, laws, regulations, and/or company policies occurred cannot be made.

**NBI MEDIC** means National Benefit Integrity Medicare Drug Integrity Contractor (MEDIC), an organization that CMS has contracted with to perform specific program integrity functions for Parts C and D under the Integrity Program. The NBI MEDIC’s primary role is to identify potential FWA in Medicare Parts C and D.

**Substantiated** is an investigation outcome in which a violation of the Code of Conduct, laws, regulations, and/or company policies occurred.

**Unsubstantiated** is an investigation outcome in which a violation of the Code of Conduct, laws, regulations, and/or company policies did not occur.
**Waste** - 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.

**First-Tier, Downstream, and Related Entity (FDR):**

*First Tier Entity* – Any party that enters into a written arrangement, acceptable to 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 Medicare Advantage program or Part D program.

*Downstream Entity* – Any party that enters into a written agreement, acceptable to CMS, with persons or entities involved with the Medicare Advantage or Part D benefit, below the level of First Tier Entity. These arrangements continue down to the level of the ultimate provider of both health and administrative services.

*Related Entity* – Any entity that is related to an MAO or Part D Sponsor by common ownership or control and:

- performs some of the sponsor’s management functions under contract or delegation,
- furnishes services to Medicare enrollees under an oral or written agreement, or
- 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.

*Delegate* – A business entity that performs Delegation functions relative to key processes, and on behalf, of Scott and White Health Plan (SWHP), including First Tier, Downstream and Related Entities (FDRs).

*Sub-delegate* – The third-party entity to which the Delegate gives the authority to carry out Delegation functions, under the provisions of this policy and procedure.

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**POLICY**

SWHP is committed to compliance with applicable federal and state laws and regulations regarding the reporting, monitoring and identification of potential fraud, waste and abuse (“FWA”). SWHP provides education and written guidance of the expectations of employees, first tier, downstream, and related entities (FDRs), delegated entities, and subcontractors.

SWHP’s Compliance Department and Special Investigations Unit (“SIU”) addresses potential fraud, waste, and abuse (“FWA”) relating to all lines of business.

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**PROCEDURE**

**Reporting Fraud, Waste and Abuse**

1. All employees, FDRs, contractors, and others with knowledge of potential FWA are required to report it to the SWHP. The following reporting methods are available:
   - Contact supervisor
   - Contact supervisor’s manager, SWHP Senior Leadership, Human Resources, or Legal Counsel
   - Contact the Compliance Department directly either in person or by phone at (254) 298-3494
   - Call the confidential Compliance Hotline (1-888-245-0815). The individual may remain anonymous. The Compliance Officer will review and address all reports made to the Compliance Hotline.
   - Website: [https://swhp.alertline.com/gcs/welcome](https://swhp.alertline.com/gcs/welcome)

2. The reporter should not contact the suspected individual or entity to determine facts or corrective action.

3. If you are aware of potential FWA, promptly report it as required by this policy, and do not discuss the facts, suspicions, or allegations with anyone outside the organization unless specifically authorized by the Compliance Officer or Legal Counsel.

4. Retaliation or retribution for reporting any issue in good faith is prohibited (see the Non-Retaliation/Non-Retribution Policy).
**Monitoring**

1. The Compliance Department, in collaboration with the SIU, establishes and maintains methods for detecting and preventing incidents of FWA including, but not limited to, claims quality/accuracy assessment program, a compliance hotline, and a process that identifies employees, contractors, vendors, and providers that are debarred or excluded from participating in Federal health care programs.

2. A representative(s) from the Compliance Department will participate in the SWHP’s FWA Committee, which meets at least four times per year to discuss current and ongoing SWHP FWA issues.

**Identification**

1. The Compliance Department oversees and collaborates with the SIU, to address allegations of FWA, related to employees, FDRs, contractors, providers, and members, and determining in conjunction with legal counsel when a situation should be reported to an appropriate law enforcement or regulatory agency.

2. All investigations should be initiated within two weeks and completed in a timely manner, and consistent with federal and state laws, regulations, program guidance/requirements, and SWHP policies/procedures. Investigations may include document reviews, interviews, audits, and other investigative techniques.

3. The Compliance Department, in collaboration with the SIU, is responsible for responding appropriately and immediately to detected program violations. If incidents of FWA are identified, systematic changes and corrective action initiatives should be instituted to prevent further offenses.

4. The Compliance Department will submit the findings related to FWA investigations to the SIU, which may conduct further investigation using electronic means and tools as appropriate. The SIU will advise the Compliance Department of its investigations, findings, and actions taken.

5. The Compliance Department, in collaboration with the SIU, will develop and implement corrective actions plans to address potential non-compliance or FWA. All corrective action plans will be tracked, and there will be regular reporting on the status/progress to the SWHP Senior Leadership and Board of Directors.

6. Based on findings derived from investigations conducted, SWHP shall take appropriate disciplinary and enforcement action (e.g., corrective action plans, employment termination, or contract termination).

7. Prior to any action being taken based on a finding of FWA, Legal Counsel will be made aware of the facts and proposed action.

8. In the case of a potential criminal or civil violation of law, the Compliance Officer and/or SIU will confer with Legal Counsel to determine whether there is sufficient evidence to support referral to a Federal or State law enforcement or regulatory agency. SWHP shall cooperate with Federal and State agency conducting an investigation related to potential FWA. This includes releasing relevant non-proprietary or non-private information or evidence that SWHP maintains, in accordance with Federal and State and laws, rules, and regulations.

9. The SWHP Fraud, Waste, Abuse Committee provides direction for ongoing investigations to address potential fraud, waste, or abuse. The Committee also serves as the communication body regarding FWA issues, and provides updates for the Executive Compliance Committee, the CEO, and other governing bodies as appropriate.

10. Investigative records will be maintained in accordance with the SWHP Record Retention Policy.
ATTACHMENTS

None

RELATED DOCUMENTS

Claim Cost Containment – Fraud, Waste & Abuse policy (SWHP.CLM.017.P)
Corporate Compliance - Non-Retaliation/Non-Retribution policy (BSWH.CMPL.ETH.005.P)
Record Retention Policy– (SWHP.CMP.058.P)

REFERENCES

Medicare Managed Care Manual, Chapter 21
Medicare Prescription Drug Benefit Manual Chapter 9
Section 50.3.2 – Fraud, Waste, and Abuse Training
Section 50.6.9 – Use of Data Analysis for Fraud, Waste, and Abuse Prevention and Detection
Section 50.6.10 – Special Investigation Units (SIUs)
Medicare Prescription Drug Benefit program regulations, 42 Code of Federal Regulations Part 423
Medicare Advantage program regulations, 42 Code of Federal Regulations Part 422

The information contained in this document should not be considered standards of professional practice or rules of conduct or for the benefit of any third party. This document is intended to provide guidance and, generally, allows for professional discretion and/or deviation when the individual health care provider or, if applicable, the “Approver” deems appropriate under the circumstances.