

South Country Health Alliance

Medicaid	<input checked="" type="checkbox"/>
GAMC	<input checked="" type="checkbox"/>
MSC Plus	<input checked="" type="checkbox"/>
MSHO	<input checked="" type="checkbox"/>
AbilityCare	<input checked="" type="checkbox"/>
MnCare	<input checked="" type="checkbox"/>
Part D	<input checked="" type="checkbox"/>

Policy & Procedure

Policy Name	Fraud and Abuse Plan and Policy
Policy Number	AD 05
Regulatory Requirement(s)	DHS Managed Care Contract, Article 9 18 U.S.C. § 874; 31 U.S.C. § 3801, et. seq. False Claims Act - 31 U.S.C. §§ 3729 – 3733 Fraud Enforcement & Recovery Act of 2009, Pub.L. 111-21, 123 Stat. 1617; 42 C.F.R. § 438.604; 42 C.F.R. § 455.1(a)(2); 42 C.F.R. § 455.15(b); 42 C.F.R. § 455.106 42 C.F.R. §1001.1001; 42 C.F.R. § 1001.1901 42 C.F.R. § 1002.3(b) Social Security Act of 1935, §§1128, 1128A, 1902(a)(68)(A) US Sentencing Guidelines – USSG § 8B2.1 Minn. Stat. § 363A.36
Effective Date	December 8, 2006
Version Date(s)	3/06, 1/07, 3/09, 12/09, 3/10
Review Month	March
Responsible Position	Compliance Coordinator
Cross Reference(s)	AD 01, AD 06, AD 12-13, AD 15, AD 18, AD 21, AD 25, AD 28

Policy

All employees, agents or entities performing services on behalf of SCHA must comply with fraud and abuse prevention and detection requirements.

Definitions

Abuse: the definition as set out in Minnesota Rules, Part 9505.2165, sub. 2. Abuse also includes substantial failure to provide medically necessary items and services that are required to be provided to an enrollee if the failure has adversely affected or has a substantial likelihood of adversely affecting the health of the enrollee.

Fraud: the definition as set out in Minnesota Rules, Part 9505.2165, subpart 4, as follows:

- (A) Acts which constitute a crime against any program, or attempts or conspiracies to commit those crimes, including the following:
 - a. Theft in violation of Minnesota Statute, section 609.52;
 - b. Perjury in violation of Minnesota Statute, section 609.48;
 - c. Aggravated forgery and forgery in violation of Minnesota Statute, sections 609.625 and 609.63;
 - d. Medical assistance fraud in violation of Minnesota Statute, section 609.466; and
 - e. Financial transaction card fraud in violation of Minnesota Statute, section 609.821
- (B) Making a false statement, false claim, or false representation to a program where the person knows or should reasonably know the statement, claim, or representation is false, including knowingly and willfully submitting a false or fraudulent application for provider status; and
- (C) A felony listed in United States Code, title 42, section 1320a-7b(b)(3)(D), subject to any safe harbors established in Code of Federal Regulations, title 42, part 1001, section 952.

Medically Necessary or Medical Necessity: a health service that is, pursuant to Minnesota Rules, Part 9505.0175, sub (25):

- 1) Consistent with the Enrollee's diagnosis or condition;
- 2) Is recognized as the prevailing standard or current practice by the Provider's peer group; and
- 3) Is rendered:
 - (A) In response to a life threatening condition or pain; or
 - (B) To treat an injury, illness or infection; or
 - (C) To care for the mother and child through the maternity period; or
 - (D) To achieve a level of physical or mental function consistent with prevailing community standards for diagnosis or condition; or
 - (E) As a preventative health service defined under Minnesota Rules, part 9505.0355.

Standards

- 1. SCHA will implement an integrity program that includes administrative procedures, documentation guidelines, and reporting structures that address fraud, waste and abuse.
- 2. SCHA will document all activities and corrective actions taken under the integrity program.
- 3. SCHA will inform the Minnesota Department of Human Services (DHS) and other applicable regulatory agencies of the names of our integrity program officials.
- 4. SCHA will send a report annually to DHS by August 31st, detailing the integrity program and include investigative activity, corrective actions, fraud and abuse prevention efforts, and results consistent with DHS guidelines.

5. SCHA will report to DHS, CMS and/or the OIG credible information of violations of the law by regulatory agencies, SCHA, participating providers, subcontractors or enrollees for a determination of whether criminal, civil or administrative action may be appropriate.
6. SCHA will report quarterly to applicable regulatory agencies the name, specialty and address of each provider whose participation status SCHA has taken action to terminate or not to renew during the previous quarter.
7. SCHA will disseminate written policies and procedures for employees, contractors, and agents, as required, that include detailed information pertaining to the Fraud Enforcement & Recovery Act of 2009, the False Claims Act and other provisions of § 1902 of the Social Security Act.
8. As a condition for receiving payment, SCHA will certify its data and documents that are relied upon by regulatory agencies in determining payments made to SCHA.
9. SCHA will implement programs to monitor excluded individuals and entities pursuant to OIG guidance, 42 CFR § 1001.1901, and the Social Security Act.

Procedure

1. SCHA's integrity program requirements will include:
 - a. Administrative and management procedures, including a compliance plan designed to guard against fraud, abuse and improper payments.
 - b. Written policies, procedures and standards of conduct that articulate a commitment to comply with federal and state standards.
 - c. Designated Compliance officials and a Compliance Committee (CC) accountable to senior management within the organization.
 - i. The Director of Quality and Compliance and Compliance Coordinator will manage ongoing fraud and abuse detection and prevention activities and is responsible for the education and training of SCHA employees and agents.
 - ii. As needed, the CC will advise the Director of Quality and Compliance and assist in fraud and abuse detection and prevention activities.
 - d. New employee and annual compliance training and education that is required for all employees and agents. SCHA will maintain records of training and education of employees and agents and will report results regularly to the CEO and CC.

- e. Maintaining open and effective lines of communication between the Compliance department and employees concerning the reporting of fraud and abuse issues or incidents. Any employee who makes a good faith report of a known or suspected instance of wrongdoing will not be subject to disciplinary action or punished for making the report. SCHA also has an absolute policy against retaliation for bringing forward a good faith concern. Reports may be made in writing, in person, via telephone, or by mail or e-mail. Reports may also be made through the REPORT IT hotline, and may remain anonymous.
 - f. Communicating standards through well-publicized media such as the employee handbook, new employee orientation, Code of Conduct, policies and training.
 - g. Maintaining procedures for internal monitoring and auditing, including monitoring and auditing of subcontracted services to detect fraud, abuse and improper payments.
 - h. Maintaining procedures for prompt response in detecting offenses, and for the development of corrective action initiatives.
 - i. Maintaining procedures for profiling provider services and enrollee utilization that identifies aberrant behavior and/or outliers.
 - j. Maintaining policies and procedures that safeguard against unnecessary or inappropriate use of services and against excess payments for services.
 - k. Maintaining policies and procedures that safeguard against failure by subcontractors or Participating Providers to render medically necessary items or services that are required to be provided to an Enrollee covered under SCHA contracts. SCHA will also monitor whether services paid for by SCHA were actually furnished to the Enrollee as required in 42 CFR 455.1(a)(2).
2. The annual integrity program report provided to DHS will detail implementation processes designed to meet the requirements of DHS Contract and describe the activities undertaken to safeguard against fraud and abuse.
 3. If SCHA has reason to believe that an enrollee has defrauded the Medicaid program, SCHA will refer the case to an appropriate law enforcement agency as mandated in 42 CFR § 455.15(b) and report the case to DHS appropriately.
 4. Upon request, SCHA will make available to the Minnesota Medicaid Fraud Control Unit (MFCU) all administrative, financial, medical and any other records that relate to the delivery of items or services under the contract.
 - a. SCHA will report to applicable regulatory agencies and the MFCU any suspected fraud and/or abuse by providers within twenty-four (24) hours after SCHA knows or has reason to believe of such suspected fraud and/or abuse. SCHA will

cooperate fully in any investigation of the suspected fraud or abuse and in any subsequent legal action that may result from those investigations.

5. SCHA will report to applicable regulatory agencies any suspected fraud or patterns of abuse by its recipients.
6. SCHA will ensure that PCA providers not under continuous direct supervision have a background study completed prior to providing PCA services.
7. SCHA will establish Fraud Enforcement and False Claims Act policies and procedures to educate employees and agents about procedures for detecting and preventing fraud, waste and abuse.
8. SCHA will have data certification guidelines.
 - a. SCHA will provide to applicable regulatory agencies a certification that accompanies its submission of certain data which identifies each data submission, the date submitted and certifies all data submitted, unless otherwise specified.
 - b. SCHA will also certify with applicable regulatory agencies that its annual statutory financial filing with the Minnesota Department of Health (MDH) represents only costs related to services covered under the State Plan or costs related to providing those services, such as administrative costs, and include an attestation as to the accuracy, completeness and truthfulness of the data or documents being submitted.
9. SCHA will monitor the Medicare Exclusion Database (MED) or the OIG List of Excluded Individuals/entities (LEIE) database monthly and will require all subcontractors to search the MED and LEIE for providers, agents persons with an ownership or control interest and managing employees to verify that they are not excluded from Medicaid under 1128 or 1128A of the Social Security Act, and have not been convicted of a criminal offense related to involvement in Medicare, Medicaid or a Title XX services program.
 - a. SCHA will not pay for items or services furnished, ordered or prescribed by excluded individuals or entities.
 - b. SCHA will not include in our business entity a director, officer, partner or person with an ownership or control interest who is excluded from participation in a federal health care program under the Social Security Act.
 - c. SCHA will not make an employment, consulting or other agreement with an individual or entity for the provision of items or services that are significant or material to our obligations under contract with applicable regulatory agencies where the individual or entity is excluded from participation in a federal health care program under the Social Security Act.

- d. SCHA will not have agents, managing employees or persons with an ownership or control interest who have been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid or Title XX services program.
- e. SCHA will report to applicable regulatory agencies, within ten (10) working days of receipt of any information regarding excluded or convicted individuals or entities and any occurrence of an excluded, convicted or unlicensed entity or individual who applies to participate as a provider.
- f. SCHA will promptly notify applicable regulatory agencies of any administrative action it takes to limit participation of a Provider in a federal health care program.

Violation of Policy

A breach of this policy may result in noncompliance with regulatory requirements and potential penalty to SCHA. SCHA will investigate alleged violations and take disciplinary or other appropriate corrective action.

Signatures

Signature Approval: _____ Date: _____
Director, Quality & Compliance

Signature Approval: _____ Date: _____
Chief Executive Officer

Joint Powers Board Approval Date: December 8, 2006