

Health Plan of San Mateo Policy & Procedure Manual

Procedure: CP.023		Title: Delegation Oversight	Original Effective Date: 03/08/2013
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Approval By: Compliance Committee		Date: 07/24/2019
Annual Review Date: 07/17/2020		
Authored by: Compliance Manager		
Pursuant To: <input checked="" type="checkbox"/> DHCS Contract Provision Exhibit A, Attachment 4, Provisions 6, 8, 10, 12 and 13; Exhibit A, Attachment 5, Provision 5; Exhibit A, Attachment 6, Provision 13; Exhibit A, Attachment 14, Provision 3; Exhibit E, Attachment 2, Provision 27(B) <input type="checkbox"/> Health and Safety (H&S) Code <input checked="" type="checkbox"/> CFR 42 CFR 422.503(b)(4)(vi); 42 CFR 422.504(i); 42 CFR 423.504(b)(4)(vi); 42 CFR 423.505(i); 42 CFR 438.608 <input checked="" type="checkbox"/> APL / DPL APL 17-004		<input type="checkbox"/> W & I Code <input type="checkbox"/> California Title # <input type="checkbox"/> Organization Need <input checked="" type="checkbox"/> Other Medicare Managed Care Guide Chapter 21; Medicare Prescription Drug Benefit Manual Chapter 9; NCOA Accreditation Standards
Departments Impacted: All		

Policy:

The purpose of this policy and procedure is to outline the delegation oversight activities of First Tier, Downstream, and Related Entities (FDRs), subcontractors, and entities of other designations that perform delegated administrative and health care functions on behalf of HPSM.

The delegation oversight activities contained in this document occur across all lines of business for entities that have been delegated responsibility for administrative and health care services for all HPSM lines of business.

Scope

This procedure applies to (check all that apply):

<input checked="" type="checkbox"/> All LOBs/Entire Organization	<input type="checkbox"/> CCS	<input type="checkbox"/> Medi-Cal Expansion
	<input type="checkbox"/> Healthy Kids	<input type="checkbox"/> Medi-Cal Adults
<input type="checkbox"/> ACE	<input type="checkbox"/> HealthWorx	<input type="checkbox"/> Medi-Cal Children
<input type="checkbox"/> CA-CMC / MMP	<input type="checkbox"/> Medi-Cal	<input type="checkbox"/> Other (specify)

Responsibility and Authority

- The Chief Compliance Officer is responsible for implementing a Compliance Program to ensure that HPSM services are provided in accordance with all applicable federal, state, and county laws and regulations.
- The Compliance Manager is the Chair of the Delegation Oversight Committee.

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- The Delegation Oversight Committee is a sub-committee of the Compliance Committee and is responsible for reviewing and monitoring overall delegate performance and providing guidance to the Compliance Committee.
- Business owners, that is individuals with activities under their purview delegated to a delegate, are responsible for day-to-day oversight of delegated activities, relationship management and for reporting issues of non-compliance regarding delegate performance to the Compliance Department in accordance with CP.003 Reporting Compliance Concerns.

Definitions

Auditing is a formal review of compliance with a particular set of internal (e.g., policies and procedures) or external (e.g., laws and regulations) standards used as base measures, and are performed by someone with no vested interest in the outcomes or FDR being reviewed.

First Tier Entity is any party that enters into a written arrangement with HPSM to provide administrative services or health care services to an HPSM member.

Downstream Entity is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with an HPSM Medicare line of business below the level of the arrangement between HPSM and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.

Related Entity would be any entity related to HPSM by common ownership or control and (1) performs some of HPSM's management functions under contract or delegation; (2) furnishes services to Medicare beneficiaries under an oral or written agreement; or (3) leases property or sells materials to HPSM at a cost of more than \$2,500 during a contract period.

Monitoring includes surveillance activities conducted during the normal course of operations and which may not necessarily be independent of the business area being monitored (e.g., self-reviews, peer reviews, etc.). Monitoring activities may occur to ensure corrective actions are being implemented and maintained effectively or when no specific problems have been identified to confirm ongoing compliance.

Related Entity would be any entity related to HPSM by common ownership or control and (1) performs some of HPSM's management functions under contract or delegation; (2) furnishes services to Medicare beneficiaries under an oral or written agreement; or (3) leases property or sells materials to HPSM at a cost of more than \$2,500 during a contract period.

Risk Assessment is the identification, measurement, and prioritization of likely relevant events or risks that may have material consequences on HPSM's ability to maintain compliance with program requirements.

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Procedure

1.0 Requirements

- 1.1 HPSM maintains ultimate responsibility for fulfilling the terms and conditions as set forth in the contracts with CMS, DHCS, and license with DMHC including all statutory, legal and regulatory requirements.
- 1.2 HPSM evaluates the delegate's ability to perform the delegated activities, monitors ongoing performance, and for delegates that pose a high risk to HPSM or its members audits the delegates at least annually to ensure compliance.
 - 1.2.1 This oversight includes confirmation of ongoing compliance with Medi-Cal, California Code of Regulations Titles 22 and 28 and Medicare Parts C and D benefit regulations, data accuracy and completeness, and truthfulness of data generated and submitted, as well as sub-regulatory guidance, State and Federal law, and NCOA accreditation standards.
 - 1.2.2 HPSM is responsible for all data submitted to CMS, DHCS and DMHC, including data generated and/or reported to HPSM by delegates.
- 1.3 HPSM maintains a Delegation Oversight Committee, a subcommittee of the Compliance Committee, charged with the routine evaluation of delegate performance to contractual and regulatory standards.
- 1.4 HPSM will, at a minimum provide to its delegates, on an annual basis, communications regarding Compliance training, the HPSM Code of Conduct, Compliance Program, and pertinent Compliance policies and procedures.

2.0 Pre-Delegation Audits

- 2.1 The purpose of a pre-delegation audit is to fully assess a proposed delegate's capacity to manage and perform the delegated function(s) in accordance with state and federal laws, rules, regulations, NCOA accreditation standards, and HPSM policies and procedures.
- 2.2 The pre-delegation audit is conducted prior to the effective date of delegation, and consists of a desktop review of documentation, review of the proposed delegate's downstream arrangements, and an in-person visit, if necessary.
- 2.3 Information collected during the pre-delegation audit may include, but is not limited to: policies and procedures; program descriptions and work plans; forms, tools, systems and reports; sub-delegation agreements; and letters of accreditation.
- 2.4 During the pre-delegation audit, proposed delegates are notified of any reporting requirements and frequency, the process by which performance will be evaluated, and the remedies available to HPSM if performance obligations are not fulfilled.
- 2.5 At this time the delegation agreement will also be reviewed to insure it contains the following provisions:

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- 2.5.1 Delineates the duties and responsibilities of both HPSM and the proposed delegate;
- 2.5.2 Outlines the services to be performed by the delegate, including reporting responsibilities that shall occur at least quarterly;
- 2.5.3 Specifies that performance of the delegate is monitored on an ongoing basis by HPSM, and that HPSM retains the right to audit the delegate with adequate notice;
- 2.5.4 States that delegate must comply with all applicable Medicare and Medi-Cal laws and regulations and NCOA accreditation standards, as applicable, and any guidance or instructions from CMS, DHCS, or DMHC that pertains to the function(s) being delegated;
- 2.5.5 Provides for revocation of the delegated activities and/or other remedies in instances where the delegate is not performing satisfactorily.
- 2.6 The results of the pre-delegation audit will be given to the business owner responsible for the function(s) being delegated, and to the Delegation Oversight Committee.
- 2.7 Any findings from the pre-delegation audit will be marked for follow-up at a later date.
- 2.8 HPSM retains the right to request assurances from the proposed delegate that any findings will be addressed within a reasonable time, and any repeat findings will be considered proof of inadequate performance and will be addressed by the remedies made available to HPSM in the delegation agreement.
- 3.0 Risk Ranking and Oversight Procedures
 - 3.1 At the time of initial contracting, HPSM will designate each delegate as low or high risk, based on the following considerations:
 - 3.1.1 The type(s) of administrative or health care activities delegated to the delegate
 - 3.1.1.1 Example: Delegation of utilization management of a benefit is considered a high risk activity, where members may be delayed or denied access to care
 - 3.1.1.2 Example: Delegation of an administrative activity with no direct impact to member care is not considered a high risk activity
 - 3.1.2 Number of administrative or health care activities delegated to the delegate
 - 3.1.2.1 Example: A higher number of activities delegated to a delegate pose a higher risk requiring more oversight
 - 3.1.3 Types of PHI accessible by the delegate
 - 3.1.3.1 Example: A delegate with access to payment and medical data on HPSM members may be high risk
 - 3.1.3.2 Example: A delegate with access to member names and addresses may be low risk

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- 3.1.4 Potential for fraud, waste and/or abuse with the delegated activity or activities
 - 3.1.4.1 Example: A delegate responsible for claims payment may pose an additional compliance risk to HPSM
- 3.1.5 Level of oversight/guidance from regulatory agencies
 - 3.1.5.1 Example: Benefits or practices identified as high risk by a regulatory agency in turn may make a delegate high risk; CMS has deemed utilization management, grievances and appeals and other activities high risk and subject to audit
- 3.2 The level of monitoring and auditing given to delegates will depend on the risk rating assigned and their designation as an FDR (according to CMS), or a delegate according to DHCS, DMHC, or NCQA definitions:
 - 3.2.1 All delegates are subject to regular reporting requirements as outlined in 2.5.2, routine communications, and operational oversight by the HPSM departments whose functions have been delegated to the entity.
 - 3.2.2 In addition to 3.2.1 above, delegates that meet the CMS definition of FDR and are designated as low risk will be required to complete an annual compliance attestation where they attest to being compliant with CMS regulations (See Compliance FDR Attestation).
 - 3.2.3 In addition to 3.2.1 and 3.2.2, FDRs designated as high risk will be subject to compliance auditing to be performed jointly by Internal Audit staff and the department sponsoring the FDR.
 - 3.2.4 In addition to 3.2.1, all other delegates that meet the DHCS, DMHC, or NCQA definition of 'delegate' are subject to an annual audit.
- 3.3 The Compliance Department will distribute the annual compliance attestation and will track the receipt of the attestations into the Compliance email inbox.
- 4.0 Delegation Oversight Committee
 - 4.1 The DOC is a subcommittee of the Compliance Committee charged with the routine and systematic evaluation of delegates and ensures risk management of all delegates. Responsibilities of the DOC include:
 - 4.1.1 Assurance and coordination of pre-delegation assessments, including compliance assessments of delegates are conducted prior to contract completion to determine entities' operational capabilities to comply with applicable federal and state regulatory requirements and NCQA accreditation standards.
 - 4.1.2 Making the final determination as to the risk ranking given to each delegate.
 - 4.1.3 Evaluation of ongoing delegate performance.
 - 4.1.4 Adherence to applicable policies and procedures.

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- 4.1.5 Escalation of compliance findings to the Compliance Committee and Leadership.
- 4.1.6 Ensuring Business Owners' accountability of functions performed by delegates
- 4.1.7 Assigning risk levels and reporting on compliance issues concerning delegates that their department sponsors.
- 4.1.8 Acting on instances of non-compliance concerning the delegates, including but not limited to the issuance of a Corrective Action Plan (CAP), mandating additional self-monitoring and reporting to be performed by the delegate, and any request for documentation regarding the non-compliance.
- 4.2 The Compliance Manager will act as Chair of the DOC, with assistance from the Chief Compliance Officer and other members as necessary.
- 4.3 The DOC will meet at least four (4) times a year.
- 5.0 Reporting Delegate Issues
 - 5.1 Members of the DOC are responsible for reporting delegate compliance concerns to the Compliance Department.
 - 5.2 The Compliance Manager will report DOC activities to the Compliance Committee on at least a quarterly basis.
 - 5.3 A summary of delegate monitoring and auditing activities will be included in the Compliance Annual Report.

Related Documentation

- CP.000 Compliance Program
- CP.003 Reporting Compliance Concerns
- CP.004 Compliance Hotline
- CP.005 Non-Intimidation and Non-Retaliation
- CP.008 Internal Audit
- CP.009 Notification Process for Compliance Issues
- CP.010 Civil Rights Protection Policy and Procedure for Contractors
- CP.016 Investigating and Reporting Fraud, Waste, Abuse and Neglect
- CP.019 Document Retention

Attachments

- FDR Medicare Compliance Guide
- Compliance FDR Attestation
- Delegation Oversight Committee Charter

Log of Revisions

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0	03/08/2013
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