

## GOVERNMENT PROGRAMS COMPLIANCE POLICY

<b>Title: Identifying Excluded Individuals and Entities</b>				<b>Policy No: 009</b>	
<b>Effective Date: 4/21/11</b>					
<b>Policy Applies to the Following Products with an "X":</b>					
X	Medicare Part D	X	Medicare Advantage and Part D	X	IL Medicare Medicaid Alignment Initiative (MMAI)
X	TX State of Texas Access Reform (STAR)/STAR Kids/ Children's Health Insurance Plan (CHIP)	X	NM Centennial Care	X	MT Health and Economic Livelihood Partnership (HELP) and Healthy Montana Kids
X	IL Blue Cross Community Health Plans				
<b>Owners:</b>					
Mike Szott		Manager		Government Programs Compliance	
Melissa Lupella		Director		Government Programs Compliance	
<b>Approved:</b>					
Kim Green		Government Programs Compliance Officer		Government Programs Compliance	
<b>Regulation Requirement:</b>					
<p>Social Security Act §1862(e)(1)(B); 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 422.752(a)(8), 423.504(b)(4)(vi)(F), 423.752(a)(6), 1001.1901; 42 CFR 438.610, 45 CFR 76; 42 C.F.R. § 455 and 438.608.</p> <p>HCSC will meet the following regulatory requirements in any plan state that has affirmatively delegated ownership and control interest disclosure functions to HCSC: 42 CFR 455.436 and 42 CFR § 457.935.</p>					
<b>Purpose</b>					
<p>The purpose is to comply with the CMS guidelines related to Ineligible/Sanctioned Parties as defined in the Social Security Act. §1862(e)(1)(B); 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 422.752(a)(8), 423.504(b)(4)(vi)(F), 423.752(a)(6), 1001.1901; 42 CFR 438.610, 45 CFR 76; 42 C.F.R. § 455 and, 438.608. HCSC shall comply with 42 CFR 455.436 and 42 CFR § 457.935, where applicable.</p>					
<b>Scope</b>					
<p>This policy applies to HCSC employees, including the chief executive and senior administrators, managers, governing body members and first tier, downstream and related entities (FDRs) and Medicaid subcontractors who are involved in the administration or delivery of the Government Programs referenced above.</p> <p>This policy also applies to providers and any person with an ownership or control interest or who is an agent or managing employee of the provider where such identification is delegated by the plan state to HCSC.</p>					
<b>Policy</b>					
<p>HCSC does <b>not</b> do business with debarred individuals or entities. This means, HCSC will not contract with or hire any individual or entity who has the status of "debarred," nor will HCSC continue to employ, contract or conduct business with an individual or entity who becomes debarred.</p> <p>The HCSC Government Contract Holders and any of their First Tier, Downstream or Related Entities (FDRs), as well as subcontractors with similar status under any Medicaid program, that assist in the administration or delivery of Medicare and/or Medicaid benefits will not pay for services provided or prescribed by an excluded party. Federal or State funds will not be used to pay for services, equipment or drugs prescribed or provided by a provider, supplier, employee or FDR, or subcontractors with similar status under any Medicaid program, who are excluded by Office of Inspector General (OIG) or System for Award Management (SAM) Excluded Parties List System.</p>					

- Furthermore, HCSC Government Contract Holders and any of their FDRs, as well as subcontractors with similar status under any Medicaid program, will not hire, contract with, or continue to employ or contract with: An individual or entity that has been sanctioned by a federal agency (Medicare) or either a federal or state agency (Medicaid) as debarred, excluded or suspended, listed with the Office of Foreign Asset Control (OFAC) or otherwise excluded from program participation.  
**Note:** U.S. Department of the Treasury requires all U.S. incorporated entities to screen OFAC for sanctions against individuals and entities. An individual or entity that has been convicted of or had a civil judgment rendered against them regarding dishonesty or breach of trust. This includes but is not limited to:
  - The commission of a fraud including mail fraud or false representations.
  - Violation of a fiduciary relationship.
  - Violation of federal or state antitrust statutes securities offenses.
  - Embezzlement, theft, forgery, bribery, falsification or destruction of records.
  - Making false statements.
  - Tax evasion.
  - Receiving stolen property.
- An individual or entity that within the last 3 years has had one or more public transactions (federal, state, or local) terminated for cause or default.

To meet government and non-government contract obligations, HCSC will make reasonable efforts to screen for excluded individuals and entities. Prior to hiring or contracting, and monthly thereafter, HCSC will screen all new employees, temporary employees, volunteers, consultants, governing body members and FDRs, as well as subcontractors with similar status under any Medicaid program, to ensure that none of these persons or entities are excluded or become excluded from participation in federal or state programs using applicable state exclusion lists, the OIG List of Excluded Individuals and Entities (LEIE), and the (SAM) Excluded Parties List System.

The above criteria will be reviewed on an ongoing basis and may change to meet new contractual and regulatory requirements.

### Definitions

**CMS:** Centers for Medicare and Medicaid Services.

**Debarred:** the status of being sanctioned, excluded, prohibited from participation in or terminated from any government program by any government agency.

**Downstream Entity:** any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. (See, 42 C.F.R. §, 423.501).

**Employee:** individual directly employed by HCSC

**FDR:** First Tier, Downstream or Related Entity.

**First Tier Entity:** any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program. (See, 42 C.F.R. § 423.501).

**Governing Body:** that group of individuals at the highest level of governance of the sponsor, such as the Board of Directors, who formulate policy and direct and control the sponsor in the best interest of the organization and its enrollees.

**Government Contracts Holders:** Health Care Service Corporation, a Mutual Legal Reserve Company (“HCSC”) and the following entities: HCSC Insurance Services Company, a wholly-owned subsidiary of HCSC (“HISC”); GHS Health Maintenance Organization, Inc. d/b/a BlueLincs HMO a wholly-owned subsidiary of

HCSC (“BlueLincs HMO”); GHS Managed Health Care Plans, Inc. (formerly known as AHS-Tulsa Oklahoma Health Plan, Inc. d/b/a Lovelace Medicare Plan), a wholly owned subsidiary of BlueLincs HMO (“GHS-MHC”); GHS Insurance Company (formerly known as GHS Property and Casualty Insurance Company), a wholly-owned subsidiary of HCSC (“GHS”); or any other HCSC subsidiary or affiliate that holds a Government Programs contract. HCSC, HISC, BlueLincs HMO, GHS-MHC and GHS are each referred to as a “Government Contract Holder” and collectively as “Government Contract Holders.”

**Ineligible Party:** Any individual or entity that has been:

- debarred, suspended or otherwise excluded from federal or state program participation,
- charged with or convicted of a criminal offense involving government business, or
- convicted of or had a civil judgment rendered against them regarding dishonesty or breach of trust.

**OFAC:** Office of Foreign Asset Control

**OIG:** Office of Inspector General’s (OIG’s) List of Excluded Individuals and Entities

**Provider or Person with an Ownership and Control Interest:** any individual or disclosing entity as defined by 42 CFR § 455.101.

**Related Entity:** any entity that is related to an MAO or Part D sponsor by common ownership or control and:

- performs some of the MAO or Part D plan 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 (See, 42 C.F.R. §423.501).

**SAM:** System for Award Management Excluded Parties List System (formerly called GSA General Services Administration Excluded Parties List System )

**Sanctioning Agencies:** OFAC, OIG & SAM

**Vendor:** FDRs and support service vendors as defined by the MCO policy, “Identifying, Determining FDR Status, and Tracking.” Vendors include, but are not limited to, providers, producers, fulfillment vendors, etc.

#### **Additional Resource**

Compliance with OFAC and USA Patriot Act (Corporate Policy)

Ineligible Parties Validation Policy (HR Management Policy)

Prescription Drug Benefit Manual, Chapter 9, Section 50.6.8 – Compliance Program Guidelines

Medicare Managed Care Manual, Chapter 21, Section 50.6.8 – Compliance Guidelines

State of Illinois Contract Between the Department of Healthcare and Family Services and Health Care Service Corporation, a Mutual Legal Reserve Company, operating through its division Blue Cross and Blue Shield of Illinois for Furnishing Health Services in an Integrated Care Program by a Managed Care Organization (Illinois Integrated Care Program Contract)

State of Illinois Contract Between the Department of Healthcare and Family Services and Health Care Service Corporation, a Mutual Legal Reserve Company, operating through its division Blue Cross and Blue Shield of Illinois for Furnishing Services by a Managed Care Organization (Illinois Family Health Plan Contract)

United States Department of Health and Human Services Centers for Medicare & Medicaid Services Contract in Partnership with State of Illinois Department of Healthcare and Family Services and Health Care Service Corporation (Illinois Medicare Medicaid Alignment Initiative Contract)

State of Illinois Contract Between the Department of Healthcare and Family Services and Health Care Service Corporation, a Mutual Legal Reserve Company, operating through its division, Blue Cross and Blue Shield of Illinois, for Furnishing Managed Long Term Supports and Services by a Managed Care Organization (Illinois Managed Long Term Supports and Services Contract)

State of Montana Contract Between the Department of Public Health and Human Services and Blue Cross and Blue Shield of Montana for Montana Health and Economic Livelihood Partnership (HELP) Program Third Party Claims Administration Services

State of Montana Contract Between the Department of Public Health and Human Services and Blue Cross and Blue Shield of Montana for Healthy Kids Montana Third Party Claims Administration, Case Management and Utilization Review Services

New Mexico Medicaid Managed Care Service Agreement among New Mexico Human Services Department, New Mexico Behavioral Health Purchasing Collaborative and Health Care Service Corporation Insurance Services Company, operating as Blue Cross and Blue Shield of New Mexico

Texas Health and Human Services Commission (HHSC), an administrative agency within the executive department of the State of Texas, and Health Care Service Corporation (HCSC) DBA Blue Cross and Blue Shield of Texas (BCBSTX) (MCO) a corporation organized under the laws of the state of Illinois.

Review Date	Board Ratification Date	Author	Description of Changes
06/09/17	12/05/2017	Mike Szott	Added preamble sentence, "HCSC does <b>not</b> do business with debarred individuals or entities," definition of "Debarred" and corrected punctuation. Update name of IL Medicaid Plans.
08/31/16	12/05/2016	Mike Szott	Added references and updated policy language; modified to include reference to 42 CFR 455.436.
08/27/2015	12/08/2015	Dennis Klopfle	Added references
07/23/2015	07/23/2015	Dennis Klopfle	No changes recommended.
06/27/2014	12/09/2014	Dennis Klopfle	No changes recommended.
04/14/2014	05/06/2014	Dennis Klopfle	Policy language extracted & updated from the 2/26/2013 approved Policy & Procedure. Government Programs Compliance (GPC) will now be maintaining a separate policy and a separate procedure on each government requirement.
01/23/2013	02/26/2013	Dennis Klopfle	Updated to cover the updated regulations in Chapter 9 & Chapter 21. Changed titles, dates to be consistent format, and added "HCSC" to HISC to cover the HMO contracts covered under HCSC. Changed "subsidiary" reference to "Government Contract Holders (as defined in the Health Care Service Corporation Corporate Integrity & Compliance Program Government Programs Section)." Also replaced HCSC Government Contracts Compliance Officer with HCSC Government Programs Compliance Officer.
03/21/2011	04/21/2011	Dennis Klopfle	Modified to be HISC Medicare specific