

GOVERNMENT PROGRAMS COMPLIANCE POLICY

Title: Medicare Disciplinary Standards				Policy No: 005	
Effective Date: 4/21/11					
Policy Applies to the Following Products with an “X”:					
X	Medicare Part D (PDP) (as applicable includes Group)	X	Medicare Advantage and Part D (MAPD) (as applicable includes Dual-Special Needs Plan (D-SNP) and Group)	X	Medicare Medicaid Plan (MMP)
Owners:					
Kim Green		Government Programs Compliance Officer		Government Programs Compliance	
Approved:					
HCSC Board of Directors					
Purpose					
The purpose of this policy is to articulate Health Care Service Corporation’s (HCSC) commitment to compliance with all Centers for Medicare & Medicaid Services (CMS) guidelines relating to adopting and implementing well-publicized disciplinary standards.					
Scope					
This policy applies to HCSC employees who are involved in the administration or delivery of the government programs referenced in the Policy Application section above, including the chief executive and senior administrators, managers, governing body members, and first-tier, downstream, and related entities (FDRs).					
Policy					
HCSC is committed to complying with all CMS guidelines, including but not limited to those requiring HCSC to adopt and implement well-publicized disciplinary standards through the implementation of procedures which encourage good faith participation in the compliance program by all affected individuals.					
HCSC’s disciplinary standards for employees and FDRs: <ul style="list-style-type: none">• Articulate expectations for reporting and assistance in resolving compliance issues,• Define non-compliant, unethical, and illegal behavior,• Include requirements that employees participate in required training, and• Include provisions for timely, consistent, and effective enforcement of the standards.					
HCSC publicizes the disciplinary standards and examples of behavior that may result in disciplinary actions using the following publication mechanisms: <ul style="list-style-type: none">• Code of Ethics and Conduct (the Code),• Ethics Connects Us Conversation Form,• Newsletters,• Communications with FDRs and similar subcontractors,• Compliance training, and• Internet and Intranet web sites.					
<u>Code of Ethics and Conduct</u>					
The Code articulates HCSC’s compliance requirements for its employees and FDRs.					
Failure to meet these expectations could result in disciplinary action, up to and including termination of employment or FDR contract. Examples of HCSC compliance requirements include: <ul style="list-style-type: none">• Employees and FDRs are required to report non-compliant, unethical, or illegal behavior<ul style="list-style-type: none">◦ This requirement is communicated upon hire through general compliance training and in training for HCSC’s FDRs,• Employees and FDRs must participate in required training					

- HCSC will establish, implement, and provide effective training and education on compliance responsibilities and fraud, waste, and abuse (FWA) for its employees, including the CEO, senior administrators, managers, and governing body members. Training will occur within 90 days of hire or contracting and annually thereafter, and evidence of attendance will be maintained
- FDRs are responsible for complying with all terms and conditions of HCSC's contract with CMS, including required training. HCSC will monitor and track compliance and FWA responsibilities and contractual obligations amongst their FDRs through the FDR Oversight process implemented by the Delegation Oversight department, and
- Employees and FDRs are required to assist in resolving compliance issues
 - Depending on the circumstances of each case, assistance may be required from Human Resources (HR), Work Force Engagement, Legal, and various governmental agencies.

Disciplinary action for failure to comply with the above expectations and standards:

- **Employees:** HCSC addresses employee enforcement standards in the HR policy, found on FYIBLue, "Corrective Action Policy." There are four levels of action taken on non-compliant, unethical, or illegal behavior:
 - Level 1: Counseling of employee,
 - Level 2: Counseling of employee with denial of, or a lower, merit increase and denial of all or a portion of the Annual Performance Incentive,
 - Level 3: Counseling of employee who will be placed on an unpaid suspension, and
 - Level 4: Termination of employment.
- **FDRs:** HCSC may become aware of non-compliant or unethical behavior at FDRs through monitoring, auditing activities, self-reporting by FDRs, or other means. When HCSC becomes aware of these activities, it may impose corrective actions which may include disciplinary actions, if warranted. Disciplinary action taken on non-compliant, unethical or illegal behavior must be appropriate to the seriousness of the violation. This corrective action may result in:
 - Counseling and training,
 - A correction action plan,
 - Contract termination, and/or
 - Reporting of non-compliant, unethical, or illegal behavior to appropriate government agency (CMS, Department of Insurance (DOI), applicable licensure board, etc.).

Records of disciplinary actions resulting from compliance violations must be maintained for 10 years from the last day of the contract period or completion of audit, whichever is later. The record will include:

- Date the violation was reported,
- Description of the violation,
- Date of investigation,
- Summary of findings,
- Disciplinary action(s) taken, and
- Date disciplinary action(s) was/were taken.

Definitions

Abuse: Actions that may, directly or indirectly, result in: unnecessary costs to a Government Program, 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 and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud because the distinction between "fraud" and "abuse" depends on specific facts and circumstances, intent and prior knowledge, and available evidence, among other factors.

CMS: Centers for Medicare & Medicaid Services.

DOI: Department of Insurance.

Downstream Entity: Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the Medicare Advantage benefit or Part D benefit, below the level of the arrangement between a Medicare Advantage Organization 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. (42 C.F.R. §, 423.501).

Employee: For the purposes of this policy, an individual directly employed by HCSC.

First-Tier Entity: Any party that enters into a written arrangement, acceptable to CMS, with a Medicare Advantage Organization 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. (See, 42 C.F.R. § 423.501).

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

FWA: Fraud, waste, and abuse.

Governing Body: That group of individuals at the highest level of governance of the sponsor, such as the Board of Directors or the Board of Trustees, who formulate policy and direct and control the Government Contract Holder in the best interest of the organization and its enrollees. Governing body does not include C-level management such as the Chief Executive Officer, Chief Operations Officer, Chief Financial Officer, etc., unless persons in those management positions also serve as directors or trustees or otherwise at the highest level of governance of the sponsor.

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 Insurance Company (formerly known as GHS Property and Casualty Insurance Company), a wholly-owned subsidiary of HCSC ("GHS"); Illinois Blue Cross Blue Shield Insurance Company, a wholly-owned subsidiary of HCSC ("IBCBSIC") or any other HCSC subsidiary or affiliate that holds a Government Programs contract. HCSC, HISC, BlueLincs HMO, GHS and IBCBSIC are each referred to as a "Government Contract Holder" and collectively as "Government Contract Holders."

Government Programs: Operations of any Medicare Advantage, Medicare Part D, MMP, or Medicaid contracts.

Related Entity: Any entity that is related to a Medicare Advantage Organization 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).

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.

Governing Authorities

42 C.F.R. §§ 422.503(b)(4)(vi)(E)
 42 C.F.R. §§ 423.504(b)(4)(vi)(E),
 42 C.F.R. § 438.608(a)(1)(vi).

Prescription Drug Benefit Manual, Chapter 9 – Compliance Program Guidelines

Medicare Managed Care Manual, Chapter 21 – Compliance Program Guidelines

HCSC Corporate Policy: Corrective Action Policy

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)

Review Date	Board Ratification Date	Author	Description of Changes
08/21/2024	11/21/2024	Angela McCullough	Added reference to Delegation Oversight department.
09/30/2023 08/15/2023	11/14/2023	Denise Anderson Angela McCullough	Standardization of language used in all GPC policies, updated Definitions section to ensure inclusion of applicable words/phrases, and minor clarification of language in content. Updated RCMC to Ethics Connects Us Form and added reference to licensure board and clarified 10-year retention period.
8/16/2022	11/15/2022	Angela Broadway	Updated Code of Ethics and Conduct name.
07/13/2021	12/07/2021	Angela Broadway	Updated title to include “Medicare”.
08/27/2020	12/08/2020	Angela Broadway	Added Government Contrats Holder definition and updated FDR Training language.
07/03/2019	12/03/2019	Kim Tulsy	Removed Medicaid Plans – created new Medicaid specific GPC Policy. Added section headings. Minor grammatical corrections.
8/6/18	12/4/2018	Kim Tulsy	Updated products. Revision to reflect change in requirements for FDR training.
05/24/17	12/05/2017	Kim Tulsy	Changed ownership. Minor grammatical edits. Update name of IL Medicaid Plans.
08/26/2016	12/06/2016	Ren Herr	Edited for clarity and for consistency of wording of the Chapter 9 requirements.
08/27/2015	12/08/2015	Dennis Klopfle	No substantive changes recommended. Minor formatting changes made.
06/27/2014	n/a	Dennis Klopfle	No changes recommended.
04/14/2014	05/06/2014	Dennis Klopfle	Policy language extracted from the 02/26/2013 approved policy and procedure #005 Investigations of Medicare Inquiries/Allegations. 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	Changed “subsidiary” reference to “Government Contract Holders (as defined in the Health Care

			Service Corporation Corporate Integrity & Compliance Program Government Programs Section).”
02/02/2012	02/20/2012	Ren Herr	Modified to reflect HCSC ownership and to include application to MA-PD
10/14/2011	11/07/2011	Charles Pickett	Reviewed and revised to include comments from Legal and Government Contracts Compliance.
03/15/2011	04/21/2011	Fran Free	Developed a HISC P&P for addressing government programs related investigations.