

# Delegated Vendor Compliance Guide

2023

HEALTH PARTNERS PLANS, Inc.

901 Market Street, Suite 500  
Philadelphia, PA 19107



**Health Partners** Plans

## Introduction

Health Partners Plans (HPP) would like to thank you for your partnership.

As a Medicare Advantage, Medicaid, and CHIP Managed Care Organization (MCO), HPP retains the ultimate responsibility for fulfilling the terms and conditions of our contracts with The Centers for Medicare and Medicaid Services (CMS) and the Pennsylvania Department of Human Services (DHS). Our contract responsibilities include ensuring the vendors we contract with to assist with our Medicaid, Medicare and CHIP programs comply with all Federal and State Compliance Program requirements related to the services they provide.

HPP may be held accountable for the failure of its Delegated Vendors to comply with Medicare, Medicaid and/or CHIP Program requirements. Therefore, it is the goal of HPP to perform proper oversight of our Delegated Vendors to ensure our Compliance Program obligations are fulfilled.

The purpose of this guide is to assist our Delegated Vendors with understanding and fulfilling their HPP Compliance Program obligations.

## Delegated Vendor Terms

### Medicare First Tier, Downstream and Related Entities (FDRs)

The following First Tier, Downstream and Related Entity (FDR) terms are defined by CMS and apply to delegated vendors who perform services for HPP's Medicare Advantage (MA) line of business:

**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 MA program or Part D program.  
(See 42 C.F.R. § 423.501).

**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.

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

- 1) Performs some of the MAO or Part D plan sponsor's management functions under contract or delegation;
- 2) Furnishes services to Medicare enrollees under an oral or written agreement; or
- 3) 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.

CMS requires Medicare Advantage sponsors to review the organizations they contract with and to identify those that qualify as FDRs according to the definitions provided above and FDR guidelines provided in the Medicare Managed Care Manual Chapter 21 and Prescription Drug Benefit Manual Chapter 9 - Compliance Program Guidelines, section 40.

In the event your organization is determined to be an HPP First Tier Entity, you will be notified by HPP and will be expected to fulfill all HPP Compliance Program requirements related to its Medicare Advantage program.

\*Note: CMS considers Medicare Advantage Healthcare network Providers (i.e., Independent Practice Associates, Hospital Groups, Hospitals) to be FDRs.

## Medicaid/CHIP Subcontractors

The following terms are used in DHS and CHIP guidance and apply to HPP delegated vendors that perform Medicaid and or CHIP services on HPP's behalf.

### HealthChoices Agreement:

Subcontractor — An individual or entity that has a contract with a Physical Health Managed Care Organization (PH-MCO) that relates directly or indirectly to the performance of the PH-MCO's obligation under its contract with the Department of Human Services of the Commonwealth of Pennsylvania (DHS). A network provider is not a Subcontractor by virtue of the network Provider Agreement with the MCO.

## HealthChoices Agreement and CHIP Procedures Handbook:

Subcontract — A contract between the PH-MCO and an individual, business, university, governmental entity, or nonprofit organization to perform part or all of the PH-MCO's responsibilities.

Exempt from this definition are salaried employees, utility agreements, and Provider Agreements, which are not considered Subcontracts and unless otherwise specified are not subject to the provisions governing Subcontracts.

It is important to note that while most Compliance Program requirements and principles are similar across all lines of business, some requirements may differ depending on requirements specified in DHS MCO, CHIP, and/or CMS Medicare Advantage regulations and guidance.

## Delegated Vendor Compliance Requirements and How to Meet Them

### Compliance Policy and Code of Business Conduct Distribution

HPP's Compliance Program Policy and Code of Business Conduct are available on HPP's Delegated Vendor Webpage and provide details and resources regarding General Compliance Program and Fraud, Waste and Abuse (FWA) requirements and laws your organization and its personnel that perform HPP Medicaid, CHIP and/or Medicare Advantage services must comply with.

To ensure your organization and its employees are aware of and comply with HPP, Medicare, Medicaid and/or CHIP Compliance and FWA program requirements your organization must:

Distribute either HPP's Code of Business Conduct and Compliance Program Documents or its own similar versions to your employees within 90 days of hire or contracting and annually thereafter and; retain evidence of your Code of Business Conduct and Compliance Policies and Procedures Distribution.

### Conflicts of Interest

Your organization must ensure HPP assigned personnel and those of it's downstream and related entities (when applicable) who perform HPP services have reviewed

either the HPP Conflict of Interest policy or your own equivalent version. Any potential conflicts of interest as they relate to administering or delivering HPP benefits must be disclosed to senior management within your organization and HPP. If necessary, your organization must promptly address all conflicts of interest by any of the following:

- Determine that the potential conflict does not impact administering or delivering HPP benefits.
- Remove anyone who has a conflict of interest from administering or delivering HPP benefits.

#### How to Comply:

You can either distribute your organization's own Code of Conduct and compliance policies and procedures to your employees or you may distribute HPP's Code of Business Conduct and Compliance Program documents available on HPP's Delegated Vendor Information Webpage.

Retain evidence of distribution.

Ensure your HPP Medicaid and CHIP assigned personnel receive detailed information about Federal and State FWA Healthcare Laws including:

- Federal and State laws regarding false claims, provider prohibited acts, civil or criminal penalties for false claims and statements, and whistleblower protections (including Section 6032 (A) of the Deficit Reduction Act(DRA), 42 U.S.C. § 1396a(a)(68), 62 P.S. §§ 1407 and 1408, and 43 P.S. §§ 1421-1428) and;
- Methods to detect, prevent and report FWA.
- How to report FWA within your organization and how HPP related FWA issues can be reported to HPP.

### Medicaid/CHIP FWA Education Requirements

As a Medicaid and CHIP MCO, HPP is required to provide our Delegated Vendors with written materials to educate your organization about healthcare Fraud laws and our policies and procedures for preventing and detecting Fraud, Waste, and Abuse and the rights of individuals to act as whistleblowers.

We are required to provide written policies to all employees and to any contractor or agent that provide detailed information about the False Claims Act and other Federal and State laws described in 42 U.S.C. § 1396a(a)(68), including information about rights of employees to be protected as whistleblowers.

To fulfill this requirement, the information described above is provided in HPP's Code of Business Conduct

and Compliance Program Policy documents available on HPP's Delegated Vendor Information Webpage.

If your organization performs services for HPP's Medicaid and/or CHIP lines of business, your organization must also ensure any of its personnel performing HPP Medicaid and CHIP services receive detailed information about the False Claims Act and other Federal and State laws described in 42 U.S.C. § 1396a(a)(68), including information about rights of employees to be protected as whistleblowers and must take one or more of the following actions to fulfill this requirement:

1. Distribute HPP's Compliance Program Document and Code of Business Conduct documents to all personnel performing HPP Medicaid and/or CHIP services.
2. Ensure that your organization's Compliance and/or FWA Policies and Procedures include detailed information about the False Claims Act and other Federal and State laws described in 42 U.S.C. § 1396a(a)(68), including information about rights of employees to be protected as whistleblowers and are distributed to all personnel performing HPP Medicaid and/or CHIP services.
3. Ensure that your organization's Compliance and/or FWA Training curriculum includes detailed information about the False Claims Act and other Federal and State laws described in 42 U.S.C. § 1396a(a)(68), including information about rights of employees to be protected as whistleblowers and is completed by all personnel performing HPP Medicaid and/or CHIP services.

### **Office of Inspector General (OIG)/ System for Award Management (SAM) Exclusion Screening/ Medichk Screening**

HPP must ensure that federal funds and/or PA DHS funds are not used to pay for items or services furnished or prescribed by a provider, individual or entity that is excluded from participating in Federal or State health programs and might therefore be included on the following lists:

- DHHS Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE list)
- System for Award Management (SAM) Excluded Parties list System (EPLS)
- Medichk List (Applicable to Medicaid and CHIP only)

HPP Delegated Vendors are required to conduct the screenings listed above prior to the hiring or contracting of any new employee, temporary employee, volunteer, consultant, governing body member, provider, owner, agent or downstream entity and monthly thereafter, to ensure that none of these persons or entities are excluded or become excluded from participation in federal or state healthcare programs.

#### **How to Comply:**

Review the Department of Health and Human Services (DHHS) Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE) prior to hiring or contracting and monthly thereafter. The LEIE is available at: <http://www.oig.hhs.gov/exclusions/index.asp>.

Review the General Service Administration (GSA) System for Award Management (SAM) prior to hiring or contracting and monthly thereafter. The SAM is available at: <http://www.sam.gov>.

Medicaid and CHIP Delegated Vendors only:  
Review the Medichk List prior to hiring or contracting and monthly thereafter. The Medichk list is available at: <https://www.humanservices.state.pa.us/Medchk/MedchkSearch/Index>

### **Reporting FWA and Compliance Concerns**

HPP takes compliance concerns and suspected or actual violations related to the Medicare, Medicaid and CHIP programs very seriously. As a Delegated Vendor that contracts with HPP, you must ensure that all of your employees and those of any of your downstream entities are informed of how to report compliance concerns and suspected misconduct. HPP will perform an internal investigation of each concern after your organization reports any incidents.

Good faith reporting of suspected non-compliance or fraud, waste and abuse is expected and accepted behavior. Anyone who in good faith reports a violation is referred to as a "whistleblower" and is protected from any retaliation by any organization. A number of laws contain whistleblower protection, including the False Claims Act. You are expected to cooperate with any investigation resulting from a report. We have various reporting mechanisms for your use to ensure confidentiality when reporting compliance concerns and/or suspected or actual misconduct.

**File a report through**

<https://www.mycompliancereport.com/report?cid=JEFF>

Reports filed through this webpage will be handled by a third party vendor on behalf of HPP. An option for anonymous reporting is provided on the webpage.

**Compliance:**

[compliance@hplans.com](mailto:compliance@hplans.com)

Please note, email is not considered anonymous however, your reports will be handled in confidence to the fullest extent possible.

**HIPAA Compliance:**

[PrivacyOfficial@hplans.com](mailto:PrivacyOfficial@hplans.com)

Please note, email is not considered anonymous, however, your reports will be handled in confidence to the fullest extent possible.

**Compliance Hotline:** 1-866-477-4848

If you wish to remain anonymous, you may do so by using the Compliance hotline.

**Special Investigations Unit:** 1-866-477-4848

The SIU hotline is anonymous, does not have any call back mechanisms and is received by an outside entity. You will be prompted to leave a message. Your referral to this hotline will be sent to our SIU without your identity being disclosed (unless you did so). All reports are treated as confidential and privileged to the fullest extent permitted by law.

**SIU email:**

- Email compliance concerns to [compliance@hplans.com](mailto:compliance@hplans.com)
- Email suspected or actual fraud, waste and abuse concerns to [SIUtips@hplans.com](mailto:SIUtips@hplans.com)

Please note, email is not considered anonymous, however, your reports will be handled in confidence to the fullest extent possible.

**How to Comply:**

Distribute HPP's FWA and Compliance Reporting Information to your employees. This information is located on our Delegated Vendor Information webpage, in this guide and the HPP Compliance Program Document.

HPP Reporting Posters are also available on the webpage to post throughout your facilities if desired and include HPP's anonymous reporting methods: <https://www.healthpartnersplans.com/delegated-vendor-information>

Notify your employees that they are protected from retaliation for False Claims Act complaints, as well as any other applicable anti-retaliation protections. HPP policies prohibit retaliation or retribution against anyone who reports suspected violations in good faith.

Keep this reporting information as a reference tool and use your own internal processes for reporting. If you choose to use your own processes, make sure you have a process to report issues to HPP.

**Offshore Subcontractor Form Submissions- Medicare, Medicaid and/or CHIP**

If your organization or its downstream entities plan to delegate HPP Medicare, Medicaid, or CHIP-related work to offshore subcontractors, approval must be obtained from an authorized HPP representative prior to delegation.

After approval is received, HPP's Offshore Subcontractor form must be submitted within 15 calendar days from the offshore contract signing.

**Medicare Advantage Offshore Requirements**

(CMS Memo dated August 28, 2008: Offshore Subcontractor Data Module in HPMS)

The term "offshore" refers to any country that is not one of the fifty United States or one of the United States Territories (American Samoa, Guam, Northern Marianas, Puerto Rico, and Virgin Islands). Examples of countries that meet the definition of "offshore" include Mexico, Canada, India, Germany, and Japan. Subcontractors that are considered offshore can be either American-owned companies with certain portions of their operations performed outside of the United States or foreign-owned companies with their operations performed outside of the United States.

Offshore subcontractors provide services that are performed by workers located in offshore countries, regardless of whether the workers are employees of American or foreign companies.

Medicare-related work encompasses what offshore subcontractors do when they receive, process, transfer, handle, store or access beneficiary Protected Health Information (PHI) while helping organizations such as HPP fulfill their Medicare Part C and Part D contract requirements. For example, the term “Medicare-related work” includes offshore subcontractors that receive radiological images for reading, because beneficiary PHI is included with the radiological image and the diagnosis is transmitted back to the U.S. More examples of Medicare-related work include claims processing, claims data entry services, scanning paper claims to create electronic records, receipt of beneficiary calls, and any situation where the offshore subcontractor may have access to beneficiary PHI.

CMS requires HPP to provide attestations to CMS within 30 calendar days after an offshore subcontract is signed.

HPP First-Tier Entities must ensure that their organization and its downstream or related entities do not engage in offshore operations for any HPP Medicare-related work without first having received approval from an authorized HPP representative.

After approval is obtained from HPP, offshore information must be provided to HPP within 15 calendar days from the date the contract is signed via HPP’s Offshore Subcontractor Form.

### **Offshore Subcontracting Medicaid/CHIP**

If your organization or its downstream entities plan to delegate HPP Medicare, Medicaid, or CHIP-related work to offshore subcontractors, approval must be obtained from an authorized HPP representative prior to delegation.

After approval is received, HPP’s Offshore Subcontractor form must be submitted within 15 calendar days from the offshore contract signing.

### **How to Comply:**

Notify HPP if your organization or any of your organization’s subcontractors plan to delegate HPP functions to an offshore entity and obtain HPP approval.

After HPP approval is obtained, complete and submit HPP’s Offshore Subcontractor Form within a time frame not to exceed 15 calendar days from the date the contract is signed: <https://medicare.healthpartnersplans.com/medicare-fdr-information/offshore-subcontractor>

Verify that any contractual agreements with offshore entities include all required Medicare Part C and D language when applicable.

Conduct annual audits of offshore subcontractors and make audit results available upon request.

### **Ongoing Monitoring and Auditing**

As a Delegated Vendor that contracts with HPP, you must ensure that compliance is maintained by your organization as well as your downstream entities that provide administrative or health care services for HPP’s Medicare, Medicaid and CHIP lines of business. To ensure ongoing compliance with State and Federal regulations, your organization must perform ongoing oversight to ensure that your organization and your downstream entities, if applicable, comply with the requirements stated in this guide, HPP’s Code of Business Conduct and Compliance Program document.

To ensure that HPP has proper auditing and monitoring controls in place, HPP, CMS, and/or DHS reserve the right to request that you provide evidence of your compliance with these requirements or other requirements within the scope of our delegation to you. If you fail to comply with the HPP Compliance program requirements, HPP will request remedial action. The remedial action will depend upon the severity of your noncompliance and may include requiring a corrective action plan, or contract termination.

### **Downstream Entity Oversight**

(Medicare Managed Care Manual Ch. 21 §50.6.6)

HPP First Tier Entities (FTEs) are responsible for ensuring that organizations they contract with to assist with their HPP Medicare Part C and/or D functions

(downstream entities) also comply with HPP Compliance Program requirements and any other requirements related to the functions they perform.

HPP presumes our FTEs ensure that they are auditing and monitoring the compliance of their downstream entities.

In order to ensure your downstream entities are aware of and complied with HPP's Compliance Program requirements, your organization must:

- Provide HPP's COBC and Compliance Program document or its own similar versions to its downstream entities within 90 days of hire, contracting, upon revision, and annually thereafter or;
- Contractually require your downstream entities to have and distribute their own COBC and Compliance Policies and conduct a review of their COBC and Compliance Policies to ensure the content is sufficient.
- Monitor and audit your downstream entities' performance to ensure they also comply with all applicable CMS requirements and the requirements discussed in this Compliance Guide, HPP's Code of Business Conduct, and Compliance Program document.

#### **How to Comply:**

If your organization subcontracts with other entities to perform any of the services contractually delegated to your organization on behalf of HPP and that relate to HPP's CMS contract your organization must:

- Provide HPP's COBC and Compliance Program document or its own similar versions to its downstream entities within 90 days of hire or contracting, upon revision, and annually thereafter; or Contractually require your downstream entities to have and distribute their own COBC and Compliance Policies and conduct a review of their COBC and Compliance Policies to ensure the content is sufficient.
- Monitor and audit your downstream entities' performance to ensure they also comply with all applicable CMS requirements and the requirements discussed in this Compliance Guide, HPP's Code of Business Conduct and Compliance Program document.

## **Compliance Attestation Submissions**

An authorized representative from your organization is required to complete and submit HPP's Compliance Program Attestations (on behalf of your organization) within 90 days of contracting with HPP and on an annual basis thereafter.

For the purposes of these attestations, an authorized representative is an individual who has responsibility directly or indirectly for all employees, contracted personnel, providers/practitioners and delegated vendors who provide administrative and/or health care services for HPP; this would include the Compliance Officer, Chief Medical Officer, Chief Operating Officer, an Executive Officer or similar related positions.

The purpose of the Compliance Attestation is to help HPP monitor our Delegated Vendors' fulfillment of HPP, Medicare, Medicaid and CHIP general Compliance and FWA requirements as stated in HPP's Code of Business Conduct, Compliance Program Document and this Delegated Vendor Guide.

Your organization will be notified of HPP's Compliance Attestation requirements prior to their submission due dates. The attestations are available on HPP's Delegated Vendor Webpage.