



False Claim Act & FWA Reporting Provider Monitoring Review Critical Incident Reporting Provider Required Reporting

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Federal False Claims Act

The False Claims Act prohibits any person from knowingly presenting or causing to be presented, a false or fraudulent claim to the United States government for payment. The False Claims Act imposes civil liability on any person who:

- Knowingly presents a false or fraudulent claim for payment or approval.
- Knowingly makes or uses a false record or statement to get a false or fraudulent claim paid or approved.
- Conspires with another to get a false or fraudulent claim paid or allowed.
- Knowingly makes or uses a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property.
- Commits other fraudulent acts enumerated in the statute.



Medicaid False Claims Act

The State of Michigan has a companion law known as the Medicaid False Claims Act. This act imposes prison terms of up to four (4) years and fines up to \$50,000 for:

- Knowingly making a false statement or false representation of a material fact in any application for Medicaid benefits or for use in determining rights to a Medicaid benefit;
- Soliciting, offering or receiving kickbacks or bribes for referrals to another for Medicaid-funded services (fine up to \$30,000);
- Entering an agreement with another to defraud Medicaid through a False Claim; or
- Making or presenting to the State of Michigan a False Claim for payment.



Medicaid False Claims Act

Any person (Qui Tam Relater) may bring a civil action on behalf of the State of Michigan to recover losses that the State suffered from a person violating the Michigan Medicaid False Claims Act, and the Michigan Attorney General is to be notified and has an opportunity to appear and intervene in the action brought on behalf of the State of Michigan. If the Michigan Attorney General intervenes, in addition to the person (Qui Tam Relater) receiving his or her expenses, costs and reasonable attorney fees, the person may also receive a portion of the monetary proceeds resulting from the action or any settlement. If the Michigan Attorney General does not intervene, the Qui Tam Relater will receive a portion of the monetary proceeds.



Whistleblower Protection Laws

In addition to R2AAA's Whistleblowing provision within this policy, both the federal and state laws protect individuals who investigate or report possible False Claims made by their employer against discharge or discrimination in employment because of such investigation. Employees who are discriminated against based on whistleblower activities may sue in court for damages. Under either the federal or state law, any employer who violates the whistleblower protection law is liable to the employee for (1) reinstatement of the employee's position without loss of seniority, (2) two times the amount of lost back pay, (3) interest and compensation for any special damages, and such other relief necessary to make the employee whole.



Detection of Potential Fraud or Abuse

R2AAA combats Medicaid fraud, waste and abuse by investigating tips/grievances reported through the Compliance Hotline and email box, auditing service providers for billing irregularities or over-payments, mining agency billing claims data, and educating staff, service providers, and participants on compliance with state and federal laws.



Detection of Potential Fraud or Abuse

Monthly Screening of Employees and Vendors:

- The organization shall use reasonable efforts (e.g., employee background checks and vendor screening through OIG) not to include within the substantial authority personnel of the organization any individual whom the organization knew, or should have known through the exercise of due diligence, has engaged in illegal activities or other conduct inconsistent with an effective compliance and ethics program.



Types of Fraud

- Billing for goods or services that were not delivered or rendered
- Submitting false service records or samples in order to show better-than-actual performance
- Performing inappropriate or unnecessary medical procedures
- Providing inappropriate or unnecessary medical equipment
- Billing in order to increase revenue instead of billing to reflect actual work performed
- Up-coding, or inflating bills by using diagnosis billing codes that suggest a more expensive illness or treatment
- Double billing, or charging more than once for the same service or goods
- Prescribing a medicine or recommending a type of treatment regimen in order to earn kickbacks from hospital, labs or pharmaceutical companies
- Billing for unlicensed or unapproved drugs
- Forging physician signatures when such signatures are required for reimbursement from Medicare or Medicaid
- Billing for work or tests that were not performed
- Phantom employees and doctored time slips: charging for employees that were not actually on the job, or billing for made-up hours in order to maximize reimbursements
- A grant recipient charging grantor for costs not related to the program



Response/Reporting

R2AAA staff members, participants, and service providers are required to report potential Medicaid fraud, waste, and abuse cases. Reports may be submitted anonymously or by leaving a name and contact information through one of the following options:

- The R2AAA Compliance Hotline (517-592-1680)
- The R2AAA Hotline Mailbox (Compliance.Hotline@r2aaa.net)
- The Michigan Department of Health and Human Services, Office of Inspector General (MDHHS OIG) by calling 855-MI-FRAUD (643-7283) or sending a memo or letter to:

MDHHS Office of Inspector General
P.O. Box 30062
Lansing, MI 48909

- Reports of suspicions of fraud can also be made online at www.michigan.gov/fraud



MI Choice Provider Monitoring Tool

Attachment J includes a review of:

- Insurance Coverages
- Policies and Procedures
 - Confidentiality
 - Appeals/Grievances
 - Participant Feedback/Evaluation
 - Participant's Rights/Responsibilities
 - Reporting Suspected Abuse, Neglect, Exploitation, and Critical Incidents
 - Participant Health and Welfare
 - Emergencies
 - Personnel, Recruitment, Training, and Supervision



MI Choice Provider Monitoring Tool

Attachment J includes a review of:

- Participant Records & Agency Documentation Requirements
- Employee Files:
 - ✓ Criminal History Review, including Sex Offender Registries (New)
 - ✓ Reference Checks
 - ✓ TB Test results
 - ✓ Certification/License/Registration for Professional Employees
 - ✓ Copy of Valid Driver's License and Auto Insurance (If Applicable)
- Staff Orientation, In-service Training Plan, On-site Supervisory Visits
- Review of any complaints
- Billing Review
- Need for Technical Assistance



Criminal Background Check

1. Conduct or cause to be conducted a search that reveals information similar or substantially similar to information found on an Internet Criminal History Access Tool (ICHAT) check and a national and state sex offender registry check for each new employee, employee, subcontractor, subcontractor employee, or volunteer who, under this Agreement works directly with clients or has access to client information.
 - ICHAT: <http://apps.michigan.gov/ichat>
 - Michigan Public Sex Offender Registry: <http://www.mipsor.state.mi.us>
 - National Sex Offender Registry: <http://www.nsopw.gov>
2. Conduct or cause to be conducted a Central Registry (CR) check for each new employee, employee, subcontractor, subcontractor employee, or volunteer who, under this Agreement works directly with children or vulnerable adults.
 - Central Registry: http://www.michigan.gov/mdhhs/0,5885,7339-73971_7119_50648_48330---,00.html
3. Require each new employee, employee, subcontractor, subcontractor employee or volunteer who, under this Agreement, works directly with clients or who has access to client information to notify the R2AAA in writing of criminal convictions (felony or misdemeanor), pending felony charges, or placement on the Central Registry as a perpetrator, at hire or within 10 days of the event after hiring.
4. Determine whether to prohibit any employee, subcontractor, subcontractor employee, or volunteer from performing work directly with clients or accessing client information related to clients under this Agreement, based on the results of a positive ICHAT response or reported criminal felony conviction or perpetrator identification.
5. Determine whether to prohibit any employee, subcontractor, subcontractor employee or volunteer from performing work directly with children and/or vulnerable adults under this Agreement, based on the results of a positive CR response or reported perpetrator identification.
6. Require any employee, subcontractor, subcontractor employee or volunteer who may have access to any databases of information



Audit Results Letter

Finding: A review of ten participant records indicated that all the required documentation, including the Service Authorization and Participant Assessment, was filed in each participant record. An in-home journal for each R2AAA recipient must minimally contain the following:

- a. Date of service
- b. Start and stop times of service provision
- c. Written summary of services and tasks performed, pertinent information regarding the participant's routine, health status, nutritional status, and changes or problems encountered
- d. Signature of the employee providing the service
- e. Signature of the participant receiving the service or documentation of refusal to sign

A review of the In-Home Journal documentation indicated that the signature of the participant receiving the service was not included in the documentation.

Recommendation: Please submit an edited form or correction to the in-home documentation system in the CAP to include the signature of the participant receiving the service or documentation of refusal to sign as outlined in the finding.

Corrective Action Plan Required: Yes



CAP Letter

Finding: A review of ten participant records indicated that all the required documentation, including the Service Authorization and Participant Assessment, was filed in each participant record. An in-home journal for each R2AAA recipient must minimally contain the following:

- a. Date of service
- b. Start and stop times of service provision
- c. Written summary of services and tasks performed, pertinent information regarding the participant's routine, health status, nutritional status, and changes or problems encountered
- d. Signature of the employee providing the service
- e. Signature of the participant receiving the service or documentation of refusal to sign

A review of the In-Home Journal documentation indicated that the signature of the participant receiving the service was not included in the documentation.

Recommendation: Please submit an edited form or correction to the in-home documentation system in the CAP to include the signature of the participant receiving the service or documentation of refusal to sign as outlined in the finding.

Corrective Action Plan Required: Yes

CAP Accepted: Yes. The documentation included with the CAP addresses the deficiency notated in the finding.



FY19 Provider Monitoring Stats

Audits Completed	Zero Deficiencies	One Deficiency	Two Deficiencies	Three Deficiencies	Four Deficiencies	Five + Deficiencies
18/102 (17.6%)	1/18 (5.6%)	5/18 (27.8%)	4/18 (22.2%)	7/18 (38.9%)	0/18 (0%)	1/18 (5.6%)

- **FY19 = 12.5% Auditing Requirement**
- **FY19 Average Deficiencies per Onsite Monitoring Visit = 2.2**
- **FY19 Number of Onsite Monitoring Visits Requiring a CAP = 17/18 (94.4%)**
- **FY19 Provider Reimbursements = \$27,735.47**
- **FY20 = 15% Auditing Requirement**



Provider Critical Incident Reporting

Critical No Show (Participants bed bound or have a 1A, 1B, or 1C Service Need Level)

Physical Abuse

Sexual Abuse

Verbal Abuse

Exploitation

Hospital and ER Visits Within 30 days of Previous Hospitalization (Related to Abuse/Neglect)

Illegal Activity in the Home

Medication Errors

Neglect

Safety Concerns

Other (Specify)

Suicide Attempts

Unexpected/Unexplained Death

Theft (of anything)

Use of Restraints/Restrictive Interventions/Seclusions

Worker Consuming Drugs/Alcohol



FY19 MI Choice Critical Incident Type	Count
Critical No Show	2
Exploitation	9
Illegal Activity in Home	5
Medication Error	10
Neglect	14
Physical Abuse	5
Sexual Abuse	2
Suicide Attempts	3
Theft	23
Unexpected/Unexplained Death	0
Use of Restraints/Restrictive Interventions/Seclusions	1
Verbal Abuse	4
Worker Drugs/Alcohol	2
Other	126
Total Number of Incidents	206



Provider Required Reporting

Abuse, Neglect, Exploitation:

- Report suspected abuse, neglect, or exploitation of a vulnerable adult or child residing in a participant's home immediately upon witnessing or learning of the abuse, neglect, or exploitation. You may make a MDHHS report for Adult Protective Services (APS) or Child Protective Services (CPS) at 855-444-3911.
- You are required to submit an incident report to R2AAA within 48 hours of notifying MDHHS. Incident Reports may be faxed to R2AAA at 517-592-1975, Attn: Quality Department.
- Your policy for Abuse, Neglect, or Exploitation should be reviewed with staff at new hire orientation and intermittently thereafter.



Questions?