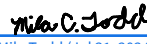




Section: Compliance	Policy Name: Compliance Reporting Responsibilities	Policy Number: 10.08
Owner: Chief Compliance Officer	Reviewed By: Mila C. Todd	Total Pages:
Required By: <input checked="" type="checkbox"/> BBA <input checked="" type="checkbox"/> MDHHS <input type="checkbox"/> NCQA <input type="checkbox"/> Other (please specify): _____	Final Approval By:  Mila Todd (Jul 31, 2024 14:11 EDT)	Date Approved: Jul 31, 2024
Application: <input checked="" type="checkbox"/> SWMBH Staff/Ops <input checked="" type="checkbox"/> Participant CMHSPs <input checked="" type="checkbox"/> SUD Providers <input checked="" type="checkbox"/> MH/IDD Providers <input type="checkbox"/> Other (please specify): _____	Line of Business: <input checked="" type="checkbox"/> Medicaid <input type="checkbox"/> Other (please specify): <input checked="" type="checkbox"/> Healthy Michigan _____ <input checked="" type="checkbox"/> SUD Block Grant <input checked="" type="checkbox"/> SUD Medicaid <input checked="" type="checkbox"/> CCBHC	Effective Date: 01/01/2014

Policy: All employees, Board Members, and any persons or entities acting on behalf of or under contract with SWMBH, including participant CMHSPs and network providers, have the responsibility of ensuring the effectiveness of Regional compliance efforts by actively participating in SWMBH’s compliance program and by complying with applicable contract provisions, SWMBH’s Compliance Plan, policies and procedures, and HIPAA Privacy and Security standards. These standards are designed and intended to meet the Federal Sentencing Guidelines and the recommendations and guidelines issued by the Health and Human Services (HHS) Office of Inspector General (OIG). The SWMBH Chief Compliance Officer (CCO) shall ensure open and effective lines of communication are available for questions, consultation, and the reporting of compliance issues. By actively participating in SWMBH’s compliance program, SWMBH personnel, participant CMHSPs, and network providers will seek consultation and guidance as needed, will report compliance issues promptly and in accordance with this policy, and will cooperate with compliance investigation activities.

Purpose: The SWMBH CCO is responsible for objectively, uniformly, consistently and adequately coordinating and completing the investigation of all suspected fraud, waste and abuse or reported violations of applicable laws and regulations for all covered services throughout the SWMBH region and provider network. The extent of the investigation will vary depending upon the severity of the issue. The purpose of this policy is to articulate the requirements for 1) maintaining open and effective lines of communication with the SWMBH Compliance department; 2) reporting compliance issues and activities; 3) completing compliance investigations; and 4) reporting by SWMBH to the MDHHS OIG.



Scope: SWMBH CCO and Program Integrity & Compliance department; SWMBH personnel, including Board members; participant CMHSP and network provider personnel.

Responsibilities:

SWMBH Chief Compliance Officer is responsible for maintaining open and effective lines of communication for compliance reporting and consultation, and for reporting to the SWMBH Compliance Oversight Committee.

SWMBH Board members, employees and contractors; Participant CMHSPs; and network providers are responsible for reporting compliance concerns to SWMBH, seeking guidance and direction as needed, and participating in compliance investigations in accordance with applicable Procedures.

Participant CMHSPs are responsible for reporting quarterly Compliance Activities in accordance with this Policy.

Definitions:

- A. **Abuse.** Provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid or Medicare programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid or Medicare programs.
- B. **Compliance Activities.** Those activities as defined by the MDHHS OIG in its Quarterly Reporting Guidance Document. For purposes of this Policy, Compliance Activities include audits (both routine and ad hoc), investigations (regardless of source of origin), data mining activities, financial adjustments including recoupments, manual prepayment reviews, and provider disenrollments that are the result of compliance activities.
- C. **Compliance Investigation.** The observation or study of suspected fraud, abuse, waste, or reported violations of applicable laws and regulations for all Southwest Michigan Behavioral Health covered services by close examination and systematic inquiry.
- D. **Compliance Issues:** As used in the Policy, Compliance Issues refers to any activity that could be the basis of a finding of fraud, waste, or abuse (as defined by applicable laws), or any activity that could be a violation of SWMBH's Compliance Plan or Code of Conduct.
- E. **Fraud (per CMS).** An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act.
- F. **Fraud (per Michigan Court of Appeals).** Michigan law permits a finding of Medicaid fraud based upon "constructive knowledge." This means that if the course of conduct reflects a systematic or persistent tendency to cause inaccuracies" then it may be fraud, rather than simply a good faith error or mistake.
- G. **Prompt Response:** Action taken within 15 business days of receipt and identification by SWMBH of the information regarding a potential compliance problem.



- H. **Waste.** Overutilization of services, or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.

Standards and Guidelines:

- A. **SWMBH Open & Effective Lines of Communication.** An open line of communication between the SWMBH CCO and SWMBH personnel, participant CMHSPs, network providers and customers, is critical to the successful implementation of a compliance program and the reduction of any potential for fraud, abuse and waste. SWMBH will have in place both a mechanism for the reporting of improper conduct, as well a mechanism for more routine types of communication among the compliance officer and relevant groups and stakeholders.
1. The SWMBH CCO shall ensure SWMBH maintains a Compliance Hotline, capable of receiving anonymous reports, and a SWMBH Compliance email. The compliance hotline number and compliance email address shall be disseminated as follows:
 - i. Included in the SWMBH Code of Conduct; and
 - ii. Published on SWMBH's public website; and
 - iii. Periodically, but not less than annually, included in SWMBH's Member and Provider Newsletters.
 2. The SWMBH CCO and designee(s) may use the Regional Compliance Coordinating Committee and/or other Regional Committees as applicable, for routine compliance related communications.
 3. The SWMBH CCO and compliance department shall be accessible to SWMBH employees and contractors, Participant CMHSPs, and network providers for direct and/or individual consultation and assistance.
 4. The SWMBH CCO shall monitor and report to SWMBH's regulatory Compliance Oversight Committee (COC) the extent to which participant CMHSP's are implementing compliance programs with effective policies and procedures, including responsibilities and obligations for reporting suspected, actual or potential compliance issues, that are consistent with SWMBH Policies and Procedures, and that are:
 - i. Compatible with those adopted by Southwest Michigan Behavioral Health; and
 - ii. Reasonably capable of assuring the purposes of these policies are achieved.
- B. **Reporting Responsibilities.**
1. **Compliance Issues.**
 - i. Participant CMHSP and network provider personnel will report actual and suspected compliance issues to the SWMBH CCO within three (3) business days or less when one or more of the following criteria are met:
 1. Circumstances are consistent with the definition of fraud, waste, or abuse as stated in this policy and/or applicable state or federal law;
 2. During an inquiry by the participant CMHSP compliance officer or contracted provider staff, there is determined to be (reasonable person standard) Medicaid or Medicare fraud, waste or abuse as defined by



federal statute, CMS, HHS OIG, and/or applicable Michigan statute, regulation or PIHP contract definition and as included in this policy; or

3. Prior to any self-disclosure to any federal Medicare or state of Michigan Medicaid authority. In no way is this intended to nor should it be interpreted as a requirement or request to violate the letter or spirit of federal or Michigan reporting and whistleblower statutes or related regulations.
 4. When as a result of fraud, abuse or waste the participant CMHSP makes a material revision to prior reported financial statements to the PIHP;
 5. When a participant CMHSP knows or should have known that an action or failure to take action, either within the participant CMHSP organization itself or with a network provider, could result in the improper application or improper retention of Medicaid or Medicare funds; or
 6. When a network provider knows or should have known that an action or failure to take action in the organization could result in the improper receipt or retention of Medicaid or Medicare funds.
- ii. Participant CMHSP and network provider personnel are encouraged to request technical assistance discussions with SWMBH's CCO or designee on any compliance issue at any time. Such contacts will not automatically be considered a "report of compliance issue" by SWMBH.
 - iii. All SWMBH Board members and SWMBH personnel that know, or have reason to believe, that an employee, provider, or contractor of SWMBH is not acting in compliance with federal and/or state laws and regulations, will report such matters to the SWMBH CCO within three (3) business days.
 - iv. Compliance issues shall be reported in compliance with **SWMBH Operating Procedure 10.08.01: Compliance Reporting Procedure**.
 - v. Once a report is made to SWMBH's CCO, involved parties (SWMBH personnel, participant CMHSPs, and/or network providers) will comply with applicable portions of **SWMBH Operating Procedure 10.08.02: Compliance Investigations**.
 - vi. **Whistleblower Protections.** Consistent with Federal and State laws, employees who make good faith reports of violations of federal or state law are protected by state and/or federal whistleblower statutes. See SWMBH's Compliance Plan for additional details.

2. Compliance Activities.

i. Participant CMHSPs.

1. Consistent with the MDHHS-PIHP Agreement and the PIHP-Participant CMHSP Agreement, participant CMHSPs shall report their Compliance Activities to SWMBH using the template provided by SWMBH and attached to this Policy as **Attachment 10.08A**. Participant CMHSPs shall



submit completed reports to SWMBH’s Compliance department on a quarterly basis, at the following intervals:

Reporting Period	Report Due Date
Q1 Oct. 1 – Dec. 31	January 30
Q2 Jan. 1 – March 31	April 30
Q3 April 1 – June 30	July 31
Q4 July 1 – Sept. 30	October 31

2. Compliance Activities include all of the following:

- a. Audits – both routine and ad hoc;
- b. Investigations – regardless of source of origin (i.e. tips, grievances, audit findings, anonymous reports, data-mining, etc.);
- c. Financial adjustments including recoupments;
- d. Manual pre-payment reviews; and
- e. Provider disenrollments based on compliance activities (example – a provider is disenrolled from a participant CMHSP’s network due to a substantiated finding of fraud).
 - i. Adverse Provider Disenrollments shall be reported to SWMBH in accordance with SWMBH Policy 02.08 as well as included in the participant CMHSP’s quarterly report.

ii. **SWMBH.**

- 1. Using the MDHHS OIG’s Quarterly Reporting Template, SWMBH will compile its own quarterly Compliance Activities, along with the quarterly data submitted by each participant CMHSP, and submit a single quarterly report to the MDHHS OIG.
- 2. The Regional OIG Quarterly Report shall be submitted according to Schedule E of the MDHHS-PIHP Agreement, via upload to the MDHHS OIG sFTP, at the following intervals:

Reporting Period	Report Due Date
Q1 Oct. 1 – Dec. 31	February 15
Q2 Jan. 1 – March 31	May 15
Q3 April 1 – June 30	August 15
Q4 July 1 – Sept. 30	November 15

C. Compliance Investigations.

- 1. SWMBH’s Program Integrity and Compliance department functions as the SWMBH Special Investigations Unit for purposes of MDHHS-PIHP Contract compliance.



2. As further outlined in **SWMBH Operating Procedure 10.08.01 and 10.08.02**, throughout the entire SWMBH Region and provider network, SWMBH's Chief Compliance Officer (CCO) will coordinate and ensure completion of the investigation of all allegations of fraud, waste, or abuse of Medicaid and/or other SWMBH-administered funding streams, and other compliance issues pertaining to tasks and functions relating to SWMBH's role and responsibilities as the Regional Entity.
 3. SWMBH shall ensure a prompt response to detected offenses and for the development of corrective action plans.
- D. **Non-compliance.** Reporting and cooperating in the investigation of compliance issues is mandatory. Failure to do so may result in:
1. For external entities, contract action up to and including contract termination, and referral to the appropriate regulatory bodies.
 2. For SWMBH personnel, disciplinary action up to and including termination.

References:

42 CFR 438.608
Federal Register Volume 64, No. 219
MDHHS-SWMBH Agreement, Schedule A, Section 1, Subpart R. Program Integrity

Attachments:

- SWMBH Policy Attachment 10.08A – Region 4 Participant CMHSP Quarterly Compliance Activity Reporting Template
- SWMBH Operating Procedure 10.08.01 Compliance Reporting Procedure
- SWMBH Operating Procedure 10.08.02 Compliance Investigations Procedure



Revision History

Revision #	Revision Date	Revision Location	Revision Summary	Revisor
01	07/08/24	N/A – Created Policy	Combined former Policy 10.06 and 10.08 to create overarching compliance reporting responsibilities policy.	Mila C. Todd
N/A	07/19/24	N/A	Reviewed at Regional Compliance Coordinating Committee.	Mila C. Todd

10.08 Compliance Reporting Responsibilities

Final Audit Report

2024-07-31

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