Section: **Compliance**	Policy Name: **Reporting and Returning of Overpayments**	Policy Number: **10.22**
Owner: **Chief Compliance Officer**	Reviewed By: **Mila C. Todd**	Total Pages: **4**
Required By: ☒ **BBA** ☒ **MDHHS** ☐ **NCQA** ☐ **Other (please specify):** **42 CFR §401.301 – §401.305**	Final Approval By: Mila C. Todd Mila Todd (Jul 31, 2024 15:17 EDT)	Date Approved: Jul 31, 2024
Application: ☒ **SWMBH Staff/Ops** ☒ **Participant CMHSPs** ☒ **SUD Providers** ☒ **MH/IDD Providers** ☐ **Other (please specify):**	Line of Business: ☒ **Medicaid** ☒ **Healthy Michigan** ☒ **SUD Block Grant** ☒ **SUD Medicaid** ☒ **CCBHC** ☐ **Other (please specify):** _____	Effective Date: **04/13/2016**

Policy: SWMBH shall report and collect overpayments identified as part of compliance-related activities; including those due to fraud, waste, or abuse; in accordance with applicable MDHHS-PIHP contract requirements. A person that has received an overpayment must report, in writing, the reason for the overpayment, and return the overpayment to SWMBH within sixty (60) days after the date on which the overpayment was identified. The sixty (60) day requirement applies unless the deadline for returning overpayments is suspended under an applicable law or regulation.

Purpose: The purpose of this Policy is to ensure overpayments to providers and suppliers of services are reported to SWMBH and to MDHHS OIG and returned in a timely manner and in accordance with applicable laws and regulations, and MDHHS-PIHP Contract requirements.

Scope: SWMBH and its provider network

Responsibilities: SWMBH and its entire provider network are required to report and return overpayments within 60 days of identification of the overpayment. SWMBH shall ensure compliance with MDHHS OIG reporting requirements as they relate to identified overpayments.

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. **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.

C. **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.

D. **Overpayment** means any funds that a person has received or retained under title XVIII of the Social Security Act, to which the person is not entitled under such title.

E. **Person** means a provider (as defined in 42 CFR §400.202) or a supplier (as defined in 42 CFR §400.202).

F. **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. **Overpayments due to fraud, waste or abuse.**

1. If SWMBH identifies an overpayment involving potential fraud, prior to identification by MDHHS OIG, SWMBH shall refer its findings to MDHHS OIG in accordance with SWMBH Policy 10.08 and Procedure 10.08.01, and wait for further instruction from MDHHS OIG prior to recovering the overpayment.
2. If SWMBH identifies an overpayment involving waste or abuse, prior to identification by MDHHS OIG, SWMBH shall:
    i. Void or correct applicable encounters or claims;
    ii. Recover the overpayment; and
    iii. Report the overpayment on its next quarterly submission in accordance with SWMBH Policy 10.08.

B. **Overpayments identified by Participant CMHSPs and/or Network Providers.**

1. In accordance with applicable contract requirements, if a Participant CMHSP or Network Provider identifies that an overpayment was *received*, the entity shall:
    i. Notify SWMBH in writing of the reason for the overpayment and the date the overpayment was identified; and
    ii. Return the overpayment to SWMBH within sixty (60) calendar days of the date the overpayment was identified.
2. This provision does not apply to situations where a Participant CMHSP identifies an overpayment paid to a CMHSP network provider, either through routine audit and monitoring, an investigation, or other means. In those situations, the Participant CMHSP shall report the overpayment to SWMBH in its quarterly report, in accordance with SWMBH Operating Policy 10.08.

C. **Identification and Return.**

1. A person has identified an overpayment when the person has, or should have through the exercise of reasonable diligence, determined that the person has received an

overpayment and quantified the amount of the overpayment. A person should have determined that the person received an overpayment and quantified the amount of the overpayment if the person fails to exercise reasonable diligence and the person in fact received an overpayment.

2. Overpayments that are self-identified by Participant CMHSPs and/or Network Providers shall be reported to SWMBH Compliance via:
    - **i.** Email to swmbhcompliance@swmbh.org or
    - **ii.** Phone call to the SWMBH Compliance Hotline at 800-783-0914.
3. A person must use an applicable claims adjustment, credit balance, self-reported refund, or other reporting process to report/return an overpayment, except as otherwise allowed by applicable laws and regulations. If the person calculates the overpayment amount using a statistical sampling methodology, the person must describe the statistically valid sampling and extrapolation methodology in the report.

References:

A. 42 CFR §400.202
B. 42 CFR §401.301 – §401.305
C. Social Security Act
D. SWMBH Operating Policy 10.08 & Procedure 10.08.01

Attachments: None.

Revision History

Revision #	Revision Date	Revision Location	Revision Summary	Revisor
01	7/01/2020	N/A	Moved to new template	Mila C. Todd
02	7/01/2020	Applicability	Extended to entire provider network, pursuant to Managed Care Rule requirements.	Mila C. Todd
03	12/22/2022	N/A	Annual Review	Mila C. Todd
04	07/26/2024	Definitions. Standards and Guidelines	Defined Fraud, Waste, and Abuse. Added paragraphs A and B in their entirety, and added paragraph C(2).	Mila C. Todd

10.22 Reporting and Returning of Overpayments

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