




Section: Compliance	Procedure Name: Compliance Investigation Procedure	Procedure #: 10.08.02
Overarching Policy: 10.08 Compliance Reporting Responsibilities		
Owner: Chief Compliance Officer	Reviewed By: Mila C. Todd	Total Pages: 5
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:  <small>Mila Todd (Jul 31, 2024 14:14 EDT)</small>	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"/> MI Health Link <input checked="" type="checkbox"/> CCBHC	Effective Date: 10/04/2018

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: To articulate the procedures that SWMBH, participant CMHSPs, and network providers will follow in investigating actual and potential compliance issues.

Scope: SWMBH personnel, participant CMHSPs, network providers

Responsibilities: SWMBH personnel, participant CMHSPs, and network providers shall report compliance issues to SWMBH’s CCO or designee as required in SWMBH Operating Procedure 10.08.01.



SWMBH's CCO or designee will review and investigate, if warranted, reported compliance issues in accordance with this Procedure.

SWMBH personnel, participant CMHSPs, and network providers will cooperate in the investigation of compliance issues, as further outlined in this Procedure.

SWMBH's CCO or designee shall report to the MDHHS OIG and/or MDHHS local office(s) as required by SWMBH Operating Procedure 10.08.01.

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 Issues:** As used in the Procedure, 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.
- C. **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.
- D. **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.
- E. **Prompt Response:** Action taken within 15 business days of receipt and identification by SWMBH of the information regarding a potential compliance problem.
- 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.

Procedure:

- A. **Special Investigations Unit (SIU) designation**
 - 1. SWMBH's Program Integrity and Compliance department functions as the SWMBH Special Investigations Unit for purposes of MDHHS-PIHP Contract compliance.
- B. **Reports of Compliance Issues.**
 - 1. Reports of compliance issues can come from any source including but not limited to SWMBH personnel, participant CMHSPs, network providers, members or guardians, MDHHS, and MDHHS OIG.
 - 2. Regardless of the source of the report, SWMBH's CCO or designee shall review the allegations and determine what action is necessary including, but not limited to:



- i. Referring the allegations to a different SWMBH functional area, participant CMHSP, and/or external entity (including State regulatory agencies) if not compliance related;
 - ii. Coordinating with other functional areas or entities when allegations are both compliance and not-compliance related;
 - iii. Opening a compliance investigation;
 - iv. Declining to take additional action if none is warranted.
3. SWMBH shall promptly respond to detected offenses. "Prompt response" is defined by the MDHHS-PIHP Agreement as action taken within 15 business days of receipt and identification by SWMBH of the information regarding a potential compliance problem.

C. Preliminary Investigation.

1. Upon receipt of allegations involving fraud, waste, or abuse regardless of the entity or individual that is the subject of the referral, SWMBH's CCO or designee will ensure a preliminary investigation is completed.
 - i. SWMBH personnel, participant CMHSPs, and network providers shall cooperate in the completion of the Preliminary Investigation, to the extent requested by the SWMBH CCO or designee. Cooperation may include, but is not limited to:
 1. Completing or participating in interviews;
 2. Reviewing applicable documentation (clinical documentation, timecards, communications, billing information, EOBs, etc.) or providing applicable documentation to SWMBH for review;
 3. Auditing claims;
 4. Any action necessary, at the request of SWMBH's CCO, to prospectively prevent or remediate the conduct included in the compliance report allegations from continuing during the completion of the preliminary investigation.

D. Compliance Investigations.

1. 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.
2. SWMBH personnel, participant CMHSPs and network providers shall cooperate with SWMBH investigations, as requested by the SWMBH CCO or designee. Such participation may include but is not limited to:
 - i. Providing service documentation; employee time cards, schedules, and records (to the extent allowable by applicable law); policies & procedures; access to sites where contracted services are provided; access to schedule interviews with employees and consultants
 - ii. Completing claims audits
 - iii. Completing or attending interviews
3. SWMBH shall ensure accurate documentation of each investigation is maintained in accordance with applicable SWMBH policies.



4. Reporting.
 - i. SWMBH's CCO or designee shall provide routine updates on compliance related investigations to SWMBH's Compliance Oversight Committee.
 - ii. SWMBH's CCO or designee shall ensure reporting to MDHHS OIG occurs in accordance with SWMBH Operating Procedure 10.08.01.

E. **Compliance with Duly Authorized Government Agency Investigations**

1. SWMBH personnel shall cooperate fully in any investigation or prosecution by any duly authorized government agency conducted either on SWMBH's premises or with SWMBH as a subject of the investigation, consistent with **SWMBH Policy 19.09 Response to Government Investigations on Premises**.
2. SWMBH's CCO or designee shall serve as the Special Investigation Unit Liaison, or point of contact, for the MDHHS OIG and/or AG HCFD, for compliance investigations and prosecutions being completed by either government entity.
3. To the extent requested activities are consistent with other applicable investigatory policies/procedures, AND consistent with applicable laws including 42 CFR Part 2, HIPAA, and the MI Mental Health Code, SWMBH shall cooperate with compliance related investigations and prosecutions including but not limited to
 - i. Upon request, providing:
 1. Information;
 2. Access to records, including records containing Protected Health Information without first obtaining a release of information;
 3. Access to schedule interviews with employees and consultants.
 - ii. Completing follow-up investigatory activities such as claims audits, interviews, etc.
 - iii. Providing follow-up investigatory documentation to the requesting governmental entity.

References:

- A. MDHHS-PIHP Agreement, Schedule A, Section 1, Subpart R – Program Integrity
- B. SWMBH Operating Policy 10.08 Compliance Reporting Requirements
- C. SWMBH Operating Procedure 10.08.01 Compliance Reporting Procedure

Attachments: None.

Revision History

Revision #	Revision Date	Revision Location	Revision Summary	Revisor
01	07/08/24	Throughout	Moved to new template. Added (A)(3)&(4); and Paragraphs (B) – (E) in their entirety.	Mila C. Todd
N/A	07/19/24	N/A	Reviewed at Regional Compliance Coordinating Committee	Mila C. Todd

10.08.02 Compliance Investigation Procedure

Final Audit Report

2024-07-31

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