

Network Medical Management (NMM)



Compliance Policy

Table of Contents

- PART I. SUMMARY OF FRAUD, WASTE AND ABUSE COMPLIANCE POLICY**.....
- A. Introduction.....
- B. Definitions & Examples of Potential FWA.....
- C. FWA’s Seven Core Elements
- PARTII. FRAUD, WASTE AND ABUSE DETECTION, CORRECTION AND PRVENTION COMPLIANCE PLAN**
- A. Policies and Procedures.....
- B. Compliance Officer and Compliance Committee.....
 - 1. Compliance Officer
 - 2. Compliance Committee
 - 3. Periodic Review of Compliance Program’s Effectiveness
- C. Training and Education.....
 - 1. General
 - 2. Compliance Training
 - 3. Documentation
 - 4. Compliance Reference Materials
- D. Effective Lines of Communication
- 1. General
 - 2. Effective Communication Assurance
 - 3. Methods of Reporting
 - 4. Covered Person Certification
 - 5. Exit Interviews
- E. Disciplinary Standards and Hiring Criteria
- 1. Condition of Employment
 - 2. Promotion of Standards
 - 3. Disciplinary Standards
 - 4. Hiring Criteria
- F. Procedures for Internal Monitoring and Auditing of Fraud, Waste and Abuse
- 1. Internal Auditing and Monitoring
 - 2. Formal Auditing and Monitoring
 - 3. Informal Audits and Monitoring
 - 4. Risk Assessment
 - 5. Documentation
 - 6. Periodic Audits
 - 7. Disclosure of Audit Results
 - 8. Data Analysis
- G. Procedures for Internal Monitoring and Auditing of Fraud, Waste and Abuse
- 1. General
 - 2. Responding to and Correcting Potential Violations
 - 3. Investigation
 - 4. Corrective Action
 - 5. Relations with CMS and Law Enforcement
 - 6. Government Investigations/Search Warrants
- PARTIII. CODE OF CONDUCT & REMEDIES OF NON-COMPLIANCE**.....
- A. COMMITMENT OF NMM
- B. REMEDIES FOR NON-COMPLIANCE

PART I. COMPLIANCE POLICY

A. Introduction

Network Medical Management has developed this Compliance program to ensure commitment with all applicable Federal and State standards, applicable laws, regulations and other program regulations. This Compliance Policy to be a comprehensive statement of the responsibilities and obligations of all employees and first tier, downstream and related entities regarding submissions to the Centers for Medicare & Medicaid Services, or CMS (for Medicare). In addition, this policy is intended to apply to business arrangements with physicians, vendors, subcontractors, hospitals, brokers, agents, and other persons who may be subject to federal or state laws relating to FWA.

Detecting and preventing FWA is the responsibility of everyone, including employees, members, providers and sub-contractors. NMM has written policies and procedures to address the prevention, detection, and investigation of suspicious activity. NMM also conducts compliance training and regularly publishes articles related to FWA on the Company's Intranet site. The Company has also established an Ethics Hot Line (1-626-943-6286) for employees, plan members, agents, and vendors to report suspected FWA anonymously. You can also email the questions or findings at fwacompliance@nmm.cc. Compliance Program is approved by Governing Board.

B. Definitions

- **Fraud:** Fraud is the intentional misrepresentation of data for financial gain. Fraud occurs when an individual knows or should know that something is false and makes a knowing deception that could result in some unauthorized benefit to himself or herself or another person
- **Waste:** The extravagant, careless or needless expenditure of healthcare benefits or services that result from deficient practices or decisions
- **Abuse:** It involves payment for items or services where there was no intent to deceive or misrepresent but the outcome of poor insufficient methods results in unnecessary costs to the Medicare program
- **First Tier Entity:** Any part that enters into a written arrangement, acceptable to CMS, with an MA organization to provide administrative services or health care services for a Medicare eligible individual under the MA program. A few examples are provider organizations hospitals, and pharmacies
- **Downstream Entity:** Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit, below the level of the arrangement between an MA organization sponsor and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. An example would include network providers who participate in our MA network pursuant to a capitation or leasing arrangement with a First Tier Entity. Other examples could include management services organizations, marketing firms, quality assurance companies, claims processing firms, and billing agencies

- **Related Entity:** Any entity that is related to the MA organization by common ownership or control and
 - Performs some of the MA organization’s sponsor’s management functions under contract or delegation
 - Furnishes services to Medicare enrollees under an oral or written agreement; or
 - Leases real property or sells materials to the MA organization sponsor at a cost of more than \$2500 during a contract period

Listed below are some examples of potential FWA but this list is not conclusive:

Falsifying Claims/Encounters

Alteration of Claim

Incorrect Coding

Double Billing

Billing for services not provided

Misrepresentation of services/supplies

Substitution of services

Delivery of Services

Denying access to services/benefits

Limiting access to services/benefits

Failure to refer for needed services

Under-utilization

Over-utilization

Administrative/Financial/Broker

Kickback/Stark violations

Fraudulent credentials

Fraudulent enrollment practices

Fraudulent recoupment practices

Embezzlement

Member Eligibility Fraud

Eligibility determination issues

Resource misrepresentation

Residency

Household composition

Income

Citizenship status

Prescription alteration/forgery

Durable Medical Equipment theft

Misrepresentation of medical condition

Failure to report third party liability

Member abuse

Physical abuse

Mental abuse

Emotional abuse

Sexual Abuse

Neglect

Discrimination

Providing substandard care

Financial exploitation

program come opportunities for potential FWA.

C. FWA's Seven Core Elements

This Compliance Program reflects NMM's good faith commitment to identify and reduce risk and FWA. It also reflects the commitment to improve internal controls, and establish standards to which NMM shall adhere. As such, NMM adopts the following principles of compliance:

1. Developing and distributing a written Code of Conduct, as well as this written policies and procedures that promote NMM's commitment to compliance, to provide general and specific operational guidance, and identify specific areas of risk and FWA
2. Designating a Compliance Officer and Compliance Committee involved with all Department Managers and Executives Directors charged with the responsibility of operating and monitoring the Compliance Program, including activities relating to the detection of FWA
3. Planning, implementing, and monitoring regular, effective education and training programs for Covered Persons regarding the Compliance Program and the detection of FWA
4. Maintaining effective auditing and monitoring systems and protocols to evaluate ONMM's compliance with laws, regulations, and other federal health care program requirements and the Compliance Program standards
5. Instituting disciplinary standards and appropriate hiring criteria to respond to allegations of improper or illegal activities, and carrying out the equitable enforcement of these standards on Covered Persons who have violated laws, regulations, and other federal health care program requirements or the Compliance Program standards
6. Establishing effective lines of communication between the Compliance Officer, Covered Persons and members of the Compliance Committee. This policy is to provide guidance and receive complaints about potential Compliance Program violations and FWA without fear of retaliation
 - Includes a system to receive, record, and respond to compliance questions, or reports of potential or actual non-compliance, while maintaining confidentiality
 - First tier, downstream and related entities must report compliance concerns and suspected or actual misconduct involving the MA to the MA Organization Sponsor
7. Investigating, responding to and preventing identified compliance problems, FWA, including establishing appropriate and coordinated corrective action measures with the assurance that NMM can take appropriate corrective actions according to any circumstances or problems that may arise.

PART II. FRAUD, WASTE AND ABUSE DETECTION, CORRECTION AND PREVENTION COMPLIANCE PLAN

A. Policies and Procedures

NMM is committed to policies and procedures for the detection, correction and prevention of FWA. To articulate its commitment to detect, correct and prevent FWA, NMM will:

1. Maintain a commitment to comply with federal and state regulatory requirements related to the Medicare program, including but not limited to the Anti-Kickback Statute and False Claims Act. NMM will continually monitor and update its Compliance Program to incorporate any modifications to applicable standards
2. Develop procedures that establish ramifications in instances where federal or state statutes or other regulatory requirements are breached
3. Distribute NMM's written Code of Conduct related to FWA to all Covered Persons at time of hire or contract, when the standards are updated, and annually thereafter. As a condition of employment, employees shall certify that they have received, read, and will comply with all written Code of Conduct
4. Have Covered Persons sign a statement, attestation or certification related to conflict of interest at time of hire or contract and annually thereafter
5. Maintain policies that require the review of the U. S. Department of Health & Human Services Office of Inspector General (DHHS OIG) and General Services Administration (GSA) exclusion lists on a periodic basis to ensure that its Covered Persons are not included on such lists. If the Covered Persons are on such lists, NMM's policies shall require the immediate removal of such Covered Persons from any work and enrollment
6. Describe the arrangements for identifying overpayments within its network and making repayments to the appropriate party of any overpayments
7. Establish procedures for the identification of FWA in NMM's network
8. Establish policies and procedures for coordinating and cooperating with CMS and law enforcement, including policies that fully cooperate with any audits conducted by the above-mentioned entities
9. Establish procedures for performing data requests for CMS and law enforcement
10. Maintain policies and procedures to comply with CMS' ten-year record retention requirement for PDPs as listed in the Federal Regulation at 42 CFR § 423.505(d) and Oklahoma's record retention policy at 67 O. S. § 206
11. Establish policies and procedures to ensure full disclosure to CMS of all NMM's bid pricing decisions for the PDP including clear guidance on how all decisions were documented
12. Establish policies and procedures that maintain a commitment to legal and ethical Pharmacy & Therapeutic Committee decisions and formulary decisions

B. Compliance Officer and Compliance Committee

NMM's Compliance Officer provides management and oversight for the ongoing development and implementation of the Compliance Program. NMM shall also establish a Compliance Committee consists of all department managers and executive officers to advise and provide support to the Compliance Officer in the implementation and maintenance of the Compliance Program.

1. Compliance Officer

The Compliance Officer is the focal point of the Compliance Program and shall be accountable for all compliance responsibilities at NMM. The Compliance Officer shall be a full-time employee whose role shall not be split between two persons. Based upon NMM's Compliance Officer's scope of responsibilities, NMM's size and resources, and the complexity of tasks, the Compliance Officer charged with the responsibilities overseeing the overall NMM Compliance Program and the Medicare Compliance Plan mandated by CMS to sponsors (which is incorporated into this overall Compliance Plan) shall be one and the same person.

The presence of the Compliance Officer does not diminish or alter a Covered Person's or entity's independent duty to abide by the Compliance Program. For example, managers and supervisors should be responsible for monitoring and promoting compliant behavior among those he or she supervises. In addition to the general accountability for NMM's Compliance Program, the Compliance Officer's responsibilities include:

- a. Developing, operating and monitoring the FWA program with authority to report directly to the Governing Board or NMM's administrator
- b. Periodically assessing NMM's compliance risk exposure and the development of action plans to assure that the Compliance Program responds to identified risk areas
- c. Formulating and ensuring the distribution of the Compliance Program.
- d. Overseeing the establishment, distribution and maintenance of the policies and procedures necessary to support the Compliance Program
- e. Ensuring that effective systems are established to prevent employment of individuals or contracting with vendors who are Excluded Individuals or Entities or who are otherwise determined to have engaged in illegal activities
- f. Ensuring that compliance education and training programs are effective to familiarize all NMM's employees with the components of the Compliance Program
- g. Updating and refreshing education and training information through mandatory periodic training that addresses compliance issues related to specific departments, groups of employees or other Covered Persons
- h. Coordinating internal audit endeavors to assess the effectiveness of NMM's internal controls and to detect significant violations of legal and ethical standards

- f. Maintaining a well-publicized disclosure program for reporting of potential Compliance Program violations without fear of retaliation and promoting effective lines of communication for Covered Persons, providers, members and the general public to pose informal compliance questions
- g. Maintaining a record of compliance-related complaints and allegations and the disposition of each case, including any associated disciplinary actions and remedial action pursued by NMM
- h. Conducting investigations, or authorizing outside investigations, in consultation with Legal Counsel, of potential violations of laws, regulations, other federal health care program requirements, or instances of unethical behavior, which jeopardize NMM
- i. Evaluating, determining and implementing the most appropriate remedy to correct an incident of noncompliance, once detected, and develop and implement strategies for identifying and preventing future incidents
- j. Reporting, in consultation with Legal Counsel any compliance matter requiring external reporting or disclosure
- k. Making at least quarterly reports on compliance developments to the Administrator and to the Governing Board, after consulting with Legal Counsel
- l. Serving as Chairperson of the Compliance Committee
- m. Maintaining a good working relationship with key operational areas relevant to the effective implementation of the Compliance Program, including Operations, Human Resources, Legal, Internal Audit and Finance
- n. Providing guidance and interpretation to the Governing Board, Administrator and Management, in consultation with Legal Counsel, on matters related to the Compliance Program
- o. Preparing, at least annually a report describing the compliance activities and actions undertaken during the preceding year, the compliance priorities for the next year, and any recommendations for changes to the Compliance Program. This report should include input from the Compliance Committee
- p. Reviewing and updating this Compliance Program at least annually, and as required by events, such as changes in the law, or discovered flaws in the Program.

2. Compliance Committee

NMM shall establish a Compliance Committee that is overseen by the Compliance Officer. The Compliance Committee shall be responsible for providing support to the Compliance Officer in the creation, implementation and operation of the Compliance Program. The Compliance Committee is critically important in establishing accountability, credibility, and the structure of the Compliance Program. The purpose of the Compliance Committee is to allow NMM and the Compliance Officer to benefit from the combined perspectives of individuals with diverse responsibilities and experiences. Accordingly, in addition to the Compliance Officer, who will chair the Committee, the Compliance Committee shall include representatives of and be attended by the following divisions:

- a. Legal Counsel
- b. All department Managers
- c. Director of Finance
- d. Director of HR
- e. Director of Operations
- f. Chief Medical Officer
- g. Other Executives Officers

The Compliance Committee is authorized to invite other persons or the general public to meetings to draw from other relevant expertise related to the matter under discussion. The Compliance Committee shall support the Compliance Officer in furthering the objectives of the Compliance Program by:

- a. Developing departmental P&P and internal auditing policy and procedures
- b. Analyzing the legal requirements with which NMM must comply, and the specific risk areas
- c. Updating and providing revisions to the Compliance Program
- d. Developing effective training programs
- e. Recommending and supervising, in consultation with the relevant departments and facilities, the development of internal systems and controls to achieve the standards set forth in the Compliance Program
- f. Determining the appropriate strategy to promote adherence to the Compliance Program standards
- g. Developing a system to solicit, evaluate and respond to complaints and problems
- h. Creating and implementing effective methods for the proactive identification of potential compliance programs throughout NMM
- i. Assessing the effectiveness of the Compliance Program
- j. Furnishing recommendations to the Compliance Officer regarding reports to be furnished to the Administrator, the Governing Board, or other parties
- k. Reviewing and providing comments to the annual compliance audit plan

The Compliance Committee may also address other compliance functions as the Compliance Program develops.

The Compliance Committee shall create *ad hoc* committees and task forces as necessary to perform specialized functions, such as conducting an investigation into reported noncompliance, in an efficient and effective manner.

3. Periodic Review of Compliance Program's Effectiveness

The Compliance Officer will regularly, at least annually, review the effectiveness of the Compliance Program and make a report to the Administrator and the Governing Board. The report will include any Compliance Program updates or revisions that may be needed.

If a violation occurred and was not immediately detected, the Compliance Program must be reviewed with a determination of the need for modification. The Compliance Officer should analyze the situation to determine whether a flaw in the Program failed to anticipate the detected problem, or whether the Compliance Program's procedures failed to prevent the violation.

As part of the regular review of the effectiveness of the Compliance Program, the Compliance Officer should consider other risk areas and newly developed methodologies that might be appropriate for the Compliance Program to review.

The Compliance Officer will remain educated and knowledgeable in the area of compliance. (S)he will regularly review notices and reports from the OIG to identify vulnerabilities and risk area on which the OIG (or others in the field of ethics and FWA detection) will focus in the future. The Administrator and the Governing Board will be immediately advised of any particular activities that are being reviewed by OIG related to NMM and any risks of which NMM needs to be aware.

C. Training and Education

1. General

In order to create and maintain a culture of compliance, NMM shall provide initial and continuing education for its employees which includes temporary employees on all matters set forth in this Compliance Program. Participation in the educational programs set forth in this Compliance Program shall be a condition of employment with NMM and all new employees will be trained within thirty (30) days of beginning employment. All Covered Persons shall receive a minimum of one hour annually for basic training in compliance areas.

NMM will use a variety of methods to train and educate its employees regarding the Compliance Program. These include live and electronic presentations, distribution of written materials, including newsletters and posting information on bulletin boards, and web-based tools. In establishing educational objectives for current and future employees, NMM will determine:

- a. The type of training that best suits NMM's needs (e.g., seminars, in-service training, self-study or other programs)
- b. When the education is needed and how much each person should receive to achieve the Compliance Program's goals

All Covered Persons, other than NMM employees, shall be responsible for establishing an education and training program that encompasses potential FWA and access to NMM's reporting of FWA. NMM's PBM shall have training and education specifically including the Compliance Program requirements found at 42 CFR § 423.504(b)(4)(vi).

2. Compliance Training

Training will include information on the compliance program itself and applicable statutes and regulations. The educational programs provided by NMM shall include:

- a. An overview of this Compliance Program with specific instruction on the disclosure and reporting mechanisms contained in the Compliance Program, and the duty and means by which possible violations can be reported
- b. How NMM FWA may be identified
- c. What to do when FWA is identified
- d. An overview of state and federal laws and regulations identified in Code of Conduct and how they relate to NMM, including the roles and responsibilities of the individuals in potentially identifying areas that need to be reported for further investigation
- e. An overview of federal and state anti-discrimination and harassment laws and NMM's policies with regard to the same
- f. Training on common fraudulent schemes in the health care and pharmaceutical industry as identified by CMS, the OIG, or the U. S. Department of Justice
- g. Training and education on NMM's policy regarding governmental investigations and search warrants
- h. Training regarding the role of each Covered Person and the consequences for NMM and the individual violating the policies
- i. The role of CMS and law enforcement, and cooperation with these entities in an investigation
- j. Training regarding the key risk areas in the OIG guidance and areas of particular OIG interest

3. Documentation

NMM shall maintain documentation of all educational activities, including a record of dates, times, attendance, materials distributed and agenda for all professional and compliance training sessions in which Covered Persons participate.

4. Compliance Reference Materials

The Compliance Officer shall maintain a library of regulatory and compliance-related information and training manuals. This information includes carrier newsletters, Medicare manuals, federal regulations, HCFA interpretations, and materials published by the American Medical Association and other relevant professional societies. The Compliance Officer is also responsible for regularly disseminating new compliance information to Covered Persons.

D. Effective Lines of Communication

1. General

NMM shall have effective lines of communication to receive record and respond to instances of potential FWA and other reports of non-compliance with these policies between the Compliance Officer, the general public, Covered Persons, Governing Board members, and members of the Compliance Committee. The Compliance Officer is charged with the responsibility of ensuring that a clear “open door” policy between Covered Persons, members, the general public and the compliance office is established. This includes procedures to ask compliance questions or make reports of potential or actual non-compliance to the Compliance Officer. The Compliance Officer will utilize a number of communication techniques to continuously update Covered Persons on compliance information. This will include the use of electronic presentation, bulletin board(s) in common areas, email, newsletters, and NMM’s Intranet sites.

2. Effective Communication Assurance

To ensure effective communication, NMM will:

- a. Ensure that Covered Persons are aware that policies and procedures require Covered Persons report conduct that a reasonable person would, in good faith, believe to be fraudulent or erroneous, and that failure to do so is a violation of the Compliance Program
- b. Have a simple and readily accessible procedure, developed by the Compliance Officer, to process reports of fraudulent or erroneous conduct;
- c. Have a process that maintains the confidentiality of the persons involved in the alleged fraudulent or erroneous conduct and the person making the allegation
- d. Ensure that there will be no retribution for reporting conduct that a reasonable person acting in good faith would have believed to be fraudulent or erroneous

3. Methods of Reporting

All Covered Persons are required to report incidents of, violations of this Compliance Program, unethical conduct, or incidents of potential FWA to the Compliance Officer.

- a. Such reports may be made to the Compliance Officer in person, e-mail, in writing, or by phone. Reports shall be treated as confidential to the extent reasonably possible. There shall be no retaliation against anyone who submits a good faith report of noncompliance

- b. Reports may be made on an anonymous basis through a drop box, e-mail, or a direct telephone hotline; investigations to hot line inquiries involving potential FWA violations shall be responded to within thirty (30) days of request.
- c. Published information, including outgoing greetings on “hotline” systems shall include a:
 - (i) Description of the various methods available to report FWA
 - (ii) Statement that every attempt will be made to maintain confidentiality, but the confidentiality may be guaranteed if law enforcement is involved
 - (iii) Description of how anonymous reports may be made and how the anonymous system will allow the reporter to provide additional information (if needed) and receive status updates on the investigation
 - (iv) Description of NMM’s policy on non-retaliation or retribution for reports of FWA made in good faith
- d. Any reported matters that suggest substantial violations of compliance policies, regulations, or statutes shall be documented and investigated promptly. Each report, regardless of the source, shall be assigned a control number, and a record shall be made containing the following data:
 - (i) The date the report was made
 - (ii) The person who received the report
 - (iii) The allegations
 - (iv) The actions taken in response
 - (v) The name of the person making the report, if not made anonymously
- e. The Compliance Officer shall inform the Administrator and the Governing Board of reported incidents of material violation, and provide the Governing Board with the record of the report
- f. The Compliance Officer shall maintain all discovered or reported information in the strictest confidence and shall not disclose to any person or entity, other than the Administrator, Legal Counsel and the Governing Board, any such information unless otherwise directed by the Administrator or the Governing Board

4. Covered Person Certification

All Covered Persons engaged by NMM shall be required, on an annual basis, to certify, on a signed and dated form, whether they are aware of any violations or potential violations of this Compliance Program, and if so, shall provide detailed information about these possible violations on the form. The form shall state:

- a. that confidentiality shall be maintained as best possible
- b. that the Covered Person has the right to meet personally with the Compliance Officer in place of completing the certification form

5. Exit Interviews

Any employee who leaves NMM's employ, whether voluntarily or involuntarily, shall be invited to participate in an exit interview with the Compliance Officer. The Compliance Officer shall ask the departing employee whether he or she is aware of any violations of this Compliance Program. The Compliance Officer shall document the exit interview contents thoroughly on a report

E. Disciplinary Standards and Hiring Criteria

1. Condition of Employment

Adherence with Compliance Program standards and all applicable laws and regulations is a condition of employment or association with NMM and NMM will pursue appropriate disciplinary action to enforce compliance. The Compliance Officer will review the U. S. Department of Health and Human Services Office of the Inspector General (OIG) and General Services Administration (GSA) exclusion lists on a monthly basis to ensure that NMM's Covered Persons are not included on such lists. Any Covered Person on these lists shall be immediately removed from any work on all federal health care programs.

2. Promotion of Standards

NMM shall, under the direction of the Compliance Officer, promote standards to well-publicized disciplinary guidelines regarding its FWA plan. This may be accomplished through:

- a. The release of newsletters which explain FWA
- b. Including compliance guidelines for the regular topics at staff meetings,
- c. Displaying posters and notices in common areas
- d. E-mails
- e. Other kinds of communication appropriate for NMM to communicate to the employees the scope and responsibility of the Compliance Program
- f. Posting information about FWA and reporting methods on NMM's Internet and Intranet web sites

The information shall be provided to all Covered Persons.

3. Disciplinary Standards

NMM shall develop, implement and maintain a mechanism of accountability and discipline for individuals who violate any law or regulation, or any of the Compliance Program standards, in the course of their employment or association with NMM. Examples of actions or omissions that will be subject to disciplinary action include, but are not limited to:

- a. Violation of law or any of the Compliance Program standards
- b. Failure to report a suspected or actual violation of law or the Compliance Program, or failure to cooperate fully in an investigation of alleged noncompliance
- c. Lack of attention or diligence on the part of supervisory personnel that directly or indirectly leads to a violation of law or the Compliance Program
- d. Direct or indirect retaliation against a Covered Person who reports through any means a violation or possible violation of law or the Compliance Program
- e. Deliberately making a false report of a violation of law or any of the Compliance Program standards
- f. All disciplinary actions will be taken in a timely manner and applied consistently

4. Hiring Criteria

No individual who has engaged in illegal or unethical behavior and/or has been convicted of health care-related crimes shall occupy positions within NMM that involve the exercise of discretionary authority as it relates to the provision or denial of insurance benefits. Accordingly, any applicant for an employment position with NMM will be required to disclose whether the individual has ever been convicted of a crime, including crimes related to health care or has ever been sanctioned by a federal health care program. In addition, NMM will reasonably inquire into the status of each prospective employee at a minimum, pursuing the following steps:

- a. Conducting background checks of employees to ensure that no history of engaging in illegal or unethical behavior exists
- b. Reviewing the Exclusion List
- c. NMM shall not knowingly employ or contract with Excluded Individuals and Entities. Accordingly, NMM has implemented procedures to immediately remove Covered Persons from any work on all federal health care programs that have been convicted or excluded from participation in federal health programs. In no instance will NMM allow a Covered Person to perform in those capacities if such person has been excluded from participation in any federal health care program

F. Procedures for Internal Monitoring and Auditing of Fraud, Waste and Abuse

As an integral part of its commitment to prevent FWA, NMM has developed, and shall continue to develop and refine, procedures for effective internal monitoring and auditing of FWA and Risk Assessment.

1. Internal Auditing and Monitoring

In order to detect non-compliance with the Compliance Program, NMM shall periodically monitor and audit the business activities of NMM including but not

limited to the auditing claims and other Medicare compliance audits conducted at NMM.

Auditing and monitoring of FWA may be performed utilizing any of the following:

- a. Unannounced internal audits or "spot checks;"
- b. Examination of the performance of the Compliance Program including review of training, the compliance issues log (e.g. hotline log), investigation files, certifications for receipt of standards of conduct, and conflict of interest disclosure/attestation
- c. Review of areas previously found non-compliant to determine if the corrective actions taken have fully addressed the underlying problem;
- d. Use of objective, independent auditors that are knowledgeable of the Medicare program requirements and are not employed in the area under review
- e. Access to existing audit resources, relevant personnel, and relevant areas of operation by both internal and independent auditors

2. Formal Auditing and Monitoring

NMM's Internal Auditor shall collaborate with the Compliance Officer and Compliance Committee in coordination of formal audits. Audits may be performed by internal or external auditors with expertise in federal and state health care statutes, regulations, and policies. The external auditor shall be independent of NMM's management and have complete access to records and personnel.

3. Informal Audits and Monitoring

Monitoring activities refer to reviews that are repeated on a regular basis during the normal course of operations. Monitoring may occur to ensure corrective actions are undertaken or when no specific problems have been identified to confirm ongoing compliance.

4. Risk Assessment

NMM shall have a risk assessment system that determines where NMM is at risk for FWA, and prioritizes (ranks) the risks. The Compliance Officer and Compliance Committee shall participate in or contribute to the risk assessment process. NMM shall have a system of ongoing monitoring and auditing that is coordinated or executed by the Compliance Officer to assess performance in, at a minimum, areas identified as being at risk. The processes used to implement the risk assessment system shall be documented and available, upon request, to CMS.

5. Documentation

All efforts to comply with applicable statutes and regulations shall be documented, including the fact that an audit has taken place and a description of

the nature and results of the audit. Any inquiries NMM makes of third party

payors or Medicare carriers regarding the claim submission process shall be documented if NMM intends to rely on the guidance.

NMM or its designee will engage in data analysis to identify patterns of aberrant and potentially abusive utilization or business practice. When data analysis reveals the potential for fraud or abuse, NMM must refer these leads promptly to the MEDIC for further investigation. Documentation of how internal monitoring and auditing for FWA, including data analysis procedures, may be requested upon CMS audit.

6. Periodic Audits

On a periodic basis as determined by the Compliance Officer, but no less than once a year, NMM shall conduct random audits to ensure claims processing accuracy and adherence to the Compliance Program. When audit results reveal areas needing additional information or education of Covered Persons, these areas will be incorporated into the training and educational system. Periodic audits shall include the following:

- a. The operations of NMM and other related entities
- b. Claims processing (e.g. claims processing edits that will identify potential FWA, either prospective, retrospective or both)
- c. Marketing operations
- d. Pricing
- e. Formulary Development
- f. Pharmacy & Therapeutics committee
- g. CMS payment operations (e.g. “the bid,” claims data submission for payment)
- h. Testing and confirming compliance with the benefit regulations and all applicable state and federal laws as well as internal policies and procedures

7. Disclosure of Audit Results

The Internal Auditor and/or Compliance Officer shall report to the Governing Board the results of any audit. The Compliance Officer, in consultation with Legal Counsel, shall determine whether corrective action is necessary. Legal Counsel will advise on matters of attorney/client privilege, disclosure, and whether NMM has any affirmative duties to report the violations and/or make restitution to members, providers, or CMS.

8. Data Analysis

NMM or its designee will engage in data analysis to identify patterns of aberrant and potentially abusive utilization. When data analysis reveals the potential for FWA within NMM’s network, NMM shall refer these leads promptly to the MEDICs for further investigation. Documentation of how internal monitoring and auditing for FWA, including data analysis procedures, shall be made by NMM which may be requested upon a CMS audit.

G. Responding to Possible or Detected Violations

1. General

NMM is committed to investigating any incident of noncompliance with the Compliance Program, significant failures to comply with applicable federal or state law, and other types of misconduct which threatens or calls into question NMM's status as a reliable, honest, and trustworthy agency of the State of Oklahoma. Fraudulent or erroneous conduct that has been detected, but not corrected, can seriously endanger the reputation and legal status of NMM. In this regard, NMM has developed internal and external audit procedures and encourages Covered Persons to report FWA on their own initiative.

2. Responding to and Correcting Potential Violations

Upon receipt of reports or reasonable indications of suspected noncompliance or FWA, the Compliance Officer, or the person to whom (s)he delegates, will investigate the allegation(s) to determine whether a material violation of applicable law or requirements of the Compliance Program has occurred.

In the event any material violation of this Compliance Program, or if any incident of fraud is determined by the Compliance Officer, the Compliance Officer shall immediately take appropriate actions, including:

- a. Referral of any abusive or potentially fraudulent conduct or inappropriate utilization activities, once identified via proactive data analysis or other processes, for further investigation to CMS
- b. Procedures to cooperate with law enforcement and CMS
- c. Immediate reporting of potential violations of Federal law to the DHHS OIG or, alternatively, to appropriate law enforcement authorities
- d. Identification and repayment of any overpayments to the appropriate party
- e. Removal of any Covered Persons or members who engage in fraudulent or abusive practices from any work on all federal health care programs

3. Investigation

An investigation of a particular practice or suspected violation shall involve a review of the relevant documentation and records, interviews with staff, and analysis of applicable laws and regulations. All investigations shall be conducted under the auspices of Legal Counsel and any and all investigators, consultants or other third parties retained to participate in the investigations shall be retained through Legal Counsel.

The results of any investigations shall be thoroughly documented. Investigation records shall include a description of the investigative process, copies of interview notes and key documents, a log of individuals interviewed and documents reviewed, the results of the investigation, and any disciplinary or corrective actions taken. Precautions shall be taken to ensure that critical documents are not destroyed without permission of the Compliance Officer and approval of Legal Counsel, and are retained in accordance with statutory guidelines regarding retention.

4. Corrective Action

Corrective Action should be taken promptly following completion of the investigation. If an audit or investigation reveals a material violation of this Compliance Program, the Compliance Officer and Legal Counsel shall draft a corrective plan of action, and establish deadlines by which corrective action must take place. Possible corrective actions include, but are not limited to, refunds of any overpayment received, disciplinary actions, and reporting to federal or state authorities.

All corrective actions shall be documented, and include progress reports with respect to each error identified. Any decision whether to disclose the results of investigations or audits to federal or state authorities shall be made by the Governing Board based upon recommendations of Legal Counsel.

5. Relations with CMS, and Law Enforcement

It is NMM's policy to fully cooperate with CMS, and law enforcement. NMM shall cooperate and coordinate with, CMS, and law enforcement as appropriate, in the following ways:

- a. Access shall be provided to all requested facilities and records associated in *any* manner with the program for (ten) 10 years from the end of the final contract period or completion of an audit, whichever is later, unless specific conditions apply. This includes allowing access to any government auditor acting on behalf of the federal government or CMS to conduct an onsite audit at the facilities of NMM or any of its subcontractors
- b. Complaints received by NMM alleging or demonstrating potential fraud must be referred to the CMS for further investigation;
- c. Referrals to the CMS shall be documented. ;
- d. NMM shall be able to furnish all information requested by the CMS and law enforcement, including claims data, within thirty (30) days from the date of the request unless otherwise specified
- e. Once NMM has referred a case to the CMS, NMM will continue to track all aspects of the case, as specified by the CMS and provide updates to the CMS as needed.

6. Government Investigations/Search Warrants

In the event a Covered Person is contacted by a governmental agency regarding NMM's business, or, if a governmental agent visits a Covered Person, the Covered Person in question shall immediately notify the Compliance Officer or Legal Counsel.

A search warrant is a legal document giving authorization to specific law enforcement officers to search a specified area and to seize specific material. The warrant must describe the material that can be seized and the places that may be searched; and must be signed by, or on behalf of, a judge or magistrate with jurisdiction over the area to be searched. In the event a law enforcement officer or government agent presents a search warrant at NMM, the following procedures shall be taken:

- a. Cooperate with the agents and immediately notify the Compliance Officer
- b. If for any reason the Compliance Officer cannot be reached, immediately contact the compliance reporting hotline at 626-943-6286
- c. The Compliance Officer (or designee) will immediately notify Legal Counsel and the Administrator;
- d. The Administrator should become the contact person for the agents;
- e. Ask for identification from the agent in charge of executing the warrant, and ask for a copy of both the search warrant and the affidavit submitted to the court in order to obtain the warrant. E-mail or send this information to the Compliance Officer as soon as possible
- f. It is NMM's policy to cooperate fully with the agents. It is absolutely critical that no Covered Person interferes with the agents in any way during their search or prevents them from accessing anything listed in the search warrant. Obstructing or interfering with a lawful search can constitute a serious offense
- g. The contact person should accompany the agents during the search and take notes of what they take, what they look at, to whom they talk, and what questions are asked
- h. The agents may ask Covered Persons questions during the search. Agents may present themselves at the home of a Covered Person. Covered Persons have the right to either talk to the agents or not to talk to them, except to the extent that it is necessary to talk to them to comply with the warrant. Covered Persons also have the right to consult with counsel when making that decision and to have counsel present if they decide to talk to the agents
- i. The search warrant will include an attachment listing things that can be seized and places that may be searched. If the agents try to go into areas that are not listed in the warrant, ask them to wait until legal counsel arrives. If they refuse, do not interfere, but note which agents went into areas not specified in the warrant, when this occurred, and whether they seized anything from the area

- j. Agents may take original documents. You should ask for a detailed inventory of the material the agents are taking. They are required to provide a receipt for the articles taken
- k. If the agent takes documents (including computer files), ask to make copies of those documents. Agents are not required to allow copies to be made and may refuse to do so
- l. If the agents are looking for a document housed in a place other than those listed on the warrant, let the agents know we will be happy to comply once their search warrant has been updated. Covered Persons should not block access to any area, but do not give agents permission to search an area that is not listed on the warrant

PART III. CODE OF CONDUCT & REMEDIES OF NON-COMPLIANCE

A. Commitment of NMM

The Network Medical Management (NMM) is committed to:

1. Conducting its business in accordance with the highest standards of ethical conduct
2. Conducting its business activities with integrity and in full compliance with the federal, state and local laws governing its business; and
3. Complying with all federal and state regulatory requirements related to the CMS requirements including the detection, correction and prevention of FWA.

This commitment applies to relationships with its members, enrollees, federal, state and local governments, vendors, competitors, auditors and all public and government bodies. Most importantly, it applies to all Covered Persons.

B. Remedies for Non-Compliance

Possible disciplinary action shall depend on the degree of severity of noncompliance and may include, but shall not be limited to:

1. Warnings (oral)
2. Reprimands (written)
3. Probation
4. Demotion
5. Suspension without pay
6. Referral to counseling
7. Withholding of a promotion or salary increase or other financial penalties
8. Termination
9. Failure to renew agreements
10. Contract termination
11. Restitution of damages
12. Referral for criminal prosecution to law enforcement agencies, CMS as appropriate

Copies of this Code of Conduct shall be distributed to all Covered Persons at the time of hire, to Governing Board Members at or before their first regular Board meeting, and when the standards are updated, and annually thereafter. As a condition of employment, NMM employees shall certify that they have received, read, and will comply with all written standards of conduct and this Compliance Program.

Disciplinary action will be pursued on a fair and equitable basis, and employees at all levels of NMM shall be subject to the same disciplinary action for the commission of similar offenses, including management. NMM's Human Resources Director, in conjunction with the Compliance Officer and Compliance Committee, will serve as the appropriate body to ensure that the imposed discipline is proportionate and administered fairly and consistently in compliance with NMM's policies and procedures.

Disciplinary standards shall be well-publicized and shall be disseminated and available. Enforcement of disciplinary standards will require an effective working relationship between the Compliance Officer, Human Resources and other areas of NMM maintaining primary responsibility for administering discipline.

This Compliance Program may not include all circumstances that would fall within the intent of the Compliance Program and be considered a violation that should be reported. Persons should report all suspected dishonest or illegal activities whether or not they are specifically addressed in the Compliance Program.