



## 2019 Annual CMS Compliance Program Attestation

Your organization is receiving this Annual Attestation Form because it entered into a written agreement with Magellan\* as a First Tier, Downstream or Related Entities (FDR), Delegated Subcontractor, and/or Subcontractor to provide administrative or health care services to Medicare and/or Medicaid enrollees. Accordingly, your organization plays an important role in helping to meet our commitments to our customers and members. Also, your Organization is subject to Federal and State laws, regulations, and other requirements relating to the Medicare and Medicaid programs. Magellan conducts an annual process to assess general business risks and to ensure your organization is compliant with State, Federal and contractual requirements.

Please review the following sections:

**Section 1:** Medicare Compliance Program Requirements and Attestation- **Only Complete if Medicare Services are provided (your contract contains a CMS Addendum)**

**Section 2:** Medicaid Requirements and Attestation – **Only Complete if Medicaid Services are provided (your contract contains a state specific Medicaid Addendum)**.

**Section 3:** Business and Operational Risk Assessment- **Must be completed.**

**Section 4:** Organizational Information and Signature- **Must be completed.**

Please review each section and make one selection of either yes or no, where indicated, for each applicable section. If your organization's answer to any of the items below asks for documentation or a written response, please provide an explanation or supporting evidence. Please complete this form and upload to the Compliance360 assignment no later than **November 15<sup>th</sup>**.

**First Tier Entities, Downstream Entities and Related Entities** are defined as follows:

**First Tier Entity** is any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program. (See, 42 C.F.R. § 422.500 and 42 C.F.R. § 423.501).

**Downstream Entity** is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. (See, 42 C.F.R. § 422.500 and 42 C.F.R. §, 423.501)

**Related Entity** means any entity that is related to an MAO or Part D sponsor by common ownership or control and (1) Performs some of the MAO or Part D plan sponsor's management functions under contract or delegation; (2) Furnishes services to Medicare enrollees under an oral or written agreement; or (3) Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than \$2,500 during a contract period. (See, 42 C.F.R. § 422.500 and 42 C.F.R. §423.501)

**Magellan's vendors have a responsibility to report compliance, fraud, waste and/or abuse issues that impact Magellan business. You may confidentially report any potential violations of our compliance policies or any other applicable regulations/requirements, by calling Magellan's Compliance Hotline, 24 hours per day/7days a week, at 1-800-915-2108.**

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## Section 1: Medicare Compliance Program Requirements and Attestation (Medicare vendors only)

### A.

#### General Compliance AND Fraud, Waste and Abuse (FWA) Trainings

**Requirement:** Magellan requires all employees, temporary employees, volunteers, consultants and governing body members of an FDR (including temporary or volunteer), who are involved in the administration or delivery of Medicare Program benefits, to be educated about general compliance content and information about FWA. Applicable newly hired individuals should be educated within 90 days of hire and annually thereafter.

#### Attestation:

##### General Compliance Training

- I attest, yes, we are in compliance with the requirements as stated above.
- I attest, no, we are not in compliance with the requirements as stated above.

##### FWA Training

- I attest, yes, we are in compliance with the requirements as stated above.
- I attest, no, we are not in compliance with the requirements as stated above.

### B.

**Code of Conduct/Privacy Agreement** -42 CFR 422.503(b) (4) (vi) (A); 423.504(b) (4) (vi) (A); Medicare Prescription Drug & Managed Care Manual, Chapters 9 and 21, §50.1.1

**Requirement:** Magellan requires all FDRs supporting our Medicare Programs to adopt and abide by Magellan's Vendor Code of Conduct or implement a Code of Conduct that incorporates requirements that are consistent with Magellan's Vendor Code of Conduct. The Code of Conduct must provide the standards by which individuals will conduct themselves including the responsibility to perform duties in an ethical manner and in compliance with laws, regulations and policies. The Code of Conduct should be distributed to employees, temporary employees, volunteers, consultants and governing body members of an FDR, who are involved in the administration or delivery of Medicare Program benefits, within 90 days of hire/contract start date, annually thereafter, and any time there are material changes made to it.

**Attestation:** Has every employee, temporary employee, volunteer, consultant and governing body member, who are involved in the administration or delivery of Medicare Program benefits, in compliance with the requirements as stated above?

<https://www.magellanhealth.com/documents/2019/03/vendor-code-of-conduct.pdf/>

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- I attest, yes, the Organization is in compliance via the use of Magellan’s Vendor Code of Conduct; or
- I attest, yes, the Organization is in compliance via the use of another Code of Conduct that is similar to the Magellan Vendor Code of Conduct. (Please be prepared to provide copies if requested).
- I attest the Organization is not in compliance.

### C.

**Sanction and Exclusion Monitoring** - 42 CFR 422.503(b)(4)(vi)(F); 422.752(a)(8);423.504(b)(4)(vi)(F); 423.752(a)(6); Medicare Prescription Drug & Managed Care Manual, Chapters 9 and 21, §50.6.8

**Requirement:** All of your employees, temporary employees, volunteers, consultants and governing body members, who are involved in the administration or delivery of Medicare Program benefits, should be reviewed against the DHHS OIG List of Excluded Individuals and Entities (LEIE list),the GSA Excluded Parties Lists System (EPLS) and the CMS Preclusion List (as applicable), prior to hire/contracting and monthly thereafter, to ensure that no individuals and entities have been excluded or precluded from being able to participate in federal programs.

**Attestation:**

- I attest, yes, the Organization is in compliance with the requirements as stated above.
- I attest, no, the Organization is not in compliance with the requirements as stated above.

### D.

**Downstream and Related Entities**

**Requirement:** Your Downstream and Related Entities are subject to all requirements as established by CMS. If your Organization sub-delegates any currently delegated function or activity, the Organization must obtain advance written approval from Magellan, prior to contracting with the entity. You then must include all applicable flow-down contractual language in your contract with the downstream and/or related entity and then maintain oversight of them.

**Attestation:** Has your organization conducted appropriate oversight of delegated functions or services in accordance with responsible business practices and accreditation/regulatory oversight requirements and included all delegation flow-down language in your contracts with such entities which meets Magellan Compliance Requirements as well as applicable accreditation/regulatory requirements? **If yes, please provide a list of the vendors and their functions/services.**

- I attest, yes, the Organization is in compliance with the requirements as stated above.
- I attest, no, the Organization is not in compliance with the requirements as stated above.

Provide a list of your downstream and related entities, including contract effective date and the functions they serve. (REQUIRED) If more space is needed, include on a separate sheet

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**E.**  
**Offshore Services**

**Attestation:** Do you perform any services offshore or contract with any downstream or related entities that provide services offshore? (The term “offshore” refers to any country that is not one of the fifty United States, or one of the following United States Territories: American Samoa; Guam; Northern Marianas; Puerto Rico; and the Virgin Islands.)

Yes. If you contract with a downstream or related entity that performs services offshore, please complete

**Attachment A (REQUIRED)**

No

**F.**  
**Security and Privacy**

**Attestation:** Does your organization comply with all applicable Health Insurance Portability and Accountability Act (HIPAA) security and privacy regulations?

I attest, yes, the Organization is in compliance with all the requirements under HIPAA.

I attest, no, the Organization is not in compliance with all the requirements under HIPAA.

**G.**

**Record Retention and Availability** - 42 C.F.R. §§ 422.503(b) (4) (vi) (E), 423.504(b) (4) (vi) (E); Medicare Prescription Drug & Managed Care Manual, Chapters 9 and 21, § 50.3.2 and 50.5.3.

**Requirement:** Record information described in the subsections under Section 1., must be maintained for a period of for up to ten (10) years from the final date of the contract period or ten (10) years from the date of any audit if later. Such information must be made available to Magellan and/or CMS for up to ten (10) years from the final date of the contract period.

**Attestation:**

I attest, yes, the Organization is in compliance with the requirements as stated above.

I attest, no, the Organization is not in compliance with the requirements as stated above.

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## H.

**Reporting Compliance Concerns** - 42 CFR 422.503(b) (4) (vi) (E); 423.504(b) (4) (vi) (E); Medicare Prescription Drug & Managed Care Manual, Chapters 9 and 21, §50.7.

*Requirement:*

**Requirement:** Issues regarding non-compliance and Fraud, Waste and Abuse must be reported to Magellan as instructed in our Vendor Code of Conduct.

**Attestation:**

- I attest, yes, the Organization is in compliance with the requirements as stated above.
- I attest, no, the Organization is not in compliance with the requirements as stated above.

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## Section 2: Medicaid Requirements and Attestation (Medicaid Vendors Only)

Under the Deficit Reduction Act of 2005, section 6032, Magellan is required to disseminate written policies, information, and education about false claims, which must in turn be adopted by our contractors and agents that serve members covered through Medicaid contracts.

Contractors/Subcontractors and agents are provided access to Magellan’s policies which are available online at <https://www.magellanhealth.com/about/compliance/dra/>. You are required to comply with Magellan’s policies regarding fraud, waste, and abuse. Contractors/Subcontractors and agents may also ask for copies of our fraud, waste, and abuse policies. A copy of Magellan’s DRA Compliance Statement and State False Claims Grid are published on our website at <https://www.magellanhealth.com/about/compliance/dra/>.

### A.

#### General Compliance AND (FWA) Trainings – Subcontractors that serve Magellan’s MEDICAID business

**Attestation:** Has every employee, temporary employee, volunteer, consultant, governing body member, and/or subcontractor that provides services to members enrolled in a Medicaid plan, completed a Magellan-approved\* general compliance training within 30 days of hire or contracting and annually thereafter?

- I attest, yes, we are in compliance with the completion of the new hire and/or annual requirement of Compliance Training developed by CMS.
- I attest, no, we are not in compliance with the completion of the new hire and/or annual requirement of Compliance Training developed by CMS.

*\*Magellan considers the CMS Medicare Parts C&D Compliance Training automatically approved.*

### B.

#### Code of Conduct/Privacy Agreement

Requirement: Magellan requires all delegates supporting our Medicaid Programs to adopt and abide by Magellan’s Vendor Code of Conduct or implement a Code of Conduct that incorporates requirements that are consistent with Magellan’s Vendor Code of Conduct. The Code of Conduct must provide the standards by which individuals will conduct themselves including the responsibility to perform duties in an ethical manner and in compliance with laws, regulations and policies. The Code of Conduct should be distributed to employees, temporary employees, volunteers, consultants and governing body members of an FDR, who are involved in the administration or delivery of Medicaid Program benefits, within 90 days of hire/contract start date, annually thereafter, and any time there are material changes made to it.

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**Attestation:** Has every person with ownership or control interest in your organization including all your contractors/agents, managing employees, agents, employees, temporary employees, volunteers, consultants, governing body members and/or subcontractors, upon hire or contracting and annually thereafter, received, read, and attested that they will comply with your organization's or Magellan's Vendor Code of Conduct and privacy policies and procedures?

<https://www.magellanhealth.com/documents/2019/03/vendor-code-of-conduct.pdf>

- I attest, yes, the Organization adopts and complies with Magellan's Vendor Code of Conduct; or
- I attest, yes, the Organization has adopted another Code of Conduct that is similar to the Magellan Vendor Code of Conduct and follows set standards (Please be prepared to provide copies if requested).
- I attest the Organization is not in compliance as set forth by CMS.

## C.

### Sanction and Exclusion Monitoring

**Attestation:** Has your organization confirmed the identity and determined the exclusion status of person(s) with ownership or control interest in the subcontractor/agent, agent, managing employee, employee, temporary employee, volunteer, consultant, governing body member, and/or subcontractor through routine checks of Federal databases. This includes the Social Security Administration's Death Master File, the National Plan and Provider Enumeration System (NPPES), the Department of Health and Human Services Office of Inspector General (HHS/OIG) List of Excluded Individuals and Entities (LEIE), the General Services Administration System for Award Management (GSA/SAM) list, as well as the U.S. Treasury Department Office of Foreign Assets List of Specially Designated Nationals and Blocked Persons, and State Medicaid Exclusion lists, when applicable, and any other databases as the State or Secretary may prescribe. These databases must be consulted upon contracting and no less frequently than monthly thereafter, if excluded from federal health care programs; and if an individual is identified as excluded, immediately removed that individual from any work related directly or indirectly to any federal health care program? This information must be available upon request by CMS and records should be maintained for 10 years.

- I attest, yes, the Organization is in compliance with Sanction and Exclusion Monitoring as set forth by CMS.
- I attest, no, the Organization is not in compliance with Sanction and Exclusion Monitoring as set forth by CMS.

## D.

### Sub-contractors

**Attestation:** Has your organization conducted appropriate oversight of subcontracted or delegated functions or services in accordance with responsible business practices and accreditation/regulatory oversight requirements and included all delegation flow-down language in your contracts with such entities which meets Magellan Compliance Requirements as well as applicable accreditation/regulatory requirements? **If yes, please provide a list of the vendors and their functions/services.**

- I attest, yes, the Organization will notify, obtain Magellan's approval and provide a copy of any sub-delegation contract to ensure that all delegation language is included and complete the required attestation.

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I attest, no, the Organization is not in compliance with the delegation flow-down language which meets Magellan Compliance Requirements as well as applicable accreditation/regulatory requirements.

Provide a list of sub-contractors including contract effective date. (REQUIRED) If more space is needed, include on a separate sheet.

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**E.**

**Offshore Services:**

**Attestation:** Has your organization provided services on behalf of Magellan by utilizing an offshore subcontractor/vendor? (The term “offshore” refers to any country that is not one of the fifty United States, or one of the following United States Territories: American Samoa; Guam; Northern Marianas; Puerto Rico; and the Virgin Islands.)

- I attest, yes, the Organization provides service with an offshore subcontractor/vendor. Provide name of offshore company and complete **Attachment A (REQUIRED)**
- I attest, no, the Organization does not provide service with an offshore subcontractor.
- I attest, no, the Organization is not in compliance with reporting of offshore Services as set forth by CMS.

**F.**

**Security and Privacy:**

**Attestation:** Does your organization comply with all applicable Health Insurance Portability and Accountability Act (HIPAA) security and privacy regulations?

- I attest, yes, the Organization is in compliance with all the requirements under HIPAA.
- I attest, no, the Organization is not in compliance with all the requirements under HIPAA.

**G.**

**Record Retention and Availability**

**Attestation:** Does your organization understand and agree to maintain supporting documentation for a period of at least ten (10) years from the final date of the final contract period of the contract entered into between your organization and Magellan or from the date of completion of any audit, whichever is later and to furnish evidence of the items included in this Annual Assessment & Attestation to Magellan, the Centers for Medicare and Medicaid Services (CMS), and/or an agent of Magellan or CMS, upon request?

- I attest, yes, the Organization is in compliance with Record Retention as set forth by CMS and 42 CFR 438.3(u).
- I attest, no, the Organization is not in compliance with Record Retention as set forth by CMS and 42 CFR 438.3(u).

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## H.

### Reporting Compliance Concerns

**Attestation:** Has every person with ownership or control interest in your organization including any contractor/agent, managing employee, agent, employee, temporary employee, volunteer, consultant, governing body member and/or subcontractor, been informed about how to report compliance concerns, including those involving FWA, and does your organization promptly report such concerns to Magellan?

- I attest, yes, the Organization has communicated how to report compliance concerns.
- I attest, no, the Organization has not communicated how to report compliance concerns.

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### Section 3: Business and Operational Risk Assessment

**Directions:** Please read the information below. Make one selection for each by checking either Yes or No below.

#### Book of Business Changes

Have there been any recent significant changes to your organization's customer base or membership composition such as a gain or loss of a significant customer or membership?  Yes  No

**If yes, describe changes and any impact to the services your organization provides to Magellan (Answer must be provided; include attachments as needed):**

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#### Organization Changes

Have there been any partnerships or acquisitions or any changes in ownership or control that occurred in the past year with respect to your organization?  Yes  No

**If yes, explain (Answer must be provided; include attachments as needed):** \_\_\_\_\_

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#### Financial Changes

Has your organization filed for bankruptcy or had any financial actions that could potentially impact service levels or business continuity?  Yes  No

**If yes, explain (Answer must be provided; include attachments as needed):** \_\_\_\_\_

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#### Accreditation/Certification Status

Are you currently accredited or certified by an industry recognized organization such as NCQA or URAC?  Yes  No

**If yes, please provide a scanned copy of the current accreditation/certification document**

#### HITRUST

Do you have HITRUST certification?  Yes  No

**If yes, please provide a scanned copy of the current certificate.**

#### Policies, Procedures and Workflow Changes

Have you made any *material* changes to policies, procedures or workflows affecting the functions or services you provide for Magellan (that you have not previously informed Magellan about)?  Yes  No

**If yes, please submit updated documents with this Attestation.**

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### Section 4: Organizational Information and Signature

I attest that I am an authorized representative with signature authority for the organization or company listed below, which is herein referenced as "Organization." The Organization is contracted with Magellan as a First Tier, Downstream or Related Entity (FDR) for Magellan's Medicare and/or Medicaid products. As a Magellan subcontractor, I understand the Organization is subject to Federal laws related to Medicare and/or Medicaid program(s) as well as CMS rules, regulations and guidance. This includes ensuring the organization and its employees and downstream contractors are also required to abide by Federal laws related to the Medicare program as well as CMS rules and regulations. I attest on behalf of the Organization that all employees and downstream entities who provide health or administrative services through or on behalf of the Organization have access to the Medicare required training and educational materials of Magellan's Compliance and FWA programs and have completed the training requirements set forth below.

Organization Name	Date: ( Month, Day, Year)
Compliance Contact Name and Title	Email Address:
Phone Number:	Fax Number:

Authorized Representative Name	Title
Email Address	Phone Number

By signing, I certify that the information provided here is true and correct and I understand that Magellan may request additional information to substantiate the statements made in this attestation:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please ensure your organization has met all applicable requirements and forward the Compliance Attestation by **November 15<sup>th</sup>**. For questions or concerns about the attestation, please email [VendorManagement@magellanhealth.com](mailto:VendorManagement@magellanhealth.com), Attn: 2019 Annual Compliance Attestation.

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**Offshore Subcontracting Attestation – Attachment A**

<b>Part I. Offshore Subcontractor Information</b>	
Offshore Subcontractor Name:	
Offshore Subcontractor Country:	
Offshore Subcontractor Address:	
Describe Offshore Subcontractor Functions:	
List Proposed or Actual Effective Date for Offshore Subcontractor: (MONTH DAY, YEAR: Example January 15, 2017)	

<b>Part II. Precautions for Protected Health Information (PHI)</b>	
Describe the PHI that will be provided to the Offshore Subcontractor:	
Discuss why providing PHI is necessary to accomplish the Offshore Subcontractor objectives:	
Describe alternatives considered to avoid providing PHI, and why each alternative was rejected:	

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**Offshore Subcontracting Attestation – Attachment A**

<b>Part III. Attestation of Safeguards to Protect Beneficiary Information in the Offshore Subcontract</b>		
<b>Item</b>	<b>Attestation</b>	<b>Response Yes or No</b>
III.1	Offshore subcontracting arrangement has policies and procedures in place to ensure that Medicare beneficiary protected health information (PHI) and other personal information remains secure.	
III.2	Offshore subcontracting arrangement prohibits subcontractor’s access to Medicare data not associated with the Sponsor’s contract with the offshore subcontractor.	
III.3	Offshore subcontracting arrangement has policies and procedures in place that allow for immediate termination of the subcontract upon discovery of a significant security breach.	
III.4	Offshore subcontracting arrangement includes all required Medicare Parts C & D language (e.g., record retention requirements, compliance with all Medicare Parts C & D requirements, etc.)	

<b>Part IV. Offshore Subcontractor Information</b>		
<b>Item</b>	<b>Attestation</b>	<b>Response Yes or No</b>
III.1	Organization will conduct an annual audit of the offshore subcontractor.	
III.2	Audit results will be used by the Organization to evaluate the continuation of its relationship with the offshore subcontractor.	
III.3	Organization agrees to share offshore subcontractor’s audit results with CMS, upon request.	

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