SENIOR WHOLE HEALTH

Policy Name: Fraud, Waste, and Abuse and Reporting
Policy #: CO0401

Policy Type: ☒Corporate (do not vary by state) ☐State (specific to a state -MA or NY)	**Approved By:** ☐QMC ☐MAC ☐MA ☐NY ☒EXECUTIVE COMMITTEE
Original effective date: April 19, 2017	**Current effective date/ last approval date:** June 5, 2018/July 10, 2018
Previous Review Dates: April 19, 2017	**Previous Revision Dates:**
Stakeholders:	**State Plan/Product type(s):** ☐MA SCO (Medicaid) ☐MA MEDICARE ADVANTAGE (Medicare/Medicaid) ☐NY MLTC (Medicaid) ☐NY MEDICARE ADVANTAGE (Medicare) ☐NY FIDA (Medicare/Medicaid) ☐NY MEDICAID ADVANTAGE PLUS (MAP) (Medicare/Medicaid)
Department: ☐Administration ☐Analytics ☐Business Systems Configuration ☐Central Services ☐Claims ☐Client/Member Services ☐Clinical Services ☐ CM ☐ UM ☐ MP ☒Compliance ☐ HIPAA/Privacy ☐ HIPAA/Security ☐Contracts and Vendor Management ☐Corporate Marketing ☐Enrollment ☐Finance/Accounting ☐ ACC ☐ FM ☐Human Resources ☐Information Technology ☐Medical ☐Pharmacy ☐Provider Relations / Network Development ☐Quality Management ☐ GA ☐ CR ☐Risk Adjustment ☐Sales & Marketing	**Reference Documents:** 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 423.504(b)(4)(vi)(F); 42 C.F.R. §§ 422.503(b)(4)(vi)(G), 423.504(b)(4)(vi)(G) Medicare Managed Care Manual (MMCM), Chapter 21 Prescription Drug Benefit Manual (PDBM), Chapter 9
Policy Owner: Compliance Officer	**Corresponding Policies:**
This policy supersedes/retires the following policies:	

Policy Name: Fraud, Waste, and Abuse and Reporting
Policy #: CO0401

Policy Statement: Senior Whole Health and its FDRs shall comply with applicable statutory, regulatory, other requirements, sub-regulatory guidance, and contractual commitments related to the delivery of covered CMS services, which include, but are not limited to, federal and state False Claims Acts, Anti-Kickback statutes, prohibitions on inducements to beneficiaries, Health Insurance Portability and Accountability Act (HIPAA), and other applicable statutes.

1. Senior Whole Health employees, including the Chief Executive Officer (CEO), senior administrators, managers, the governing body members, and FDRs are expected and required to promptly report suspected violations of any statute, regulations, or guidelines applicable to the Senior Whole Health Medicare Advantage program. Senior Whole Health maintains a strict policy of non-retaliation and non-retribution toward employees and its FDRs who make such reports in good faith. Senior Whole Health Employees and its FDRs are protected from retaliation under Title 31, United State Code, Section 3730(h), for False Claims Act complaints, as well as any other anti-retaliation protections. Refer to the Reporting of Incidents of Intimidation and Retaliation policy for further information.

2. This policy is reviewed annually or as often as requirements change to ensure accuracy and that Senior Whole Health's FWA program is in alignment with all company standards and industry best practices.

3. Senior Whole Health shall establish a process for timely and reasonable investigation and reporting of suspected FWA in accordance with this policy.

4. Senior Whole Health's Compliance Department shall coordinate all activities associated with the investigation and reporting of suspected FWA.

5. Senior Whole Health and its FDRs shall fully cooperate with the Centers for Medicare and Medicaid (CMS), NBI MEDIC, and law enforcement agencies related to any Fraud and Abuse investigations or audits.

6. Senior Whole Health's Compliance Officer shall coordinate all activities related to the investigation of any allegation of suspected FWA and will report all suspected FWA to the Compliance Committee and subsequently to all appropriate agencies, in accordance with CMS requirements and this policy.

7. Senior Whole Health's Compliance Department shall maintain a database and a uniform filing system to maintain suspected FWA referrals, including reports, investigations, and correspondence, in accordance with Senior Whole Health's Compliance Program.

8. Senior Whole Health's Compliance Department shall develop data and other supporting evidence for a FWA investigation, consult with Legal Counsel, and function as the

liaison between Senior Whole Health and CMS, appropriate state Medical Boards, the State Board of Pharmacy, other licensing entities, law enforcement, prosecuting agencies as appropriate, and other relevant entities.

9. Confidentiality of case files or other documentation relating to any investigation of a suspected FWA case is maintained at all times.

10. Senior Whole Health's Compliance Department shall report the status and results of all suspected FWA investigations to Senior Whole Health's Compliance Committee.

11. Senior Whole Health shall fully coordinate and cooperate with CMS and other law enforcement agencies related to any FWA investigations or audits to support health oversight matters.

Purpose Statement: To establish a process to investigate and report suspected Fraud, Waste, or Abuse (FWA) in the Senior Whole Health Medicare Advantage program by an employee, including the Chief Executive Officer (CEO), senior administrators, managers, the governing body members, First Tier, Downstream and Related Entities (FDRs), and Members, in accordance with federal and state regulations.

Senior Whole Health maintains a zero tolerance policy toward FWA by any employee or FDR.

Definitions:

Abuse: Includes actions that may, directly or indirectly, result in: unnecessary costs to the Medicare Program, improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud, because the distinction between "fraud" and "abuse" depends on specific facts and circumstances, intent and prior knowledge, and available evidence, among other factors.

Downstream Entity: 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.

FDR: FDR: First Tier, Downstream or Related Entity.

Fraud: Knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.

First Tier Entity: 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.

Policy Name: Fraud, Waste, and Abuse and Reporting
Policy #: CO0401

Health Insurance Portability and Accountability Act (HIPAA): The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, was enacted on August 21, 1996. Sections 261 through 264 of HIPAA require the Secretary of the U.S. Department of Health and Human Services (HHS) to publicize standards for the electronic exchange, privacy and security of health information, and as subsequently amended.

NBI MEDIC: National Benefit Integrity Medicare Drug Integrity Contractor - The purpose of the NBI MEDIC is to detect and prevent fraud, waste, and abuse in the Part C (Medicare Advantage) and Part D (Prescription Drug Coverage) programs on a national level.

Related Entity: 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.

Waste: The overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.

Procedures:

1.	A. Upon detection of suspected FWA, the Compliance Officer will review the suspected activity using data from reports, including, but not limited to the following: • Claims data; • Encounter data; • Medical Records • Member and Provider Complaints, Appeals and Grievance reviews; • Utilization Management Reports; • Pharmacy Data; • Audits • Provider Utilization profiles; • Member Utilization profiles • Geographic and demographic studies; • Evaluation of a Provider's Member capacity; • interviews

2.	Senior Whole Health's Compliance Officer shall complete the preliminary investigation, including the review of listed and other documents, within 10 (ten) business days, to ensure that the case is reported to CMS in a timely fashion (within 10 business days). If for

	any reason Senior Whole Health is not able to investigate the potential Fraud or Abuse timely, the information will be sent to the NBI MEDIC within 30 days of the initial report for further investigation.
3.	All reports of potential Fraud or Abuse are documented in the Fraud Tracking System within three (3) business days from the date that the case is opened. Documentation of the final disposition is to be documented within two (2) business days of the case being closed. Additionally, tracking and trending of identifiable root causes are included as part of the FWA Trend Analysis on a quarterly basis. This information is reported quarterly to the Compliance Committee.
4.	In accordance with Senior Whole Health policy, Senior Whole Health shall issue corrective actions to employees, and its FDRs related to validate instances of FWA. Corrective actions will be monitored by the Compliance Committee, or the Department of Human Resources, as appropriate. Corrective actions may include financial sanctions, regulatory reporting, performance improvement plans, or termination. Should such corrective action need to be issued, Senior Whole Health's Compliance Officer will initiate review and discussion at the first Compliance Committee following the date of identification of the suspected FWA, the date of report to CMS, or the date of FWA substantiation by CMS subsequent to the report.
5.	Following is a partial list of potential FWA classifications for member and provider Fraud and Abuse Program: • Using another individual's identity or documentation of eligibility to obtain Covered Services. • Selling, loaning, or giving a member's identity or documentation of eligibility to obtain services. • Making an unsubstantiated declaration of eligibility. • Using a Covered Service for purposes other than the purpose for which it was described including use of such Covered Service. • Failing to report other health coverage. • Soliciting or receiving a kickback, bribe, or rebate as an inducement to receive or not receive Covered Services. • Altering a Prescription • Submission of claims for Covered Services that are not

	actually provided to the member • Submissions of claims for Covered Services that are that are billed using a code that would result in greater payment than the code that reflects the covered services. • Charging a member in excess of allowable co-payments and deductibles for Covered Services. • Billing a member for Covered Services without obtaining written consent to bill for such services. • Failure to disclose conflict of interest.
6.	Compliance Action/Outcomes may include, but are not limited to: • Corrective action plan • Education • Focused audit • Investigation • Increased monitoring activities • Prepayment review • Process review • Referral to Human Resources/Legal • Prosecution • Allegation/Violation confirmed: Warning Letter: Administrative Action • Referral to outside state and federal law enforcement
7.	Reporting: • Senior Whole Health provides a method for Senior Whole Health employees, FDRs, and Members to anonymously report suspected FWA to the Office of Compliance. Senior Whole Health employees, and its FDRs may call the Compliance and Ethics Hotline to anonymously report concerns regarding Fraud and Abuse. • All FDRs have a contractual obligation to report suspected FWA. They will notify Senior Whole Health of suspected FWA, in accordance with the terms and conditions of its Contract and this policy.
8.	Senior Whole Health shall report to CMS all cases of suspected fraud and/or abuse where there is reason to believe that an incident of fraud and/or abuse has occurred by Senior Whole Health employees, FDRs, or Members. The results of a preliminary investigation of the

	suspected fraud and/or abuse will be reported within ten (10) business days of the date Senior Whole Health first became aware of, or is in notice of such activity.
9.	Fraud reports submitted to CMS must at a minimum include: • Number of complaints of fraud and abuse submitted that warranted preliminary investigation; • For each complaint which warranted a preliminary investigation: o Name and/or SSN; UPIN; o Source of Complaint; o Type of provider (if applicable); o Nature of complaint; o Approximate dollars involved if known; o Approximate number of members' impacted; o Legal and administrative disposition of the case. o The report shall be submitted on a Part D/MEDIC Complaint form that can be sent to CMS via e-mail, facsimile or mail;
10.	Senior Whole Health shall submit applicable police reports, investigation documentation (background, interviews, etc.), member information, Provider enrollment data, confirmation of services, list items or services furnished by Provider, pharmaceutical data, and any other pertinent information.
Approval:	**Committee: Compliance Committee** **Date: June 5, 2018** **Committee: Executive Committee** **Date: July 10, 2018**