

KS Plan Administrators		POLICY NO: CP 8
SUBJECT: Monitoring and Auditing	Date: October 2012 Last Revised: March 2023 Last Reviewed: March 2023	
DISTRIBUTION: All Departments	FUNCTIONAL AREAS: All Departments	
SUPERCEDES POLICY: N/A	REFERENCE/ATTACHMENT: Medicare Managed Care Manual Ch 21 Compliance Program Guidelines	
PREPARED BY: Thomas Wilson Revised by Thomas Wilson	DATE APPROVED: October 11, 2012	

I. Goal

KS Plan Administrators, LLC d/b/a KelseyCare Advantage (“KCA”) continuously evaluates compliance of statutory and subregulatory guidance issued by the Centers for Medicare & Medicaid Services (CMS). The Compliance Department uses detective and preventive audits and monitoring to identify potential violations, including fraud, waste, and abuse (FWA) that may occur within the company or with its contracted first tier, downstream or related (FDRs) entities (See: 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 423.504(b)(4)(vi)(F)). This includes:

- Routine monitoring and auditing of compliance risks within the company.
- Routine monitoring and auditing of FDRs.
- Audits of FDRs to determine compliance with a newly enacted regulation.
- External audit of the Compliance Program by an independent third-party with sufficient expertise to determine the overall effectiveness of the program.
- External audit of the company initiated by CMS or its designee.

II. Definitions

Auditing: means a formal review of compliance with a particular set of standards (e.g., policies and procedures, laws, and regulations) used as base measures.

Centers for Medicare & Medicaid Services (CMS): means a federal agency within the Department of Health and Human Services that is responsible for the administration of the Medicare program.

Downstream Entity: means 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. §, 423.501).

Employee(s): means those persons employed by the sponsor or a First Tier, Downstream or Related Entity (FDR) who provide health or administrative services for an enrollee.

FDR: means First Tier, Downstream or Related Entity.

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First Tier Entity: means 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. § 423.501).

Fraud: means 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. 18 U.S.C. § 1347.

FWA: means fraud, waste, and abuse.

Monitoring Activities: means regular reviews performed as part of normal operations to confirm ongoing compliance and to ensure that corrective actions are undertaken and effective.

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. §423.501).

Waste: means 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.

III. Policy

KCA has appropriate monitoring and auditing processes to evaluate compliance with applicable laws, regulations, and policies, and to detect potential issues, or violations. KCA business operations perform ongoing monitoring of appeals, grievances, claim processing, customer service call handling, enrollments, disenrollments, organization determinations, coverage determinations and performance of its FDRs to ensure the company meets regulatory requirement issued by CMS. The Compliance Department conducts targeted audits to prevent, detect, and respond to FWA issues.

IV. Procedure

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1. The Compliance Department conducts an annual risk assessment of internal business operations and with its key FDRs. Risk assessment results are categorized, tabulated, and scored. Final auditing and monitoring activities are included on the Compliance Work Plan and Performance Scorecard which are submitted to the Compliance Committee and KCA Operating Committee (e.g., "Local Board") for review and approval (See: 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 423.504(b)(4)(vi)(F)). On a quarterly basis the Compliance Department reviews the work plan and may make updates to the number of audits or change monitoring activities based on business need or revised regulations.
2. Business operations conducts ongoing monitoring activities (e.g., enrollment, disenrollment, claim processing, customer service call handling) to confirm compliance with CMS regulations and to ensure that corrective actions plans (CAPs) are undertaken and effective. Business operations submits periodic reports to the Compliance Department regarding its monitoring activities. The Compliance Department monitors the status and issues periodic reports to senior leadership regarding the total number of open and closed CAPs.
3. The Compliance Work Plan and Performance Scorecard includes the number of audits it will conduct of business operations and of its FDRs (See: 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 423.504(b)(4)(vi)(F)). The audit is a formalized process that describes the summary of the audit, regulatory guidance, methodology and sample size, and the results. Audit results are presented to the respective business leader and, if applicable, shared with the FDR. If the audits identify errors that result in an Immediate Corrective Action Required or Corrective Action Required, the Compliance Department strives to conduct a follow up audit within 90 days following the closure of a CAP. All internal audits are shared with the Compliance Committee and Local Board.
4. The Compliance Department undergoes an annual audit of the Compliance Program that is administered by an external third party. The purpose of the audit is to review policies, procedures and supporting documents to ensure they support the Compliance Program and tests controls through selected "tracer" presentations. The tracer describes how and when an issue was identified, the root cause, corrective action, and if senior leadership was made aware of the problem. The audit results are shared with the Compliance Committee and the Local Board.
5. CMS has the discretionary authority to perform audits under 42 C.F.R. 44 422.504(e)(2) and 423.505(e)(2), which specify the right to audit, evaluate, or inspect any books, contracts, medical records, patient care documentation, and other records of sponsors or FDRs. KCA must allow access to any auditor acting on behalf of the federal government or CMS to conduct an on-site audit. On-site audits require a thorough review of required documentation. CMS audits are shared with the Compliance Committee and the Local Board.