

KS Plan Administrators	Compliance Policy Manual	POLICY NO: CP 6
Subject: Reporting Misconduct / Compliance Hotline	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 21/9 Compliance Program Guidelines	
Prepared by: Thomas Wilson Revised by: John Kimble	DATE APPROVED: October 11, 2012 Revision Approved: March 2023	

I. Goal

KS Plan Administrators, LLC d/b/a KelseyCare Advantage (“KCA”) strives to ensure that employees, governing body members (e.g., KSPA Operating Committee (“Local Board”) and first tier, downstream and related (FDR) entities report all suspected and/or actual misconduct and fraud waste and abuse (FWA) to the appropriate personnel without fear of retaliation or retribution (See: 42 C.F.R. §§422.503(b)(4)(vi)(A), 423.504(b)(4)(vi)(A) 422.503(b)(4)(vi)(G), 423.504(b)(4)(vi)(G)).

II. Definitions

Abuse: 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.

Centers for Medicare & Medicaid Services (CMS): means an agency within the U.S. Department of Health and Human Services responsible for the administration of the Medicare program.

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.

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).

FDR: means First Tier, Downstream or Related Entity.

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,

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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.

Governing Body: means that group of individuals at the highest level of governance of the sponsor, such as the Board of Directors or the Board of Trustees, who formulate policy and direct and control the sponsor in the best interest of the organization and its enrollees. As used in this chapter, governing body does not include C-level management such as the Chief Executive Officer, Chief Operations Officer, Chief Financial Officer, etc., unless persons in those management positions also serve as directors or trustees or otherwise at the highest level of governance of the sponsor.

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).

Special Investigations Unit (SIU): means an internal investigation unit responsible for conducting investigations of potential FWA.

Sponsor: means an organization (e.g., KCA) that contracts with CMS to provide administrative, health care and/or prescription drug benefits to Medicare eligible beneficiaries.

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 criminal intent, but rather the misuse of resources.

III. Policy

All employees, governing body members and FDRs are required under the compliance

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program to make a “good faith” report, anonymously if desired, of known, or suspected violations of an applicable law, regulation, or the Code of Conduct, without fear of retaliation or retribution. While the Special Investigations Unit (SIU) has primary accountability for investigating FWA, all employees, governing body members and FDRs share the responsibility to detect, correct and prevent FWA.

The Compliance Hotline is 713-442-9595

IV. Procedure

1. Compliance Hotline Greeting Script

“You have reached the KelseyCare Advantage Compliance and Fraud, Waste and Abuse hotline. Any information you provide, including your identity, will be kept in confidence between you and the Compliance Department and the Special Investigations Unit to the extent legal and feasible. You will not be punished for reporting potential compliance violations, or requesting assistance from the Compliance Department, even if you mistakenly report what you reasonably believe to be an act of wrongdoing. If government authorities become involved, in the case of lawsuit, or if the need otherwise arises for our organization to disclose the information, such information may be disclosed. Please state your concern about compliance misconduct or fraud waste and abuse giving as much detail as possible, including the date the conduct occurred. A more thorough follow up is possible if you provide contact information, but you may remain anonymous if you wish.”

2. Failure to Report

Any employee who fail to report a suspected violation may be subject to disciplinary action, up to and including termination. In addition, a supervisor who condones or tolerates such a violation may also be subject to disciplinary action, up to and including termination.

3. Reporting Methods

A known or suspected violation may be reported by any of the following methods:

- By Telephone: The Hotline (713-442-9595) is a dedicated telephone line and voice mailbox that can be used twenty-four hours a day, from any location, for reporting concerns or violations.
- In writing: Potential Non-compliance or FWA Reporting may be mailed, personally

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delivered to the Compliance Department, or by inter-office mail.

Send to: KCA Compliance Department
11511 Shadow Creek Parkway
Pearland, Texas 77584

- Also, via the anonymous online reporting available on the KelseyCare Advantage website at: <https://www.surveymonkey.com/r/TBLMG7G>
- In person: A report may be made in person by contacting the Compliance Department, the reporting employee's supervisor or manager.
- Email: A report may be made by sending an email to: Medicarefraudhotline@kelseyreadvantage.com
- Contact the Compliance Department: ComplianceList@kelsey-seybold.com
- Contact the Medicare Compliance Officer at:
- Thomas.Wilson@kelsey-seybold.com
- Thomas Wilson may be reached directly at: 904-669-8701

All reporting avenues are verified monthly to confirm continued access. The result of the monthly check is documented and maintained by the SIU.

4. Potential Escalation

Compliance Department management and the SIU will determine whether there is credible evidence of misconduct or FWA from any source and, after reasonable inquiry, believes that the misconduct may violate criminal, civil, or company policy, an incident report will be submitted to the Senior Management, and/or Human Resources.

Compliance strives to complete its investigation within two weeks of receiving the complaint; however, additional information and follow up may be required from the complainant that may extend the timeframe.