

PATHWAYS CMH

POLICY TITLE: Responsibilities for Reporting Non-Compliance	CATEGORY: Compliance	
EFFECTIVE DATE: 06/05/14 Rescinds Corporate Compliance Program Reporting and Investigation Procedures	BOARD APPROVAL DATE: 06/04/14	
REVIEWED DATE: 11/14/16	REVISION(S) TO POLICY STATEMENT: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	OTHER REVISION(S): <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
RESPONSIBLE PARTY: Compliance Manager	CEO APPROVAL: Mary Swift, CEO	

APPLIES TO

Pathways Personnel
Contract Providers

POLICY

It is Pathways' policy that Pathways Personnel and Contract Providers are expected to report any activity he or she reasonably believes is in violation of the law, ethical standards or Pathways policies that has resulted in fraud, waste, or abuse or other violation of a law or Code of Ethics. Pathways Personnel and Contract Providers need not be certain that the violation has occurred in order to report it. Reporting enables the Compliance Manager to ensure potential problems are investigated quickly and to take prompt action to resolve them.

Under no circumstances is retaliation for submitting a compliance issue or inquiry acceptable. This includes but is not limited to, questions and concerns an employee may discuss with an immediate supervisor, the Pathways Compliance Manager, NorthCare's Compliance Officer, Chief Operating Officer, Chief Executive Officer, or the Compliance / Risk Management Monitoring Team. Any covered party reporting suspected fraud, waste, or abuse is protected under the Whistleblowers' Protection Act 469 of 1980.

All reports of wrongdoing will be evaluated promptly, thoroughly, and fairly by persons having sufficient level of expertise and knowledge with regard to the issue presented by the caller. Investigations will normally commence within 10 days of the report. No action will be taken on any report until it is validated.

Pathways Personnel and Contract Providers will have unimpeded access to the Compliance Manager for the purposes of reporting, in good faith, suspected or known fraud, abuse, waste, or other violations of local, state and federal laws.

The Compliance Manager may consult with and/or refer to the Office of Recipient Rights any report that appears to also be a violation of a recipient's rights.

PURPOSE

To establish a system that offers flexibility for employees and a covered party to easily, confidentially and anonymously report suspected fraud, abuse, waste and other violations of local, state and federal laws. The goal is to present opportunities for the identification, investigation, correction and prevention of inappropriate activities and to articulate the expectations of Pathways regarding the reporting of compliance issues.

DEFINITIONS

1. **Abuse:** means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid program, or reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program. (42 CFR § 455.2)
2. **Fraud (Federal False Claims Act):** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act. (42 CFR § 455.2)
3. **Waste:** means overutilization of services, or other practices that result in unnecessary costs. Generally not considered caused by criminally negligent actions but rather the misuse of resources.

REFERENCES

- Medicaid False Claim Act – Act 72 of 1977
- State of Michigan Enacted Medicaid False Claim Act 272 of 1977
- Whistleblowers' Protection Act – Act 469 of 1980
- Pathways Compliance Plan and Policies
- NorthCare Compliance Plan and Policies

HISTORY

REVISION DATE: 06/11/15; 11/14/16

CEO APPROVAL DATE: 06/13/14; 06/11/15; 11/14/16

BOARD APPROVAL DATE: 06/04/14 (Rescinds Corporate Compliance Program Reporting and Investigation Procedures)

PROCEDURES

1. **Pathways Personnel Responsibilities:** Immediately report knowledge of suspected, actual or potential violations of fraud and abuse laws, regulations, policies and procedures of Pathways and/or the Code of Conduct by any of the following methods:
 - a. Any individual who wishes to remain anonymous may use the confidential Compliance Helpline to report compliance-related issues or concerns via:
 - Toll free at: 1-800-401-8004
 - The web at: <http://www.lighthouse-services.com/northcare>
 - Email: reports@lighthouse-services.com (must include company name)
 - Fax to: 215-689-3885 (must include company name);
 - b. Directly to a supervisor or manager, within the employee's specific chain-of-command; or
 - c. Directly to Pathways' Compliance Manager by:
 - Calling: 1-906-223-1217 (voice messages are confidential)
 - Emailing to: jlippens@up-pathways.org
 - Mailing to: Pathways, ATTN: Compliance Manager, 2500 7th Avenue South, Suite 100, Escanaba, MI 49829
 - Open Door Policy to the Compliance Manager located in the administrative offices at 2500 7th Avenue South, Suite 100, Escanaba, MI 49829.

Reports made using any of the above options shall be handled as confidentially as practical and/or as allowed by law.

No employee will be subjected to retaliation, retribution, or harassment for reports of a suspected violation made in good faith.

2. **Management Responsibilities:** Management will respond appropriately and timely to ensure support of the employee who is reporting the suspected compliance issue and inform the Compliance Manager. Management will ensure that employees understand that:
 - a. they have an obligation to raise compliance concerns and issues to the appropriate parties;
 - b. they may seek clarification and guidance on compliance related issues from their supervisor or Pathways Compliance Manager;
 - c. they may report compliance related issues without fear of retaliation;
 - d. the supervisor and compliance manager maintain an "open door" policy to support and encourage employee reporting of compliance-related issues or concerns;
 - e. reports of actual or potential violations are handled as confidentially as possible, and
 - f. high priority is placed on compliance issues with the development and implementation of remedial action to prevent further incidents.

4. Pathways Responsibilities to NorthCare:

Pathways will report suspected compliance issues consistent with the definitions of fraud, waste and abuse as stated in this policy and/or those in which one or more of the reporting thresholds noted below are met. This policy applies to all Medicaid fraud, abuse and waste compliance issues, tasks and functions relating to Pathways' role and responsibilities as the Community Mental Health Services Provider (CMHSP). Pathways will report suspected compliance issues within three (3) business days or less to the NorthCare Network Chief Executive Officer and/or NorthCare Network's Compliance Officer when one or more of the following criteria are met:

- a. If, during an inquiry by the Pathways Compliance Manager, there is determined to be (reasonable person standard) Medicaid fraud or abuse or waste as defined by federal statute, CMS, HHS, OIG and applicable Michigan statute, regulation, PIHP/CMHSP contract definition; or
- b. Prior to any self-disclosure to any federal or state of Michigan Medicaid authority (In no way is this intended to nor should it be interpreted as a requirement or request to violate the letter or spirit of federal or Michigan reporting and whistleblower statutes or related regulations.); or
- c. When as a result of fraud, abuse or waste Pathways makes a material revision to prior reported financial statements to Pathways; or
- d. When an employee knows or should have known that an action or failure to take action in the organization or its contractor(s) could result in the improper application or improper retention of Medicaid funds.
- e. When there is a substantiated privacy breach of Protected Health Information.
- f. When there is a substantiated security breach or threat to the provider's information system where PHI is stored.
- g. Where there is a potential or actual security breach or threat to Pathways' information system network.
- h. When there is a substantiated violation of Pathways Policy or Contract, state or federal law.

5. Contract Provider Responsibilities: Contract Providers will report suspected compliance issues consistent with the definitions of fraud, waste and abuse as stated in this policy and/or those in which one or more of the reporting thresholds noted below are met. This policy applies to all Medicaid fraud, abuse and waste compliance issues, tasks and functions relating to Pathways' role and responsibilities as the Community Mental Health Services Provider (CMHSP). Contract Providers will report suspected compliance issues within three (3) business days or less to the Pathways Compliance Manager and/or Chief Executive Officer when one or more of the following criteria are met:

- a. If, during an inquiry by the Contract Provider Compliance Officer, there is determined to be (reasonable person standard) Medicaid fraud or abuse or waste as defined by federal statute, CMS, HHS, OIG and applicable Michigan statute, regulation, PIHP/CMHSP contract definition; or
- b. Prior to any self-disclosure to any federal or state of Michigan Medicaid authority (In no way is this intended to nor should it be interpreted as a requirement or request to violate the letter or spirit of federal or Michigan reporting and whistleblower statutes or related regulations.); or
- c. When as a result of fraud, abuse or waste the Contract Provider makes a material revision to prior reported financial statements to Pathways; or
- d. When a Contract Provider knows or should have known that an action or failure to take action in the organization or its contractor(s) could result in the improper application or improper retention of Medicaid funds.
- e. When there is a substantiated privacy breach of Protected Health Information.
- f. When there is a substantiated security breach or threat to the provider's information system where PHI is stored.
- g. Where there is a potential or actual security breach or threat to Pathways' information system network.
- h. When there is a substantiated violation of Pathways Policy or Contract, state or federal law.

CEOs have the ultimate responsibility and authority for determining whether the thresholds above have been reached, although their authority to delegate the determinations is acknowledged.

Providers are welcome to request technical assistance discussions with Pathways Compliance Manager on any compliance issue at any time. Such contacts will not automatically be considered a "report of compliance issue" by Pathways.

4. Pathways Compliance Manager's Responsibilities:

- a. To implement and publicize a reporting process that encourages Pathways Personnel and Contract Providers to report compliance-related concerns:
 - In person to a supervisor, Pathways Compliance Manager, or the Chief Executive Officer
 - Using NorthCare's confidential, toll free Compliance Helpline;
 - By U.S. Mail to Pathways Compliance Manager at address above;
 - By Email to Pathways Compliance Manager at email address above.
- b. Maintain a system to document and track reported compliance issues and inquiries;
- c. Is a member of the Compliance / Risk Management Monitoring Team;
- d. Be available to participate or assist contract provider compliance officers in prompt review and investigation of all reported, known or potential violations

consistent with the procedures defined in the Pathways Compliance Review and Investigation Policy;

- e. Ensure proper follow-up on resolution of compliance issues and concerns;
- f. Ensure documentation of all actions taken in response to a compliance issue report, including any steps taken to address identified improper conduct, if any;
- g. Report numbers of incidents and types of recorded investigations; and
- h. If a confirmed compliance issue is determined and, if after consultation with legal counsel, it is determined a violation of a civil or criminal, federal or state law, the violation will be reported to the appropriate government agency as soon as possible.

5. Voluntary Disclosure

Pathways promotes voluntary disclosure or reporting of violations of civil, criminal, or administrative law to appropriate third-party law enforcement or regulatory agencies. Self-Disclosure must follow the Office of Inspector General's Provider Self-Disclosure Protocol (42 USC 1320a-7b(f)) and the requirements of the Federal False Claims Act, (31 USC 3729-3733)