

PATHWAYS CMH

POLICY TITLE: Sanctions	CATEGORY: Contract Provider Management	
EFFECTIVE DATE: 06/04/2014	BOARD APPROVAL DATE: 06/04/2014	
REVIEWED DATE: 11/05/18	REVISION(S) TO POLICY STATEMENT: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	OTHER REVISION(S): <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
RESPONSIBLE PARTY: Contract Manager	CEO APPROVAL: Mary Swift, CEO	

APPLIES TO:

Pathways Contract Providers

POLICY:

Pathways uses a variety of means to assure compliance with applicable requirements. Remedial action and possible sanctions, including intermediate sanctions as described in 42 CFR 438.700, will be imposed as needed to resolve outstanding contract violations and performance concerns. The use of remedies and sanctions typically follows a progressive approach, but Pathways reserves the right to deviate from the progression, as needed, to seek correction of serious, repeated or patterns of substantial non-compliance or performance problems. The application of remedies and sanctions shall be a matter of public record.

PURPOSE:

To outline a process for addressing outstanding contract violations and performance concerns of Pathways contract providers.

DEFINITIONS:

N/A

REFERENCES:

- 42 CFR §438.700, §438.702, §438.704, §438.706
- PIHP/MDCH Medicaid Managed Specialty Supports and Services Contract
- MDCH 2013 Application for Participation for Specialty Prepaid Inpatient Health Plans
- Pathways Compliance Plan and Policies
- Pathways Code of Conduct

HISTORY:

Dates Reviewed: 6/16/15; 06/11/16; 11/15/16; 01/17/18; 11/05/18
 Dates Revised: 6/4/15; 06/11/16 (procedural changes only); 11/15/16
 Dates Approved: 6/4/15; 06/13/16

PROCEDURES:

Sanctions may be invoked if Pathways makes a determination that a contract provider is not in substantial compliance with promulgated standards and with established federal or state regulations, that the contract provider has misrepresented or falsified information reported to Pathways, state or to the federal government, or that the contract provider has failed substantially to provide necessary covered services to recipients under the terms of the contract. Sanctions may include intermediate actions including, but not limited to, a monetary penalty imposed on the administrative and management operation of the contract provider or termination of the contract providers contract.

- A. A range of contract remedies and sanctions Pathways may utilize include:
1. Issuing a notice of the contract violation and conditions to the contract provider with copies to the Board and/or CEO.
 2. Requiring a plan of correction and status reports that becomes a contract provider performance objective.
 3. Imposing a monetary penalty on the administrative and management operation of the contract provider.
 4. Imposing intermediate sanctions as described in 42 CFR §438.700 that may include civil monetary penalties.
 5. For sanctions related to reporting compliance issues, Pathways may delay up to 25% of scheduled payment amount to the contract provider until after compliance is achieved. Pathways may add time to the delay on subsequent uses of this provision. (NOTE: Pathways may apply this sanction in a subsequent payment cycle and will give prior written notice to the contract provider.)
 6. Initiate contract termination.
- B. The implementation of any of these actions does not require a contract amendment to implement. The sanction notice to the Contract Provider is sufficient authority.
- C. Before imposing a sanction on a Contract Provider, Pathways shall provide the Contract Provider with timely written notice that explains both of the following:
1. The basis and nature of the sanction along with its statutory/regulatory/contractual basis and the objective evidence upon which the finding of fault is based.
 2. The opportunity for a hearing to contest or dispute Pathways' finding and intended sanction, prior to the imposition of the sanction. A hearing under this section is subject to the provisions governing a contested case under the Administrative Procedures Act of 1969, P.A. 306, MCL §24.201 to §24.328, unless otherwise agreed to in the contract with the Contract Provider.
- D. Following are examples of compliance or performance problems for which remedial actions, including sanctions, can be applied to address repeated or substantial breaches, or reflect a

pattern of non-compliance or substantial poor performance. This listing is not meant to be exhaustive, but only representative.

1. Reporting timeliness, quality and accuracy.
 2. Performance Indicator Standards.
 3. Repeated Site Review non-compliance (repeated failure on same item).
 4. Failure to complete or achieve contractual performance objectives.
 5. Substantial inappropriate denial of services required by this contract or substantial services not corresponding to condition. Substantial can be a pattern, large volume or small volume but severe impact.
 6. Repeated failure to honor appeals/grievance assurances.
 7. Substantial or repeated health and/or safety negligence.
- E. Providers shall have access to Pathways grievance and appeal process at outlined in Pathways' *Contract Provider Grievance and Appeals Process*.