

## PATHWAYS CMH

<b>POLICY TITLE:</b> Disclosure of Ownership, Control, and Criminal Convictions	<b>CATEGORY:</b> Provider Network Management	
<b>EFFECTIVE DATE:</b> 01/19/17	<b>BOARD APPROVAL DATE:</b> January 18, 2017	
<b>REVIEWED DATE:</b> 10/23/18	<b>REVISION(S) TO POLICY STATEMENT:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>OTHER REVISION(S):</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>RESPONSIBLE PARTY:</b> Contract Manager	<b>CEO APPROVAL:</b> Mary Swift, CEO 11/14/16	

**APPLIES TO:**

Pathways Contract Providers

**POLICY:**

Pathways complies with federal regulations to obtain, maintain, disclose, and furnish required information about ownership, control interests, business transactions, and criminal convictions as specified in 42 CFR 455.104-106. In addition, Pathways ensures that any and all contracts and sub-contracts, agreements, purchase orders, or leases to obtain space, supplies, equipment or services provided with Medicare or Medicaid funds require compliance with 42 CFR 455.104-106. Pathways will report criminal offenses specific in 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act; these offenses include convictions of program-related crimes, patient abuse, healthcare fraud, and controlled substances. The Michigan Department of Health and Human Services (MDHHS) Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts will be notified when disclosures are made by providers with regard to those offenses as detailed in sections 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act.

**PURPOSE:**

The purpose of this policy is to ensure compliance with federal regulations that require Medicaid Providers, Fiscal Agents, and Managed Care entities to disclose information about individuals with ownership or control interests in the respective entity; to identify and report any additional ownership or control interest by those individuals in other entities, including family members with ownership or control interests; to report convictions as required; and, to ensure contractors and sub-contractors have policy and processes in place to also ensure compliance with these regulations.

**DEFINITIONS:**

1. ***Disclosing Entity*** means a Medicaid provider (other than an individual practitioner or group of practitioners), or a fiscal agent.
2. ***Family Members*** for the purpose of this policy include spouse, parent, child, or sibling.
3. ***Fiscal Agent*** means a contractor that processes or pays vendor claims on behalf of the Disclosing Entity.
4. ***Managing Employee*** means, with respect to an entity, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the entity, or who directly or indirectly conducts the day-to-day operations of the entity and a Board Member.
5. ***Other Disclosing Entity*** means any other Medicaid disclosing entity and any entity that does not participate in Medicaid, but is required to disclose certain ownership and control

information because of participation in any of the programs established under title V, XVIII, or XX of the Act. This includes:

- a. Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility rural health clinic, or health maintenance organization that participates in Medicare (title XVIII);
  - b. Any Medicare intermediary or carrier;
  - c. Any entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of health-related services for which it claims payment under any plan or program established under title V or title XX of the Act.
6. ***Person with an ownership or control interest*** means with respect to an entity, a person who:
- a. has directly or indirectly (as determine by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceed 5 per centum of the total property and assets of the entity; or
  - b. is an officer or director of the entity or a partner in the entity, if the entity is organized as a corporation.

#### **REFERENCES:**

- 42 CFR 455 Subpart B
- 42 CFR 455.104-106
- Social Security Act, Sections 1128(a) and 1128 (b)(1)(2), or (3)
- MDHHS/PIHP Medicaid Managed Specialty Supports and Services Concurrent 1915(b)/(c) Waiver Program Contract
- Ownership, Control and Criminal Conviction Disclosure Form
- Social Security Number Privacy Policy
- Pathways Board Member – Managing Employee Disclosure Form
- NorthCare Entity Disclosure Form Instructions
- NorthCare Individual Provider – Practice Disclosure Form Instructions
- NorthCare Individual Provider – Practice Disclosure Form

#### **HISTORY:**

Dates Reviewed: 09/18/17; 10/23/18

Dates Revised: 09/18/17; 10/23/18

Dates CEO Approved: 11/14/16; 09/18/17; 10/23/18

Dates Board Approved: 01/18/17

## **PROCEDURES**

### **A. Disclosures:** Disclosures must be made regarding:

1. Ownership, control interest, and a member of a Board in the disclosing entity or in any subcontractor in which the disclosing entity has a direct or indirect ownership of 5 percent or more; including relatives.
2. Information related to business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request.
3. Information on persons convicted of crimes must be disclosed before entering into or renewing a provider agreement or upon written request.

### **B. Disclosure Statement:** Disclosure statements will include the following required information:

1. Name and address of any person (individual or corporation) with an ownership or control interest in the disclosing entity. The address for corporate entities must include primary business address, every business location, and P.O. Box location.
2. Date of Birth and Social Security Number of each person with an ownership or control interest in the disclosing entity.
3. Other tax identification number (in the case of a corporation) with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has five percent or more interest.
4. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity is related to another person with an ownership in the disclosing entity as a family member or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity has five percent or more interest, is related to another person with an ownership or control interest as a family member.
5. The name of any other disclosing entity in which the owner of the disclosing entity has an ownership or control interest.
6. The name, address, date of birth, and Social Security number of any managing employee of the disclosing entity.
7. The identity of any individual who has an ownership or control interest in the provider, or is an agent or managing employee of the provider and has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.

### **C. Managing Employee:** Pathways requires each contractor and subcontractor to identify their "managing employees" in policy. Pathways' managing employees include, at minimum: Chief Executive Officer, Chief Financial Officer, Chief Information Officer, and Governing Board of Directors.

### **D. Time of Disclosure:** Any disclosing entity must furnish a disclosure statement at any of the following times:

1. When the provider submits a provider application.
2. When a managing employee is being vetted for employment.
3. Upon execution of the provider agreement or contract.
4. When a member is appointed to the Board of Directors.
5. During re-credentialing or re-contracting.
6. Within 35 days of any change in the ownership of a disclosing entity.

- E. Contract Language: Pathways requires contractors and subcontractors, through written agreements, to have processes for obtaining attestation of criminal convictions and full disclosure statements identified in 42 CFR Part 455 Subpart B and that policies and procedures for subcontracting, employment, and credentialing include requirements to report to Pathways any individuals with criminal convictions described under 1128 (a) and 1128 (b)(1)(2) or (3) of the Act or individuals that have had civil monetary penalties or assessments imposed under section 1129 A of the Act.
- F. Monitoring: Pathways and Contract Providers will conduct an OIG Exclusion database search at time of hire or contract and monthly thereafter for as long as the individual or entity is employed or under contract. The OIG database search will also be performed monthly on all disclosing entities and on any individuals with ownership or control interest identified on the disclosure form. Contract Providers will communicate all OIG database search matches to Pathways immediately; and, provide evidence of monthly searches and findings upon request and at least annually as part of the annual performance and compliance review. Pathways ensures all contractors and subcontractors have a process for obtaining attestation of criminal convictions and full disclosers (identified in 42CFR Part 455 Subpart B) from managing employees; board of directors; individuals with beneficial ownership; and individuals with an employment, consulting or other arrangement with the contractor or subcontractor.
- G. Reporting Criminal Convictions – Contract providers will notify Pathways when disclosures are made by providers with regard to those offenses as detailed in sections 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act. Pathways will notify NorthCare Network and the Michigan Department of Health and Human Services (MDHHS) Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts within two business days of receiving the disclosure.
- H. Failure to Comply – Failure to fully complete the disclosure form as required or the submission of false or misleading information to Pathways will be subject to contractual sanctions up to and including immediate suspension of funding and termination of the contractual agreement or termination as a member of Pathways Provider listing.