

**SUBJECT: FIRST TIER, DOWNSTREAM AND
RELATED ENTITY OVERSIGHT**

POLICY: CP 6014

Department of Origin: Compliance and Audit Department
Responsible Position: Director of Compliance

Date(s) of Review and Revision: 04/13; 06/13; 06/14; 10/14; 6/15; 8/16; 8/17; 10/17;
4/18

Policy Replaces: CP 606

Policy Approved: 7/6/18 Committee Meeting

[Link](#)

Department Approval:



Approval has
completed on CP 601.

PURPOSE

To outline the steps necessary for the Health Plan to monitor, oversee and audit any First Tier, Downstream or Related Entity (FDR) to which the Health Plan has delegated any Administrative Services Functions to perform on behalf of the Health Plan.

APPLICABILITY

This policy applies to all lines of business.

POLICY

It is the policy of the Health Plan to monitor and audit all delegated FDRs, who perform Administrative Service Functions on behalf of the Health Plan. The oversight is conducted in such a manner that ensures Administrative Service Functions delegated to FDRs are in full compliance with AHCCCS and CMS, and any other applicable federal and state requirements, regulations, and policies and procedures. The Health Plan is ultimately responsible for the compliant operation and performance of any Administrative Service Function that has been delegated to an FDR.

DEFINITIONS

Please refer to the link below for full definitions for the following terms:

<http://sharepoint/sites/hppandp/new/Lists/Definitions/PP%20Definitions.aspx>

PROCEDURE

- 1.0 When the Health Plan decides to delegate Administrative Service Functions to a prospective FDR, the Health Plan conducts a pre-Delegation audit to evaluate the prospective subcontractor's ability to perform the Delegated Administrative Service Function and to ensure a compliant infrastructure, administration and operations.
- 2.0 The results of the FDR's pre-Delegation audit are presented to the Vendor Oversight Team, (VOT) for review and recommendation.
- 2.1 The Health Plan Department identified as the business owner is required to complete the Vendor Intake and Risk Assessment form and submit the form to the VOT for review. The VOT reviews all completed forms to evaluate risk, compliance requirements and to identify all delegated FDRs.
 - 2.1.1 The Health Plan CEO retains the authority to direct and prioritize any Delegated subcontract requirements.
- 2.2 Upon CEO approval, the Health Plan executes a subcontract with the Delegated FDR. The Health Plan maintains a fully executed original and electronic copy of the subcontract. The subcontract is accessible to all government programs.
 - 2.2.1 For AHCCCS, the subcontract shall be accessible within two (2) business days of AHCCCS request.
 - 2.2.1.1 All requested subcontracts must have full disclosure of all terms and conditions and must fully disclose all financial or other requested information
 - 2.2.1.2 Information may be designated as confidential but may not be withheld from AHCCCS as proprietary. Information designated as confidential may not be disclosed by AHCCCS without the prior written consent of the Health Plan except as required by law.
 - 2.2.2 All subcontracts shall comply with the applicable provisions of Federal and State laws, regulations and policies.
 - 2.2.2.1 For AHCCCS all administrative service contracts must reference and require compliance with the AHCCCS Minimum Subcontract provisions. Upon notification from AHCCCS any updates to the AHCCCS Minimum Subcontract provisions will be communicated to the subcontractor as specified in the contract and ACOM policy 416.
- 2.2.3 The subcontract must specify the activities and reporting responsibilities Delegated to the FDR.
- 2.2.4 The subcontract must also provide for disciplinary actions to be taken by the Health Plan if the FDR's performance is inadequate. This shall include but is not limited to revoking Delegation or imposing other sanctions.
- 2.2.5 The subcontract must include a provision allowing the Health Plan to term any subcontract immediately if deemed necessary when a potential risk to members is noted.
- 2.2.6 All Health Plan delegates are required to submit proposed Changes in Organizational Structure to the Health Plan for review. All notices will be sent to AHCCCS for review and approval.

- 3.0 For AHCCCS, any subcontract which Delegates an Administrative Service Function that is entered into by the Health Plan is subject to prior review and written approval by AHCCCS and incorporates by reference the applicable terms and conditions of the contract between the Health Plan and AHCCCS.
- 3.1 This includes any Administrative Service Function related to the management of the contract between the Health Plan and AHCCCS, such as:
 - 3.1.1 Claims processing, including pharmacy claims;
 - 3.1.2 Credentialing including those for only primary source verification (CVO)
 - 3.1.3 Management Service Agreements;
 - 3.1.4 Service Level Agreements with any Division or Subsidiary of a corporate parent owner
- 3.2 The Health Plan must submit all AHCCCS-required elements at least sixty (60) days prior to the anticipated beginning date of Delegation subcontract.
- 3.3 The Health Plan implements any AHCCCS-specific Delegated Administrative Service Function only after receiving AHCCCS approval.
- 3.4 For CMS, any amendments to FDR contracts fulfilling key Part C and/or Part D functions on behalf of the Health Plan shall be communicated to the CMS Account Manager at least 60 days prior to the effective date of the new contract.
- 3.5 The Health Plan must ensure that all systems involved in the administration of the function by the subcontractor have been thoroughly tested and have a reasonable implementation timeline with defined milestones and deliverables. Further, any critical systems that must be maintained to continue operations and the delivery of services to members will continue to run until the Health Plan can assure that the newly implemented system is fully functional.

- 4.0 All Delegated Administrative Service Functions are managed through the Vendor Oversight Team (VOT). The VOT ensures ongoing monitoring, oversight and audit of all Delegated FDRs. The VOT evaluates the compliant performance of the Delegated FDR's performance and program.
- 4.1 The VOT is comprised of the Compliance Officer, the Chief Operations Officer, the Chief Medical Officer, the Compliance Audit Sr. Manager, Chief Financial Officer, and other Health Plan leadership who are subject-matter experts and are responsible for the compliant performance of any Administrative Service Function which the Health Plan has delegated.
- 4.2 VOT members are responsible for ongoing monitoring of Delegated FDR performance.
- 4.3 VOT members conduct routine monitoring by reviewing required FDR reporting and FDR-supplied dashboards as requested by the plan.
- 4.4 The Health Plan's Compliance Department conducts annual audits of FDRs based on the Delegated Administrative Service Function and as outlined on the VOT annual audit schedule. The review schedule is e submitted to AHCCCS, Division of Health Care Management for prior approval.
- 4.5 CMS ONLY Annual Audits:
- 4.6 Annually the FDR program manager will submit a risk assessment for any FDR contracted with CMS (UCA) only. The VOT will review and decide the audit frequency based on the risk assessment.

- 4.6.1 The formal, annual FDR audits are conducted on-site or via electronic desk audit. All audits are documented. The documented results are reviewed by the Compliance Department and the Compliance Department retains all audit documentation.
- 4.6.2 All Health Plan FDR's are required to meet any performance standards as required by AHCCCS and CMS. Validation of all standards is included in the annual audit.
- 4.6.3 The formal audit results, including any deficiencies, are communicated in writing to the FDR. If the FDR is not fully compliant, the FDR must submit a Corrective Action Plan (CAP).
- 4.7 The Audit Department staff report the outcomes of Delegated FDR audits to the VOT.
- 4.8 If monitoring or auditing of the Delegated FDR results in a finding of non-compliance, the FDR is issued a CAP and AHCCCS must receive notification within 30 days of discovery.
- 4.9 The CAP is monitored by the Audit Department staff and is shared with the Health Plan subject-matter expert that is responsible for the Delegated Administrative Service Function.
- 4.10 CAP progress reports are provided to the Compliance Committee and available to AHCCCS and CMS upon request. Once the CAP has been closed all reports will be sent to AHCCCS for review.
- 4.11 If the Delegated subcontractor continues to operate in a non-compliant manner, the VOT may recommend disciplinary action to the Health Plan CEO, up to and including termination and the VOT ensures that all necessary actions are taken so that the Health Plan performs Administrative Service Functions in a compliant manner.
 - 4.11.1 If the Delegated subcontractor is in significant non-compliance that would affect the subcontractor's abilities to perform the duties and responsibilities of the Delegation agreement, the Health Plan must notify AHCCCS and Potentially CMS, and include the CAP along with any measures taken by the Health Plan to bring the subcontractor into compliance.
- 5.0 The applicable Health Plan Operational Area staff (business owner) will develop contingency plans for any Delegated Administrative Service Functions applicable to their areas. The contingency plans provide a mechanism for the Health Plan to resume performing the Administrative Service Function should the Delegated subcontractor go out of business, be subject to an immediate termination, or for any other reason by which the Health Plan would need to quickly resume performing the Administrative Service Function FDRs are required to develop, implement and maintain Business Continuity Plans compliant with CMS and AHCCCS minimum standards. A merger, reorganization or change in ownership of a Delegated subcontractor shall require a contract amendment and prior approval of AHCCCS.
- 6.0 For AHCCCS only, all administrative services subcontracts must include and require compliance with the Disclosure of Ownership and Control and

- Disclosure of Information on Persons Convicted of Crimes requirements as outlined in contract and 42 CFR 455.101 through 106, 42 CFR 436 and SMDL09-001.
- 6.1 Upon discovery of an excluded individual the administrative service subcontractor must provide immediate disclosure to Health Plan and the AHCCCS-OIG.
 - 7.0 The Health Plan will ensure that any member communications created by the administrative services subcontractor contains the appropriate Health Plan branding.
 - 7.1 All communications regarding modification or updates to any AHCCCS guidelines, policies and manuals will be sent to all approved AHCCCS Administrative Services Subcontractors via email.
 - 7.2 The subcontractor account managers will review and implement as applicable.
 - 7.3 Subcontractor will return a signed cover sheet to acknowledge they have received the information on the modification to the guideline, policy or manual.
 - 8.0 Medicare Compliance and Fraud, Waste, and Abuse Training: FDR's
 - 8.1 General Compliance and Fraud, Waste, and Abuse Training:
 - 8.2 In accordance with CMS requirements, the Health Plan requires all FDR's to complete the following CMS training within 90 days of hire or contracting and at least annually thereafter:
 - 8.2.1 Combating Medicare Parts C and D Fraud, Waste, and Abuse Training; and
 - 8.2.2 Medicare Parts C and D General Compliance Training.
 - 8.3 FDRs may complete these trainings one of two ways:
 - 8.3 Completion directly on CMS' Medicare Learning Network (MLN) site which generate certificates of completion, or
 - 8.4 Download and incorporate both training modules, without modification, into internal training systems.
 - 9.0 The Health Plan provides notices to FDRs of the CMS training requirements through various mechanisms such as newsletters, e-mail notifications, fax blasts, website/web portal postings, participation manuals, provider forums, etc. In addition, the Health Plan communicates general compliance information through the Health Plan Code of Conduct dissemination to FDRs occurs within 90 days of contracting, when updates, and annually thereafter.
 - 10.0 FDRs are required to retain evidence of training completion (e.g., training logs, employee certifications, etc.) for a period of no less than ten (10) years, and to make this evidence available to the Health Plan and/or CMS, upon request (i.e., for FDR audits, etc.).
 - 11.0 FDR attestations:
 - 11.1 FDRs are asked to complete and submit to the Health Plan an annual attestation to confirm training completion.

PERFORMANCE AND OUTCOME MEASURES

- 1.0 For AHCCCS only, the Health Plan will submit an Annual Subcontractor Assignment and Evaluation Report (within 90 days from the start of the AHCCCS contract year) detailing any Delegation agreements for Administrative Service Functions and which contains all AHCCCS-required information.
- 2.0 For AHCCCS and CMS, should any FDR which performs a Delegated Administrative Services Function be determined to be non-compliant based on an audit outcome, the Health Plan will work with the FDR toward regaining compliance. This is accomplished by the Health Plan issuing a Corrective Action Plan (CAP) to the Delegated entity, and monitoring such entity until compliance is regained.
- 3.0 For AHCCCS and CMS, the Health Plan will promptly inform AHCCCS and CMS Account Manager in writing and phone call if a Participating Provider, FDR, with a Delegated Administrative Services Function is in significant non-compliance that would affect the Participating Provider's abilities to perform the duties and responsibilities of the Delegation agreement.
- 4.0 Delegated FDRs will perform Administrative Service Functions in a manner consistent with the Health Plan and in accordance with AHCCCS, CMS and federal and state requirements, regulations and policies and procedures.
- 5.0 All Subcontractors will receive an email notification when there are any updates to the provider manual.

REFERENCES

- 1.0 AHCCCS Acute Care Contract; Section D, Paragraph 36, Subcontracts
- 2.0 AHCCCS EPD ALTCS Contract, Section D, Paragraph 32 - Subcontracts
- 3.0 Minimum Subcontract Provisions
- 4.0 ACOM Policy 416
- 5.0 AHCCCS Contractor Operations Manual Chapter 400, policy 438-Administrative Services Subcontractor Evaluation
- 6.0 AHCCCS Attachment F, Contractor Chart of Deliverables
- 7.0 AHCCCS Attachment A, Administrative Services Subcontract Checklist
- 8.0 AHCCCS Attachment B, Administrative Services Subcontractors Evaluation Report Template
- 9.0 42 C.F.R 438.230
- 10.0 42C.F.R 455.101 through 106
- 11.0 42 C.F.R 436
- 12.0 SMDL09-001
- 13.0 42 C.F.R. §§ 422.503(b)(4)(vi), 422.504(i), 423.504(b)(4)(vi), 423.505(i)
- 14.0 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 423.504(b)(4)(vi)(F)
- 15.0 Medicare Managed Care Manual, Chapter 21, Compliance Program Guidelines, Section 40

- 16.0 Medicare Managed Care Manual, Prescription Drug Benefit Manual Chapter 9, Compliance Program Guidelines, Section 40
- 17.0 CMS Final Rule
- 18.0 (42 CFR §§422.504(o) and §423.505(p)) Business Continuity Plans

ASSOCIATED POLICIES AND PROCEDURES

- 1.0 Health Plan Policy - CP 6108, Compliance Actions
- 2.0 Health Plan Policy - CP 6001, Compliance Program
- 3.0 Health Plan Policy - GP 6015, Continuity of Operations and Recovery Plan
- 4.0 Health Plan Policy - ND 6012, Delegated Administrative Service Agreements
- 5.0 Banner Health Policy 503 - HIPAA: IT Service Continuance Program