



DEPARTMENT OF MENTAL HEALTH POLICY/PROCEDURE

SUBJECT FRAUD, WASTE, AND ABUSE PREVENTION	POLICY NO. 112.6	EFFECTIVE DATE 1/01/2007	PAGE 1 of 5
APPROVED BY:  Director	SUPERSEDES	ORIGINAL ISSUE DATE 10/15/2007	DISTRIBUTION LEVEL(S) 2

PURPOSE

- 1.1 To communicate with the Department of Mental Health (DMH) principles and policies for preventing, detecting, and correcting, fraud, waste, and abuse, and to promote and maintain the highest in ethical and legal conduct throughout DMH and its Mental Health Contractors.
- 1.2 To communicate with Mental Health Contractors that they must adopt and abide by this policy for the prevention, detection, and correction of fraud, waste, and abuse so as to promote and maintain the highest in ethical and legal conduct.

DEFINITIONS AND BACKGROUND

- 2.1 Fraud is an intentional deception or misrepresentation that an individual knows, to be false or does not believe to be true and makes, knowing that the deception could result in an unauthorized benefit to himself/herself or another person.
- 2.2 Waste is the extravagant, careless, or needless expenditure of funds or consumption of resources that results from deficient practices, poor systems controls, or bad decisions. Waste may or may not provide any personal gain. Waste is not necessarily illegal; however, it hurts the organization by depleting its resources.
- 2.3 Abuse is defined as incidents or practices by providers, which although not usually considered fraudulent, are inconsistent with accepted sound medical, business or fiscal practices that directly or indirectly create unnecessary costs to the Medicare Program.
- 2.4 The False Claims Act (31 U.S.C. § 3729-3733) is a Federal statute used to combat fraud against the United States. Key False Claims Act provisions holds the claimant responsible for submitting only claims for services that are provided in accordance with governmental requirements and which are complete and accurate. It states that a responsible person or entity cannot act with actual knowledge of falsity, or in deliberate ignorance, or in reckless disregard of the truth or falsity of information used to prepare or support claims.
- 2.5 The State also has enacted a False Claims Act under the Government Code Sections 12650-12656 to combat fraud. The State language closely parallels the

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Federal language and holds the claimant responsible for completing correct and/or legal reimbursement claims for services or goods.

- 2.6 “Other work force members” is used in reference to: residents, interns, students, volunteers, and locum tenens.
- 2.7 Mental Health Contractor includes any contractor, subcontractor, agent, or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of, Medi-Cal health care items or services, performs billing or coding functions, or is involved in the monitoring of health care provided by the entity.

POLICY

- 3.1 DMH and Mental Health Contractor operated sites shall provide mental health services and related administrative activities in a manner that meets the highest standards of business and professional ethics.
- 3.2 DMH and Mental Health Contractor operated sites shall comply with applicable Federal, State, and County, statutes, laws, regulations, policies and procedures. This includes, but is not limited to, the Federal False Claims Act and the State False Claims Act.
- 3.3 DMH's and Mental Health Contractor's employees, and other workforce members, are required to report any actual or perceived compliance violations to persons within their organizations who are charged with reviewing and remediating such violations. At DMH, the areas charged with this responsibility are the area supervisor, the Program Manager, or the Compliance Program Office (CPO).
- 3.4 DMH will maintain a set of policies and procedures for purposes of :
- Creating and maintaining an ethical and honest environment;
 - Providing employees with procedures for their work product;
 - Providing employees with information regarding expected workplace behaviors, (referring to the Code of Organizational Conduct, and Policy 100.1, Department of Mental Health Code of Ethics);
 - Ensuring proper internal controls are in place.

PROCEDURE

- 4.1 Standards of Business and Professional Ethics
- 4.1.1 As applicable, DMH and Mental Health Contractors, and other workforce members who are licensed, certified or accredited, should be aware of, and periodically review the code of ethics associated with their profession. This

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periodic review will reinforce expectations regarding business and professional conduct.

4.2 Compliance with Federal, State, and County, Statutes, Laws, Regulations, Policies And Procedures

4.2.1 DMH and Mental Health Contractor managers and supervisors shall monitor the employees and review their work product to ensure compliance with applicable Federal, State, and County, statutes, laws, regulations, policies and procedures. This includes, but is not limited to the Federal False Claims Act and the State False Claims Act.

4.2.2 The CPO will monitor compliance with Federal, State, and County, statutes, laws, regulations, policies, and procedures. Monitoring will be planned and will be based on periodic risk assessments.

4.2.3 Audits may be conducted by Federal, State, or County Auditor-Controller personnel, or by DMH organizational units other than CPO, for purposes of determining compliance with Federal, State, and County statutes, rules, regulations, policies, and procedures.

4.2.4 DMH and Mental Health Contractors shall implement audit recommendations as appropriate to ensure compliance with Federal, State, and County statutes, rules, regulations, policies, and procedures.

4.3 Reporting Any Actual or Perceived Compliance Violations

4.3.1 DMH employees are expected to exhaust all internal means—call an immediate supervisor, the CPO, or the Auditor-Controller Fraud Hotline—for correcting perceived or actual compliance violations prior to notifying law enforcement or non-County officials to initiate an investigation or other corrective action.

4.3.2 DMH Policy 112.1, Compliance Program Communication, advises DMH employees, other workforce members, and stakeholders [includes contractors] that there are at least three ways to report actual or perceived compliance violations:

4.3.2.1 employees and other workforce members may discuss the issues with their supervisor or manager; or

4.3.2.2 Call the Compliance Program Office at (213)739-2390; or

4.3.2.3 Call the Auditor-Controller operated Los Angeles County Fraud Hotline at (800) 544-6861.

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- 4.3.3 Contract employees should work with their organization first and may also notify the DMH CPO at (213) 639-6391 or the County fraud hotline at (800) 544-6861 if their agency does not respond or implement corrective actions.
- 4.3.4 The DMH CPO will, in coordination with the Auditor-Controller, conduct timely reviews and/or audits of alleged compliance violations that may have occurred within DMH and Mental Health Contractor operations to detect erroneous practices and cause them to be stopped and corrected in a timely manner.
- 4.4 Training
 - 4.4.1 The CPO will provide annual training to DMH employees and other work force members. This training will include: integrity and ethics and other areas of concern.
 - 4.4.2 Contractors are to ensure their employees and other workforce members are adequately trained.
- 4.5 Policies and Procedures
 - 4.5.1 DMH will maintain a set of policies and procedures. (See DMH policy 300 .01 Centralized System of Review, Distribution, and Access for Policies and Procedures)
 - 4.5.2 Contractors should have policies and procedures available as reference guides for their employees.
- 4.6 DMH Distribution/Accessibility Procedures
 - 4.6.1 DMH will distribute this policy to DMH employees, contractors, and agents so that they are aware of, and will abide by, DMH policies and practices to avoid fraud, waste, and abuse.
 - 4.6.1.1 CPO will coordinate with DMH Human Resources and will distribute to all its employees a copy of this policy.
 - 4.6.1.2 CPO will coordinate with DMH Contracts Development and Administration Division and to distribute a copy of this policy to all of DMH's contractors and agents.
 - 4.6.2 To ensure this policy is readily accessible to DMH employees, contractors, and agents:

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- 4.6.2.1 DMH will maintain a copy of this policy on the Policy and Procedure websites accessible to employees, contractors, and agents.
- 4.6.2.2 DMH will distribute a copy of this policy to all DMH policy manual holders, with instructions to insert the policy in the manual.
- 4.6.2.3 DMH will add this policy to the DMH Employee Reference Manual. This will ensure distribution to the new employees.

4.7 DMH Contractors and Agents Responsibilities

- 4.7.1 DMH contractors and agents will distribute a copy of this policy to all of their existing and future employees and other work force members.

AUTHORITY

The Federal Deficit Reduction Act of 2005, Section 6032—Eliminating Fraud, Waste and Abuse in Medicaid.

December 13, 2007 CMS Guidance for implementation of Section 6032 of the Deficit Reduction Act of 2005.

Mandated Compliance Program as stipulated in the annual State performance contract beginning in FY 2004/05, Section Z, Program Integrity Requirements.

Code of Federal Regulations, Title 42, Section 438.608, Program Integrity Requirements.

REFERENCE

Code of Organizational Conduct

DMH Policy 100.1, Department of Mental Health Code of Ethics.

DMH Policy 112.1, Compliance Program Communications.

DMH Policy 300.1, Centralized System of Review, Distribution, and Access for Policies and Procedures.

RENEWAL DATE

This policy shall be reviewed five (5) years from the effective date.