

POLICY AND PROCEDURE	
TITLE: Fraud, Waste and Abuse	
DEPARTMENT POLICY OWNER: Compliance	POLICY #: CMP05
IMPACTED DEPARTMENT(S): Check all departments impacted by this policy	
<input type="checkbox"/> Administration <input type="checkbox"/> Claims <input type="checkbox"/> Compliance <input type="checkbox"/> Customer Service <input type="checkbox"/> External Affairs <input type="checkbox"/> Facilities <input type="checkbox"/> Finance	<input type="checkbox"/> Human Resources <input type="checkbox"/> Information Technology <input type="checkbox"/> Marketing <input type="checkbox"/> Medical Management <input type="checkbox"/> Provider Networks <input type="checkbox"/> Project Management <input checked="" type="checkbox"/> ALL
EFFECTIVE DATE: 01/01/1999	REVIEW/REVISION DATE: 05/04; 08/05; 05/09; 07/05; 03/15; 06/15; 06/16; 04/19; 07/20; 08/20; 03/21
COMMITTEE APPROVAL DATE: PRC: 09/16; 04/19, 04/21 Compliance: 05/19	RETIRE DATE:
PRODUCT TYPE: Medi-Cal	REPLACES:

I. PURPOSE

The purpose of this policy is to ensure that the Health Plan of San Joaquin (HPSJ) complies with all laws governing its operations and conducts business according to legal and ethical standards; to prevent Fraud, Waste and Abuse (FWA) of HPSJ's organizational assets; and, in line with Section 6032 of the Deficit Reduction Act of 2005 to decrease financial loss from false claims.

II. POLICY

- A. HPSJ prohibits FWA of its assets. This prohibition includes attempts and conspiracies to conduct such activity, as well as the aiding, abetting, or concealing of such

attempts and conspiracies. HPSJ promotes behavior that avoids FWA and promotes organizational accountability.

- B. HPSJ must report to Department of Health Care Services (DHCS), the California Department of Justice (DOJ) and any other applicable regulatory agencies, all cases of suspected and/or credible FWA when there is reason to believe an incident has occurred. These incidents of suspected and/or credible FWA will be reported within ten (10) working days of the reported incident.
- C. Analysis of the alleged FWA must specify which law, rule or policy was violated. Also, how the facts prove the violation and why the Compliance Department should devote resources to pursue the matter to protect HPSJ.
- D. Once the allegation is proved to be credible HPSJ's Compliance Department will investigate the alleged FWA and will make every reasonable effort to protect the anonymity and confidentiality of those involved. HPSJ will maintain respect, confidentiality and privacy of all involved in the course of the investigation and resolution of any reported incident.
- E. The Workforce must cooperate fully with the investigation. Failure to comply with the provisions of this policy is a violation of HPSJ's Code of Conduct and may result in disciplinary action.
- F. Information related to the investigation is shared only on a need-to-know basis and may be subject to attorney- client privilege.

III. PROCEDURE

A. The identification, monitoring and reporting of FWA allegations includes, but is not limited to the following:

a. Findings identified during an audit, investigation, monitoring, anonymous reporting, or HPSJ Workforce disclosure.

b. Involved parties: The full name of the individual, organization, full

address, phone numbers, email address (if available) and any available identifiers (i.e. HPSJ identification number, National Provider Identifier (NPI), and license number)

- c. A report for HPSJ Workforce will include, but is not limited to mandatory training record of completion and any pertinent information as determined by the Chief Compliance Officer (CCO) and or his/her designee.
 - i. The Human Resources Department must also be included and consulted throughout the investigation process.

- B. In accordance with Compliance Program Training and Education (CMP24) and Code of Conduct, HPSJ Workforce is responsible for taking appropriate actions to prevent all identified FWA.

- C. HPSJ is committed to detecting FWA of its assets. Detection includes but is not limited to, implementing effective internal monitoring (e.g., Hotline, Anonymous Compliance Lunchroom boxes), auditing, and data mining. HPSJ and its FWA vendor conduct data mining and analysis specifically designed to detect FWA by its contracted providers and delegated entities. In addition, directors and supervisors are responsible for establishing appropriate internal controls to detect FWA associated with assets in their custody or under their control.

- D. In compliance with the HPSJ Code of Conduct and Ethics (CMP03) the HPSJ Workforce is required to report known or suspected acts of FWA immediately. Known or suspected acts of FWA should be reported to one or more of the following:
 - a. Electronically to the Compliance Department "Report an Incident"
 - b. Any member of HPSJ management team
 - c. The Chief Compliance Officer or any staff member within the Compliance Department
 - d. A Human Resource representative
 - e. The Anonymous Reporting Hotline

- E. In compliance with HIPAA Federal and State regulations, and HPSJ Workforce Sanctions (HPA09), Individuals who attempt or conspire to

commit fraud, conceal fraud, aid and abet in the commission of fraud, or who fail to report fraud are subject to appropriate corrective or disciplinary action up to, and including termination.

- F. In compliance with HIPAA Federal and State regulations and Whistleblowers and Workforce Crime Victims (HPA10), HPSJ Workforce may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against health plan members, physicians, employees or any other person or entity for reporting ethics issues or suspected violations of law and regulatory requirements, accreditation requirements, or exercising their rights under federal or state laws including protections under the False Claims Act for whistleblowers.

IV. ATTACHMENT(S)

- a. [Glossary of Terms Link](#)

V. REFERENCES

Law, regulations, or contract citations that are cited in the policy and procedure. Please cite in alphabetical order. Typical examples are listed below.

- A. CMP24 Compliance Program Training and Education
- B. HPA09 HPSJ Workforce Sanctions
- C. HPA10 Whistleblowers and Workforce Crime Victims
- D. False Claims Act, 31 U.S.C. §3729-3733
- E. Section 6038 of the Deficit Reduction Act 2005
- F. Anti-Kickback Statute, 42 U.S.C. §1320a-7b
- G. Program Integrity Requirements Under the Contract, 42 CFR §438.608
- H. Program Integrity: Medicaid 42 CFR §455
- I. Prohibited affiliations, 42 CFR §438.610
- J. Exclusion Provisions, Section 1128 of the Social Security Act
- K. Civil Monetary Penalty Law, Section 1128A of the Social Security Act
- L. Fraud, Waste, and Abuse Referral Guidelines for Use by Managed Care Plans, May 2012
- M. DHHS Laws Against Health Care Fraud Resource Guide, September 2015
- N. Memorandum of Understanding Health Plan of San Joaquin and SEIU Local 1021 section 14

VI. REGULATORY AGENCY APPROVALS

Per HPSJ's agreement with The Department of Health Care Services (DHCS), CMP05 is approved for implementation due to being under review for over 60 days.

VII. REVISION HISTORY

STATUS	DATE REVISED	REVISION SUMMARY
Reformatted	04/16/2019	New format change.
Revisions	07/29/20	<ul style="list-style-type: none"> - Added the 2020 Policy header - Removed detailed desk level procedures to provide high level summary and guidance - Added related policies for reference
Reviewed	11/10/2020	Added correct glossary on policy and reviewed the revision dates.
Reviewed	03/04/2021	Reviewed and added regulatory guidance in line with Section 6032 of the Deficit Reduction Act of 2005.