

Compliance Operations		<u>Effective Date</u> 12/01/2009	<u>Owner</u> Delegation Oversight	
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	Delegation Oversight	<u>SOX Ref #</u> N/A	<u>Approved By</u> SVP, MA Compliance Officer	
		<u>Draft Date</u> 12/01/2009	<u>Last Review Date</u> 03/09/2017	
	Approver's Name (Printed): Celeste Panaro		Date:	
	Approver's Signature:			

1.0 PURPOSE

- 1.1 The purpose of this policy and procedure is to outline the delegation oversight activities of First Tier, Downstream and Related Entities (FDRs) that perform the Centers for Medicare and Medicaid Services (CMS) mandated functions on behalf of Universal American (UAM) Medicare Advantage (MA) contracts.

2.0 POLICY

- 2.1 UAM maintains ultimate responsibility for fulfilling the terms and conditions as set forth in the plan's contract with CMS, including all statutory and regulatory requirements. UAM evaluates each FDR's ability to perform the delegated activities they have been engaged to perform on behalf of the plan and monitors these activities at least annually to ensure the FDR's compliance with regulatory requirements. This oversight includes confirmation of on-going compliance with the Medicare Parts C and D benefit regulations, data accuracy and completeness, and truthfulness of data generated and submitted as well as sub-regulatory guidance and State and Federal law. UAM is responsible for all data submitted to CMS, including data generated and/or reported to UAM by FDRs.
- 2.2 UAM maintains a Delegation Oversight Committee (DOC), a subcommittee of the Corporate Compliance Committee, charged with the routine and systemic evaluation of FDRs.
- 2.3 At least annually, UAM provides communications regarding Compliance training to its employees and FDRs. This training includes, but is not limited to, the UAM Code of Conduct, Compliance Program, Fraud Waste and Abuse (FWA) and Privacy/Security.

3.0 APPLICABILITY

- 3.1 This policy and procedure is applicable to the UAM MA line of business.

4.0 DEFINITIONS

- 4.1 **Administrative Function:** This is an act or function, performed on behalf of the Plan, where independent decisions are made without direct supervision or direction by the Plan and thus are defined as a Delegated function.
- 4.2 **Delegated Entity:** An entity that is contracted with the Plan sponsor to perform certain functions that otherwise would be the responsibility of the Plan to perform under its CMS contract, including management and provision of services. A delegate may be a First tier, Downstream or Related entity (FDR).

- 4.3 **Delegation Oversight Committee (DOC):** UAM committee charged with ensuring that only fully audited performing entities that possess the operational and compliance capabilities to comply with the Medicare program and UAM's contractual requirements are delegated functions by UAM's Business owners. The DOC provides guidance and direction to the Delegation Oversight Department and reports to the Compliance Committee of the Board of Directors and the UAM Medicare Compliance Officer.
- 4.4 **Designee:** Senior Level Management of Monitoring Delegation Oversight (MDO)
- 4.5 **Downstream Entity:** Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant, or a Part D Plan Sponsor or applicant, and first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. For examples, the individual physician, claims third party administrator (TPA), etc.
- 4.6 **First Tier Entity:** Any party that enters into a written agreement, acceptable to CMS, with a Medicare Advantage Organization (MAO) or Part D Plan Sponsor or applicant to provide administrative services to a Medicare eligible individual under the Medicare Advantage (MA) Program or Part D Program..
- 4.7 **Ministerial Function:** This is an act or a function that conforms to an instruction or a prescribed procedure as defined by the Plan with direct supervision thereof; this act or function connotes direction by the Plan with no independent decision-making power or authority. A ministerial act or duty is a function performed without the use of judgment by the individual performing the act or duty and thus is not defined as a Delegated function.
- 4.8 **Related Entity:** Means any entity that is related to the UAM by common ownership or control and:
- 4.8.1 Performs some of the Sponsor's management functions under contract or delegation;
 - 4.8.2 Furnishes services to Medicare enrollees under an oral or written agreement; or
 - 4.8.3 Lease real property or sells materials to the Sponsor at a cost of more than \$2,500 during a contract period.
- 4.9 **Vendor:** An entity that is contracted with UAM to perform a defined service that enhances or supports the organization functionality without independent judgment making on behalf of the UAM.

5.0 PROCEDURE

5.1 FDR Oversight

- 5.1.1 At the time of contracting, UAM will identify whether a business partner will be classified as a delegate or a vendor.
- 5.1.1.1 Delegation Oversight (DO), Procurement and the contracting Business Owner (BO) will review the proposed contract and the Delegated Entity Assessment Form to determine whether the party being contracted is providing administrative or ministerial functions/services. Upon completion, this group will determine if the party being contracted with is a delegated entity subject to the initial and annual delegated entity reviews process or a vendor.
- 5.1.2 All contracts require adherence to federal and state laws.

- 5.1.3 UAM will audit the activities to be performed by an FDR prior to contract inception, and at a minimum of annually thereafter, in conjunction with the annual risk assessment process to assure the FDR's activities are being performed in accordance with CMS regulations.
- 5.1.4 Where appropriate, an on-site audit may be conducted of an FDR to ensure that the entity is capable of meeting the established performance standards of UAM, CMS, State and Federal regulations and other relevant accreditation bodies such as the National Committee on Quality Assurance (NCQA) requirements, as applicable.
- 5.1.5 UAM performs an annual risk assessment of its FDRs to develop a review calendar (please refer to policy MDO-PNP-003 Monitoring and Delegation Oversight Risk Assessment).
- 5.1.6 Annual FDR reviews are performed based on the results of the risk assessment performed (noted in Section 5.1.5 above). FDRs, as applicable, are required to validate the performance of OIG and SAM exclusion monitoring upon hire and monthly thereafter of their employees, temporaries, contractors, governing body members and downstream entities at the time of the annual review. The DO Unit has a variety of methods to ensure the monthly exclusion monitoring is being performed by FDRs i.e. the annual review process, Semi-annual risk assessment (SARA) and the quarterly exclusion monitoring initiative.
- 5.1.7 Delegated entities will receive annual compliance training from UAM in accordance with CMS guidance.

5.2 Delegation Oversight Committee (DOC)

- 5.2.1 The DOC is a subcommittee of the UAM Corporate Compliance Committee and is responsible for ensuring that each FDR is, at a minimum, reviewed and evaluated by UAM annually in accordance with the annual risk assessment process. The DOC includes voting and non-voting members and is charged with the routine and systematic evaluation of FDRs and ensures risk management of all FDRs. Responsibilities of the DOC include:
 - 5.2.1.1 Assurances that initial assessments of FDRs are conducted prior to contract execution to determine entities' operational capabilities to comply with the federal and statutory regulations.
 - 5.2.1.2 Evaluation of ongoing FDR performance.
 - 5.2.1.3 Recommendation of initial or continued contracting with entity based on its assessments or evaluations of ongoing performance.
 - 5.2.1.4 Adherence to Delegation Oversight policies and procedures.
 - 5.2.1.5 Escalation of egregious findings to the Medicare Compliance Officer, Senior Management, and/or Legal Counsel.
 - 5.2.1.6 Business Owners' accountability on functions performed by FDR.
- 5.2.2 An appointed Chairperson and alternate Chairperson will lead DOC meetings.
- 5.2.3 A quorum will consist of fifty percent (50%) of the voting members.
- 5.2.4 The DOC will meet at a minimum, four (4) times a year (quarterly).

6.0 REPORTING

- 6.1 The Medicare Compliance Officer receives monitoring reports, as requested.

6.2 The Medicare Compliance Officer, or his/her delegate, will report delegation oversight activities and/or monitoring results to the Corporate Compliance Committee and Senior Leadership on a quarterly basis.

Delegation Oversight will report delegation oversight activities to the Delegation Oversight Committee on a quarterly basis.

Related Documentation / References

- MDO.PNP.003 Monitoring Delegation Oversight Risk Assessment
- 42 CFR § 422.503
- 42 CFR § 422.504
- Medicare Managed Care Manual, Chapters 11 & 21
- Prescription Drug Benefit Manual, Chapter 9