



Compliance - Delegation Oversight	 UNIVERSAL AMERICAN A WellCare Company	<u>Effective Date</u> 05/23/2011	<u>Owner</u> Delegation Oversight	
		<u>Policy #</u> DO.PNP.005.06	<u>Revision Date</u> 03/16/2017	
	Effective Lines of Communications with First Tier, Downstream and Related Entities (FDR)	<u>SOX Ref #</u> N/A	<u>Approved By</u> SVP, Medicare Compliance Officer	
		<u>Draft Date</u> 05/20/2011	<u>Last Review Date</u> 03/16/2017	
	Approver's Name (Printed): Celeste Panaro		Date: 03/27/17	
	Approver's Signature: 			

1.0 PURPOSE

- 1.1 The purpose of this policy is to ensure that delegated entities performing services, functions and processes under Universal American (UAM) Medicare Advantage (MA) contracts with the Centers for Medicare and Medicaid Services (CMS) properly notify UAM of incidents of non-compliance related to the MA regulatory requirements and/or Fraud, Waste and Abuse.

2.0 POLICY

- 2.1 UAM is responsible for fostering and ensuring that effective lines of communication exist between UAM and its first tier, downstream and related entities (FDRs) for reporting of suspected and actual compliance violations and for ongoing compliance with CMS requirements.
- 2.2 Where UAM delegates its activities or responsibilities, UAM maintains the ultimate responsibility for fulfilling the terms and conditions as set forth in their MA contract with CMS, including all statutory and regulatory requirements.

3.0 APPLICABILITY

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

4.0 DEFINITIONS

- 4.1 **Breach:** Impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of the protected health information (PHI) such that the use or disclosure poses a significant risk of financial, reputational or other harm to the affected individual (exceptions apply).
- 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 is CMS contract, including management and provision of services. A delegate may be a First tier, Downstream or Related entity.
- 4.3 **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. For examples, the individual physician, claims TPA, etc.

- 4.4 **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 For example, an IPA.
- 4.5 **Related Entity:** Means any entity that is related to the Sponsor by common ownership or control and:
- 4.5.1 Performs some of the Sponsor's management functions under contractor delegation;
 - 4.5.2 Furnishes services to Medicare enrollees under documented oral or written agreement; or
 - 4.5.3 Lease real property or sells materials to the Sponsor at a cost of more than \$2,500 during a contract period.

5.0 PROCEDURE

- 5.1 UAM will perform educational campaigns to educate its FDRs as CMS requirements are updated, upon completion of a Pre-Delegation review and at least annually (Reference CO-069 Delegation Oversight).
- 5.1.1 UAM FDRs are required to report potential and actual instances of compliance violations to UAM as soon as possible through the established modes of communication noted below.
 - 5.1.1.1 The UAM Ethics Hotline
 - 5.1.1.2 Email or other written communication to the UAM Business Owner (BO) of the relationship
 - 5.1.1.2.1 BO is responsible for forwarding all communications pertaining to potential or actual instances of non-compliance of UAM's delegated entities to Delegation Oversight (DO) at DelegationOversight@UniversalAmerican.com.
 - 5.1.1.3 Email or other written communication to the UAM Compliance Department at compliance@universalamerican.com.
 - 5.1.1.4 Verbal communication to the UAM BO or the UAM Compliance Department.
 - 5.1.1.5 Via the Semi-Annual Risk Assessment administered to FDRs by DO.
- 5.2 On receipt of an incident from an FDR, DO will document the incident on the Corrective Action Plan (CAP) Log and include receipt of the notification; date notification was received by UAM; name of the delegate; function or service provided by the delegate; the method by which notification was received; the date the potential or actual infraction occurred; and the nature of the infraction. Once the CAP Log is completed by DO, it is issued to the Executive Leadership Team on a monthly basis.
- 5.3 DO will also notify the Medicare Compliance Officer and/or Chief Privacy or Security Officer as appropriate.
- 5.3.1 In the event the potential or actual compliance violation pertains to Protected Individual Information (PII) or Personal Health Information (PHI), the Chief Privacy or Security Officer will be notified immediately and will follow the current guidance issued by the Department of Health & Human Services (HHS) on actual PHI incidents.

- 5.3.2 In the event the potential or actual compliance violation involves possible fraud, waste or abuse, the incident will be reported to the Medicare Compliance Officer and the UAM Special Investigation Unit (SIU) as soon as possible. In the event the incident was not reported through the BO, DO will notify the BO of receipt of the incident.
- 5.4 UAM will begin an investigation into the reported incident within a reasonable timeframe.
 - 5.4.1 In the event the complainant wishes to remain anonymous, UAM will make reasonable efforts to protect the individual or entity's anonymity during the course of any investigation performed.
 - 5.4.2 If the nature of the potential or actual compliance violation represents potential fraud, waste or abuse, UAM SIU will perform the investigation.
 - 5.4.2.1 SIU will provide the Medicare Compliance Officer and DO with periodic, updates to the status of its investigation, as appropriate.
 - 5.4.2.2 SIU investigations will be concluded in as timely a manner as possible. Completion of investigations will be contingent upon UAM's ability to access timely:
 - 5.4.2.2.1 All documentation supporting the complaint;
 - 5.4.2.2.2 The delegate's policies and procedures associated with the process and/or service impacted by the complaint for review; and
 - 5.4.2.2.3 Any other documentation, interviews or other resources necessary to properly and adequately investigate the potential or actual compliance violation.
 - 5.4.2.3 Upon completion of its investigation, SIU will provide the Medicare Compliance Officer with written results of its investigation, as appropriate.
 - 5.4.2.3.1 In the event it is determined that an actual compliance violation has occurred, the Medicare Compliance Officer will determine whether the delegated entity will be required to undergo corrective action(s) to remediate the violation.
 - 5.4.2.3.2 In the event DO is notified of an incident by the FDR, the issue is captured on the CAP log and an AdHoc report is issued to the FDR.
 - 5.4.2.4 Upon review and approval by the Medicare Compliance Officer, investigation results will be released to the UAM Leadership.
 - 5.4.3 If the nature of the potential or actual compliance violation does not represent a potential fraud, waste or abuse issue, DO will perform the investigation in accordance with its standard operating procedures (See DO-SOP-004 Annual Delegation Review).
 - 5.4.3.1 DO will engage the BO to facilitate communication with the delegated entity.
 - 5.4.3.1.1 In the event the complainant wishes to remain anonymous, UAM will make reasonable efforts to protect the individual or entity's anonymity during the course of any investigation performed.
 - 5.4.3.2 DO investigations will be completed within a reasonable timeframe.
 - 5.4.3.2.1 Upon completion of the investigation, DO will provide the Medicare Compliance Officer with written results of its investigation.

5.4.3.2.2 In the event it is determined that an actual compliance violation has occurred, the Medicare Compliance Officer will determine whether the delegated entity will be required to undergo corrective action(s) to remediate the violation.

5.4.3.2.3 If it is determined that the delegated entity will be required to undergo corrective action(s) to remediate the violation, validation must include supporting documentation of the delegate's employee disciplinary action(s).

5.4.3.3 Upon review and approval by the Medicare Compliance Officer, investigation results will be released to the UAM Leadership.

5.5 DO will log resolution of the investigation into the CAP Log.

5.6 MONITORING

5.6.1 In the event that corrective action is required, DO will issue Corrective Action Recommendations (CARs) to the delegated entity in accordance with its standard operating procedures (See DO-SOP-005 CAP Monitoring, Validation and Reporting).

5.6.1.1 DO will monitor remediation and perform validation of CAPs provided by the delegate in accordance with its standard operating procedures (see DO-SOP-005 CAP Monitoring, Validation and Reporting).

5.6.2 If the delegated entity has not effectively remediated in accordance with its CAP(s), the delegate can be brought before the Delegation Oversight Committee for de-delegation in accordance with DO's standard operating procedures (see DO-PNP-002 Termination of Delegation).

6.0 TRAINING

6.1 Training for employees regarding this policy and procedure will occur within 90 days of hire, when there are updates to the policy and annually thereafter.

7.0 REPORTING

7.1 Results of corrective action recommendations and validations will be reported the Executive Leadership Team (ELT) on a monthly basis.

7.2 All results of investigations performed as the result of a reported incident will be provided to the Medicare Compliance Officer.

7.2.1 For compliance violations associated with HIPAA breaches, the results will also be provided to the Chief Privacy Officer and any other authority as required by law.

7.3 All on-going and completed results of investigations performed as the result of a reported incident will be presented to the Delegation Oversight Committee (DOC) on at least a quarterly basis for review and inclusion in the DOC's minutes.

Related Documentation

- DO-SOP-004 Annual Delegation Review
- DO-SOP-005 CAP Monitoring, Validation and Reporting
- MDO-SOP-009 Escalation of Compliance Violations

- DO.PNP.002 Delegation Oversight - Termination of Delegation