

COPPER COUNTRY MENTAL HEALTH SERVICES BOARD

POLICY AND PROCEDURE

DATE: May 26, 2021 Disclosure of Ownership, Control...P2

RESCINDS: May 29, 2019

CATEGORY: Administration

SUBJECT: Disclosure of Ownership, Control and Criminal Convictions

POLICY: As an affiliate of the NorthCare Network, it is the policy of the Copper Country Mental Health Services Board (CCMHS) and any contractors or subcontractors to not knowingly have a relationship with any individual or entity that is debarred, suspended, or otherwise excluded from participating in federal health care programs or procurement activities with a director, officer, or partner of the contractor/subcontractor; a person with beneficial ownership of 5 percent or more of the contractor/subcontractor's equity; or a network provider or person with an employment, consulting or other arrangement with the contractor/subcontractor for the provision of item and services that are significant and material to CCMHS' or the contractor's obligations under contract with the State. CCMHS, contractors, and subcontractors must comply with federal regulations to obtain, maintain, disclose, and furnish required information about ownership, control interests, business transactions, and criminal convictions as specified in 42 CFR 455.104-106. In addition, CCMHS ensures that any and all contracts and sub-contracts, agreements, purchase orders, or leases to obtain space, supplies, equipment or services provided with Medicare or Medicaid funds require compliance with 42 CFR 455.104-106. CCMHS will report criminal offenses specific in 1128(a) and 1128(b)(1), (2), or (3) of the Social Security Act; these offenses include convictions of program-related crimes, patient abuse, healthcare fraud, and controlled substances. The Michigan Department of Health and Human Services (MDHHS) Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts will be notified when disclosures are made by providers with regard to those

offenses as detailed in sections 1128(a) and 1128(b) (1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act.

PURPOSE: The purpose of this policy is to ensure CCMHS, contractors, and subcontractors do not have a relationship with an individual or entity that is debarred, suspended, or otherwise excluded from participating in any Federal health care program or procurement activities.

DEFINITIONS:

DISCLOSING ENTITY: a Medicaid provider (other than an individual practitioner or group of practitioners), or a fiscal agent.

FAMILY MEMBERS: for the purpose of this policy include spouse, parent, child, or sibling.

FISCAL AGENT: a contractor that processes or pays vendor claims on behalf of the Disclosing Entity.

MANAGING EMPLOYEE: with respect to an entity, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the entity, or who directly or indirectly conducts the day-to-day operations of the entity and those in a position of influence or authority.

OTHER DISCLOSING ENTITY: any other Medicaid disclosing entity and any entity that does not participate in Medicaid, but is required to disclose certain ownership and control information because of participation in any of the programs established under title V, XVIII, or XX of the Act. This includes:

- Any hospital, skilled nursing facility, home health agency, independent clinical laboratory, renal disease facility, rural health clinic, or health maintenance organization that participates in Medicare (title XVIII);
- Any Medicare intermediary or carrier; and
- Any entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of health-related services for which it

claims payment under any plan or program established under title V or title XX of the Act.

PERSON WITH AN OWNERSHIP OR CONTROL INTEREST: with respect to an entity, a person who: (a) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceed 5 per centum of the total property and assets of the entity; or (b) is an officer or director of the entity or a partner in the entity, if the entity is organized as a corporation.

PROCEDURE:

I. Disclosures must be made regarding:

- A. Ownership, controlling interest and management authority or influence in the disclosing entity or in any subcontractor in which the disclosing entity has a direct or indirect ownership of 5 percent or more; including relatives.
- B. Information related to business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request.
- C. Information on persons convicted of crimes must be disclosed before entering or renewing a provider agreement or upon written request.

II. Disclosure statements will include the following required information:

- A. Name and address of any person (individual or corporation) with an ownership or control interest in the disclosing entity. The address for corporate entities must include primary business address, every business location, and P.O. Box location.
- B. Date of Birth and Social Security Number of each person with an ownership or control interest in the disclosing entity.
- C. Other tax identification number (in the case of a corporation) with an ownership or control interest in the disclosing entity or in any subcontractor in which the disclosing entity has five percent or more interest.

- D. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity is related to another person with an ownership in the disclosing entity as a family member or whether the person (individual or corporation) with an ownership or control interest in any subcontractor in which the disclosing entity has five percent or more interest, is related to another person with an ownership or control interest as a family member.
 - E. The name of any other disclosing entity in which the owner of the disclosing entity has an ownership or control interest.
 - F. The name, address, date of birth, and Social Security number of any managing employee of the disclosing entity.
 - G. The identity of any individual who has an ownership or control interest in the provider, or is an agent or managing employee of the provider and has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.
- III. NorthCare Network requires each contractor and subcontractor to identify their "managing employees" in policy. CCMHS' managing employees include, at minimum: Executive Director, Associate Director, Finance Director, and the Board of Directors.
- IV. Any disclosing entity must furnish a disclosure statement at any of the following times:
- A. When the provider submits a provider application;
 - B. Upon execution of the provider agreement or contract;
 - C. During re-credentialing or re-contracting;
 - D. Within 35 days of any change in the ownership of a disclosing entity.
- V. NorthCare Network requires contractors (such as CCMHS) and subcontractors, through written agreements, to have processes for obtaining attestation of criminal convictions and full disclosure statements identified in 42 CFR Part 455 Subpart B and that policies and procedures for subcontracting, employment, and credentialing include requirements to report to NorthCare Network any individuals with criminal convictions

described under 1128 (a) and 1128 (b) (1) (2) or (3) of the Act or individuals that have had civil monetary penalties or assessments imposed under section 1129 A of the Act.

- VI. NorthCare and Network Providers such as CCMHS will conduct an OIG Exclusion database search at time of hire or contract and monthly thereafter for as long as the individual or entity is employed or under contract. The OIG database search will also be performed monthly on all disclosing entities and on any individuals with ownership or control interest identified on the disclosure form. CCMHS will communicate all OIG database search matches to NorthCare immediately; and, provide evidence of monthly searches and findings upon request and at least annually as part of the annual performance and compliance review. NorthCare Network ensures all contractors and subcontractors have a process for obtaining attestation of criminal convictions and full disclosers (identified in 42CFR Part 455 Subpart B) from managing employees; board of directors; individuals with beneficial ownership; and individuals with an employment, consulting or other arrangement with the contractor or subcontractor.
- VII. CCMHS will notify NorthCare Network when disclosures are made by providers with regard to those offenses as detailed in sections 1128(a) and 1128(b) (1), (2), or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act. NorthCare Network will notify the Michigan Department of Health and Human Services (MDHHS) Behavioral Health and Developmental Disabilities Administration (BHDDA) Division of Program Development, Consultation and Contracts within two business days of receiving the disclosure.
- VIII. Failure to fully complete the disclosure form as required or the submission of false or misleading information to NorthCare Network or to CCMHS will be subject to contractual sanctions up to and including immediate suspension of funding and termination of the contractual agreement or termination as a member of the Board(s).

CROSS REFERENCE: None