SECTION 5, CHAPTER 4, POLICY 012

REPORTING SUSPECTED BEHAVIORAL HEALTH COMPLIANCE VIOLATIONS

POLICY NUMBER:	5.4.012
SYSTEM OF CARE:	BEHAVIORAL HEALTH
FINALIZED DATE:	03.22.2021
EFFECTIVE:	03.01.2021
SUPERSEDES # :	Supersedes Policy #'s: PP 405 Reporting Suspected Fraudulent Activity (11-30-12)

A. PURPOSE: The purpose of this policy is to provide information about the processes for Yolo County Health and Human Services (HHSA) staff to report suspected fraud, waste, abuse, misconduct and other inappropriate activity as described in the Behavioral Health Compliance Plan ("Compliance Plan").

B. RELATED DOCUMENTS:

1. Compliance Reporting Signage
2. Standards for Risk Areas and Potential Violations

C. DEFINITIONS:

1. **Applicable State Contracts:** are the Mental Health Plan contract and other State contracts forfederal and/or state funded behavioral health care programs (i.e., substance use disorder services) to which the requirements of the Medicaid Managed Care regulations apply.

2. **Abuse:** means provider practices that are inconsistent with sound fiscal, business, or medicalpractices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that

fail to meet professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program.

3. **Behavioral Health Employees:** means employees that participate in the provision of behavioral health services, including administrators and management.

4. **Beneficiary:** means any person certified as eligible for services under the Medi-Cal program. In the behavioral health field, the term "beneficiary" may also be used interchangeably with behavioral health consumer, client, patient, or person who is eligible to receive Medi-Cal specialty mental health services from the Mental Health Plan (MHP), depending on the service setting and the preference of the beneficiary

5. **Fraud:** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law.

6. **A Credible allegation of fraud**: may be an allegation, which has been verified by HHSA or the California Department of Health Care Services (DHCS), from any source, including but not limited to the following:
    a. *Fraud hotline complaints.*
    b. *Claims data mining.*
    c. *Patterns identified through provider audits, civil false claims cases, and law enforcement investigations. Allegations are considered to be credible when they have indicia of reliability and the State Medicaid agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis.*

7. **Medicaid:** means Medical assistance provided under a State plan approved under Title XIX of the Social Security Act.

8. **Medi-Cal:** is California's Medicaid program. This is a public health insurance program which provides needed health care services for low-income individuals including families with children, seniors, persons with disabilities, foster care, pregnant women, and low-income people with specific diseases such as tuberculosis, breast cancer or HIV/AIDS.

9. **Mental Health Plan (MHP):** is an entity that enters into a contract with the Department of Health Care Services (DHCS) to provide directly or arrange and pay for specialty mental health services to beneficiaries in a county as provided in the California Code of Regulations (CCR),Title 9, Chapter 11. A MHP may be a county, counties acting jointly or another governmental or non-governmental entity.

10. **Waste:** is overutilization of services, needless expenditure of funds or consumption of resources or other practices that, directly or indirectly, result in unnecessary costs to the health care system, including the Medicare and Medicaid programs caused by deficient practices, poor system controls or bad decisions. It is not generally considered to be caused by criminally negligent actions, but by the misuse of resources.

11. **Misconduct:** is wrongful, improper, or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's acts.

D. POLICY: Yolo County HHSA has developed a system for behavioral health employees to report suspected compliance violations directly to the Behavioral Health Compliance Officer ("Compliance Officer"), allowing for easy, direct access to a source to receive behavioral health employee concerns. This process creates an open-door policy for reporting possible misconduct to the Compliance Officer and evidences the commitment of Yolo County HHSA to successfully implement and monitor the Compliance Plan.

All Yolo County HHSA BH employees are expected to be familiar with the Compliance Plan and the appropriate processes necessary to perform his or her duties and how to obtain the requisite information in order to perform those duties in a manner consistent with legal, regulatory, HHSA and County requirements. Behavioral Health employees who act in violation of the Compliance Plan or who otherwise ignore or disregard the standards of HHSA or the County may be subjected to progressive disciplinary action up to and including termination.

Network Providers shall be required to have a Compliance Program that address the provisions set forth in State/Federal guidelines and Yolo County contracts and/or policies. Network Provider staff shall be expected to understand and comply with Compliance organizational policies. Compliance Plans shall be sent to Yolo County

HHSA at minimum, the timeframes outlined in Yolo County HHSA provider monitoring policies, when there have been significant updates to the Compliance Program or upon request from Yolo County HHSA or the Department of Health Care Services (DHCS).

E. PROCEDURES:

1. **Open Communication:** Yolo County HHSA is committed to the success of the compliance process. An important component of the Compliance Program is to provide staff with open lines of communication for reporting suspected fraudulent activity, as well as to provide access to compliance information when needed.

   To ensure this standard, Yolo County HHSA has determined that the Compliance Officer may be contacted directly by staff to report activity that may violate the ethical and legal standards and practices of the Compliance Program. Staff are also encouraged to seek guidance from the Compliance Officer if they are unsure about whether they are following the compliance policies and procedures correctly, if they need additional training, or if they have specific concerns or questions about the Compliance Program.

2. **Reporting Suspected Violations of the Compliance Program and the Behavioral Health Code of Conduct ("Code of Conduct"):** Per federal regulations and Yolo County HHSA requirements, staff must report behavior that a reasonable person would, in good faith, believe to be erroneous or fraudulent. These activities may include, but are not limited to, the following:

   a. Violations of standards surrounding coding and billing; service documentation; signature requirements; and improper inducements, kickbacks, and self-- referrals.

   b. Violations of ethical standards as outlined in the Code of Conduct.

3. **Methods of Reporting Suspected Fraud or Misconduct:** Yolo County HHSA has developed simple methods for staff to report violations of the Compliance Program directly to the Compliance Officer. Reports may be made anonymously via the Compliance Hotline or in writing. Staff may also contact the Compliance Officer in person, by regular phone, mail, or via email. Whenever possible, strict confidentiality will be maintained.

4. **Non-Retaliation:** As evidence of Yolo County HHSA's commitment to this reporting process, staff will not be subject to retaliation for reporting suspected misconduct or fraud.

5. **Confidentiality:** The Compliance Officer will maintain the anonymity of persons reporting possible erroneous or fraudulent behavior. However, there may be certain occasions when a person's identity may become known or may need to be revealed to aid the investigation or corrective action process.

6. **Documentation of Reports of Suspected Fraud or Misconduct:** Documentation of violation investigations and results will be maintained by the Compliance Officer in the Compliance Log. Information from the Compliance Log will be summarized and system level issues will be reviewed with the Compliance Committee on a quarterly basis.

   The Compliance Log contains the following materials:

   a. The Behavioral Health (BH) Compliance Issue Number;

   b. The date or general time period in which suspected non-compliant action(s) occurred;

   c. The date or general time period in which suspected non-compliant action(s) were discovered;

   d. Source of the allegation (via direct or anonymous contact with the Compliance Officer, routine audit, monitoring activities, etc.);

   e. Name of the behavioral health provider or employee(s) involved;

   f. Name of the client(s) or chart number(s) involved;

   g. Issue description with specific information regarding the nature of the allegation, including supporting reference materials, etc.;

   h. In the event that the non-compliant actions require a Privacy Incident Report (PIR) be made to the State, the following information will be logged as well: State Investigation Number, Date incident was reported to the State: Submission date of the

Initial PIR Form; Submission date of the Final PIR Form; Date the Investigation was closed by the State;

i. Additional Information re the incident;

j. The corrective action plan;

k. Name of the person responsible for following up, if appropriate; and

i. Final Disposition.

7. **Investigation and Corrective Action:** When compliance issues including potential fraud, waste or abuse are reported by staff or detected via auditing/monitoring activities, the Compliance Officer will initiate an investigation to determine the validity of the issue/complaint, and develop and implement corrective action, if needed. If non-compliance is evidenced, the Compliance Officer will follow a course of corrective action outlined in the Compliance Plan and Compliance Investigation and Corrective Action policy and procedure.

8. **Privacy or Security Incident Reporting:** For details on how to report actions that maybe considered a privacy or security incident, refer to policies regarding Privacy or Security Incident Reporting.

F. REFERENCES:

1. Standards for Risk Areas and Potential Violations
2. Compliance Investigation and Corrective Action
3. HHSA Behavioral Health Compliance Plan
4. HHSA Behavioral Health Code of Conduct
5. Privacy or Security Incident Reporting

Approved by:

Karen Larsen

3/24/2021

Karen Larsen, Director **Date**
Yolo County Health and Human Services Agency