

Sanctions and Penalties Enactment

Policy

It is the policy of Central Florida Behavioral Health Network, Inc. (CFBHN), to enforce sanctions and penalties applied to Network Service Providers (NSPs) that do not maintain contract compliance and/or perform at a level that does not meet minimum standards.

~~Sanctions and penalties may be applied to Network Service Providers (NSPs) that do not meet obligations under a Central Florida Behavioral Health Network, Inc. (CFBHN) subcontract or agreement, or do not achieve contract compliance, and/or demonstrate unsatisfactory contractual performance. Sanctions and penalties shall be applied to NSPs when required by CFBHN's contract with DCF or required by law, rule (65E-14, F.A.C) or regulation.~~

Purpose

To implement an objective, predictable, progressive and systematic approach to addressing unacceptable performance by ~~CFBHN~~ NSP's, specific to the responsibilities as delineated in ~~the~~ their CFBHN subcontracts.

Procedure

I. Definitions

- A. Administrative/Operational Violation: A lack of submission of a necessary subcontract document, billing data, service data, program report or other documentation that is related to the subcontract compliance.
- B. Contractual Violations: Violations that occur when an NSP fails to meet the prescribed obligations as specified and agreed to in the subcontract with CFBHN.
- C. Corrective Action Plan (CAP): A plan of action agreed upon by the NSP and CFBHN to remediate performance deemed unacceptable or noncompliant with the conditions of the NSP's subcontract. This plan specifies the actions to be taken and the timeframes within which acceptable performance or compliance is to be achieved.
- D. Health and Safety Violation: Failure to protect the health and safety of individuals during the provision of healthcare services. These violations include, but are not limited to: Preventable injuries or death; Failure to follow ~~requires~~ required risk management or care procedures; Lack of safety drills, and failure to maintain safety equipment.
- E. Involuntary Termination: When CFBHN has determined the NSP has failed to meet the mandatory requirements of the subcontract or agreement, or provides evidence that the NSP has substantial non-compliance. Termination may occur to one or more specific programs or the entire contract, depending on the severity of the violations(s). A termination letter ~~will~~ is be sent to the NSP giving them 30 days' notice, except when CFBHN determines that termination should be immediate upon notice.
- F. Patient Safety of Individuals Served's Safety: The prevention of errors and adverse effects to ~~consumer's individuals served~~ associated with healthcare.
- G. Voluntary Termination: Termination of CFBHN subcontract, program or agreement, initiated by the NSP.

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II. Notification of Sanctions and Penalties

CFBHN ~~will notify~~ notifies its Board of Directors of any penalties imposed on an NSP prior to the termination of a subcontract, program or agreement.

~~Prior to a sanction being issued, CFBHN staff, including the CEO, will may meet will meets with the NSP's CEO & Board Chair to advise them that at the their next Corrective Action/occurrence may will result in a sanction will be applied to the agency and how much the sanction will be. Only in egregious circumstances, approved by CFBHN's BOD will CFBHN's CEO & staff not be required to meet with the NSP. Additionally At this meeting, the this policy may be is reviewed with the NSP. No statements of CFBHN at such meeting may amend or waive this policy, or amend or waive any provision of the NSP's contracts or subcontracts with CFBHN, or bind the CFBHN regarding what is or is not a breach or nonperformance of the NSP's contracts or subcontracts with CFBHN. so that they are aware of the parameters in which they can earn back the sanction, if possible. If the NSP fails to correct the deficiency, a letter may be is issued sent to the NSP's CEO & Board eChair stating that a withholding of funds may be a sanction is being applied to their next request for payment. and t The amount of the withholding, if any, may be sanction is also specified.~~

III. Voluntary Contract Termination:

- A. An NSP under a subcontract or agreement can terminate the subcontract, a program or agreement without cause with a 30-day notice. Notification must be provided d in writing and submitted to their CFBHN contract manager specialist.
- B. Upon notification of the termination, the ~~contract manager will notify~~ Director of Contracts notifies CFBHN management.
- C. The ~~contract manager specialist will~~ Director of Contracts Director will ~~work~~ ss with the appropriate program staff in Network Development and Clinical Services (NDCS) to develop a transition plan to avoid a break in services.
- D. The ~~contract Contract manager Specialist will~~ ensures that all required ~~documents reports and deliverables are on file have been received and outstanding requirements are met. The CFO and works~~ with the other CFBHN internal department's to ensure all outstanding requirements deliverables are met before the ~~termination date~~ final payment is issued.
- E. Once all of the information has been received by the ~~contract Contract manager Specialist and other departments, he or she will notify~~ the Finance department ~~to releases~~ the final payment. The NSP's failure to comply with the subcontract obligations may result in delay or withholding of payment to the NSP.

IV. Involuntary Contract Termination

- A. Immediate Termination

1. As part of its contract with the Department of Children and Families (DCF), the presence of any one of the following may result in an immediate termination notification of the subcontract or agreement.
 - a. A gap in the insurance coverage. (Note: if the NSP can re-establish coverage within the specified timeframe, CFBHN has the option to retract the contract termination.)
 - b. An NSP is listed on the government wide exclusions in the System for Award Management (SAM).

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- c. An NSP has been debarred, suspended, proposed for debarment, and declared ineligible, or voluntarily excluded from participation in a subcontract by any federal department or agency.
- d. If the subcontract is for an amount of \$1 million or more and:
 - 1) The NSP is found to have submitted a false certification under section 287.135, F. S., or
 - 2) Has been placed on the Scrutinized Companies with Activities in Sudan List, or
 - 3) Has been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.
 - 4) E. Regardless of the amount of this contract, the ME may terminate this contract at any time the NSP is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

2. The 30-day termination notice ~~will be issued~~ sent to the NSP's Chief Executive Officer (CEO) and its Board Chairperson.

However, a 30-day termination notice is not required if the NSP's contract or agreement or Florida law allows for immediate termination.

3. If within the 30-day period, verification is provided that the presence on the list was a mistake or the company has been removed from the list, the contract termination may be retracted.
4. The list of items in this Immediate Termination section are not exclusive. Nothing in this list limits CFBHN's right to terminate as provided d in the NSP's contract/agreement or in Florida law.

B. Contract Non-Compliance Termination

1. If an NSP has not submitted documentation required to be submitted by the subcontract or agreement and CFBHN staff ~~has have~~ notified the NSP three times that such documentation has not been submitted, CFBHN may withhold their payment ~~to a NSP~~ until the documentation is received, or may terminate the subcontracts, agreement or program. The contract ~~manager-specialist will endeavor~~ to notify NSPs of missed deadlines for submission of documentation, but failure of the contract ~~manager-specialist~~

to provide such notification does not waive any contract requirements or limit CFBHN's remedies.

2. During the course of the year, an NSP's failure to meet performance targets established in the subcontract or agreement may result in the initiation of a corrective action plan.
 - a. CFBHN may provide technical assistance to the NSP.
 - b. If, by year end, the NSP has not met the required targets, a corrective action may be issued, and an action plan to address the issue, requested from the NSP, may be issued.

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- c. Repeated noncompliance, in two consecutive years, may result in a penalty as defined in the schedule that accompanies this policy.
- d. If it is determined that the NSP is not able to correct the problematic issues(s), the funds may be removed from the contract.
- e. CFBHN will does not issue a corrective action plan on performance measures on which it will they are not be held accountable by DCF, but this CFBHN general practice may not be followed in situations where CFBHN determines a corrective action plan is appropriate to help ensure contract compliance.

C. Finance Non-Compliance and Termination

1. Finance staff will monitor the NSPs' financial health. If the ratio testing conducted demonstrates that an NSP is on a downward trend:
 - a. The Finance staff may recommend that benchmarks be added into the NSP's subcontract or included in a corrective action plan.
 - b. CFBHN's CEO or designee may meet with the NSP's Board Chairperson, to ensure that CFBHN's concerns about the NSP's financial health are known and a plan is in place to address the identified issues. The CEO will also informs the CFBHN Executive Committee of the meeting and related concerns.
 - c. If the NSP fails to correct any deficiencies, CFBHN may terminate part or the entire contract.
2. Complaints received from the NSPs vendors/NSPs including, but not limited to, failure to make payments on time will are be noted by CFBHN.

D. Continuous Quality Improvement (CQI) Non-Compliance and Termination

1. Risk management
 - a. NSPs are required to adhere to the incident reporting requirements established by DCF policies CFOP 215-4 and CFOP 215-6.
 - b. Failure to meet the reporting requirements established by these policies may result in a penalty up to, and including, the termination of NSP's funding for the program(s) involved.
 - c. The amount of the penalty will be is determined according to the penalty schedule.

2. CQI Monitoring

- a. As a component of the monitoring process, areas of weakness or non-compliance are identified and corrective actions issued. In response, NSPs are required to submit an action plan that identifies:
 - 1) The steps that will be taken to correct the issue;
 - 2) Who is responsible for ensuring that it is corrected; and
 - 3) The date on which the process will be completed.
- b. If an NSP is cited with a Corrective-corrective Action-action on the same monitoring tool, in two or more consecutive monitoring reviews, penalties may be enacted, as prescribed on the penalty schedule outlined in this policy. Technical assistance may be offered, as required, by the QI team and CFBHN managers of the cited program.
- c. The charts below outline the process by which a first, second or third offense, related to CQI monitoring, is defined and determined.

DELETE THE BELOW CHART

First Corrective Action Issued at Annual Monitoring		
Offense #1	Offense #2	Offense #3
Annual Monitoring – Year 1: Corrective Action is issued for a problem identified during the monitoring	Annual Monitoring – Year 2: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic	Annual Monitoring – Year 3: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic
Follow-Up – Year 1: The issue identified in the Corrective Action has not been corrected or continues to be problematic	Follow-Up – Year 2: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic	Follow-Up – Year 3: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic

First Corrective Action Issued at Follow-Up		
Offense #1	Offense #2	Offense #3
Annual Monitoring – Year 1: Issue is not present or identified	Follow-Up – Year 2: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic	Follow-Up – Year 3: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic
Follow-Up – Year 1: Corrective Action is issued for a problem identified during the Follow-Up		
Annual Monitoring – Year 2: In the Annual monitoring conducted in the next year, the same issue identified in the Corrective Action from the previous year's Follow-up has not been corrected or continues to be problematic	Annual Monitoring – Year 3: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic	Annual Monitoring – Year 4: The same issue identified in the Corrective Action from the previous year has not been corrected or continues to be problematic

REPLACE WITH

Corrective Action Cited on Same Monitoring Tool in CONSECUTIVE MONITORING REVIEWS

<u>Initial Result</u>	<u>Offense 1</u>	<u>Offense 2</u>	<u>Offense 3</u>

<u>Corrective Action is issued on the same tool in 2 consecutive annual/follow-up monitoring reviews</u>	<u>Corrective Action is issued on the same monitoring tool, and/or for the same item, during a 3rd consecutive monitoring review</u>	<u>Corrective Action is issued on the same monitoring tool, and/or for the same item, during a 4th consecutive monitoring review</u>	<u>Corrective Action is issued on the same monitoring tool, and/or for the same item, during a 5th consecutive monitoring review</u>
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Corrective Action Cited on Same Monitoring Tool in CONSECUTIVE FISCAL YEARS

<u>Initial Result</u>	<u>Offense 1</u>	<u>Offense 2</u>	<u>Offense 3</u>
<u>Corrective Action is cited on a particular monitoring tool, and the issue(s) is addressed and resolved in a follow-up review.</u>	<u>During the annual or follow-up monitoring, Corrective Action is issued on the same tool, and/or for the same item, as was cited during the previous fiscal year.</u>	<u>During the annual or follow-up monitoring, Corrective Action is issued on the same tool, and/or for the same item, as was cited during the previous two fiscal years.</u>	<u>During the annual or follow-up monitoring, Corrective Action is issued on the same tool, and/or for the same item, as was cited during the previous three fiscal years.</u>

E. Termination due to unsatisfactory performance

1. Unsatisfactory performance of a subcontract or agreement by an NSP includes, but is not limited to, a situation in which the Chief Clinical Officer (CCO), Program Manager or other CFBHN staff member determines that:
 - a. There is evidence of an NSP’s substantial non-compliance in fulfilling its obligations in the subcontract or agreement.
 - b. The NSP has consistently performed in a manner that is unsatisfactory as determined in the sole reasonable discretion of CFBHN senior staff.
2. CFBHN senior staff will review the documentation to verify that opportunities were afforded to the NSP to correct the issues through technical assistance, or a corrective action plan, except when CFBHN senior staff determines that immediate withholding of funds or termination is appropriate.

3. ~~At the discretion of CFBHN senior staff, an NSP may be granted a period of Notification may be sent to the NSP’s CEO and Board Chairperson, giving them 60 days to correct the deficiency.~~
 - a. ~~Notification of this decision is sent to the NSP’s CEO and Board Chairperson.~~
 - ~~a-b.~~ During this time, CFBHN staff may continue to provide technical assistance, if requested by the NSP in writing.
 - ~~b-c.~~ Failure to comply within this timeframe may result in the termination of the contract.
4. If client health and safety is impacted due to gross misconduct, the contract will be terminated with 24-hour notice.
5. CFBHN staff may meet internally to determine the next steps and put a plan in place to ensure there is a smooth transition of client services to a new NSP.

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V.

Penalty Schedule

- A. The schedule below outlines the ~~withholdingspenalties~~ for first, second and third offenses as defined by this policy.

	Administrative/Operational Violation	Health & Safety Violation
1st Occurrence	No withholdingPenalty ; CAP Required	No withholdingPenalty ; CAP Required
2nd Occurrence	2% of contract payments will be withheld	5% of contract payments will be withheld
3rd Occurrence	5% of contract payments will be withheld	10% of contract payments will be withheld

- B. Payments withheld after the 2nd occurrence may be returned ~~to the NSP, if the NSP has corrected the identified issues and or implemented any necessary changes, and will be contracted to another NSP after 2 months, and after it has been verified that the NSP has had time to correct identified issues and/or implement any necessary changes.~~
- C. Funds withheld at the 3rd occurrence ~~will are~~ not be returned ~~to the NSP in the current & future years., and will be contracted to another NSP.~~
- D. CFBHN ~~will holds~~ these funds in a separate account ~~and -submits Aa plan will be submitted to the Board.~~
 - i) If the funds are Federal, CFBHN ~~will works~~ with the circuit-(s) where the funding originated ~~to determine how to contract out the funding.~~
- D. Additionally, staff may recommend to the ~~board-Board~~ to impose additional ~~withholdings or remediespenalties~~, if the situation warrants, up to contract termination.
- E. Disputes and appeals will be processed in accordance with *NSP Dispute/Appeal Process* policy.
- F. ~~All withholdings are liquidated damages regardless of the terminology used. CFBHN’s damages resulting from violations are not readily ascertainable. The amount of the~~



withholding is not grossly disproportionate to any damages that might reasonably be expected to follow from such violations.

CFBHN Policy – Sanctions and Penalties Enactment Approval: _____ Linda McKinnon, President/Chief Executive Officer	Date Issued: <u>03/19/09</u> Last Revision: <u>03/29/19</u> Review Date: <u>06/04/19</u>
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