



Fraud Abuse Plan FY21-22



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Fraud & Abuse Plan

CENTRAL FLORIDA BEHAVIORAL HEALTH NETWORK, INC.
FRAUD & ABUSE PREVENTION, DETECTION & MONITORING

Table of Contents

I. PLAN DESCRIPTION.....	2
II. DEFINITIONS.....	2
III. FRAUD & ABUSE LAWS.....	4
IV. COMPLIANCE PROCEDURES.....	5
A. INTERNAL CONTROLS, PREVENTION & DETECTION ACTIVITIES	5
B. ACCOUNTING ANALYST AND COMMITTEE.....	6
C. REPORTING OF FRAUD AND ABUSE.....	7
D. CORRECTIVE ACTION.....	9
E. COOPERATION WITH FRAUD AND ABUSE INVESTIGATIONS.....	9

I. PLAN DESCRIPTION

The corporate fraud plan is established to facilitate the development of controls that will aid in the detection and prevention of fraud against Central Florida Behavioral Health Network, Inc. (CFBHN), and its subcontractors with the Suncoast Region. It is the intent of CFBHN, to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations.

The purpose of this plan is to ensure that CFBHN and its Network Service NSPs (NSP) reduce the potential risk for fraud and abuse, as well as detect and report current acts of fraud and abuse on an ongoing basis.

This plan applies to any irregularity, or suspected irregularity, involving employees as well as shareholders, consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship with CFBHN.

CFBHN complies with Federal and State fraud and abuse prevention and detection regulations. This may include operational policies and controls in areas such as prior authorization, utilization management and quality review, grievance resolution, NSP credentialing and contracting, NSP and staff education, and corrective action plans to prevent potential fraud and abuse activities. CFBHN shall review its fraud and abuse policies on an annual basis.

II. DEFINITIONS

The following are key terms that relate to and/or support this procedure:

Abuse – NSP practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to CFBHN/System of Care or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. An example of abuse may include submitting claims for services that are not medically necessary. It also includes recipient practices that result in unnecessary cost for CFBHN. 42 CFR 455.2.

Conviction or convicted – A judgment of conviction has been entered by a federal, state, or local court, regardless of whether an appeal from that judgment is pending.

Exclusion – CFBHN will not reimburse a specific NSP who has duplicate services or has defrauded or abused CFBHN or DCF for items or services that NSP furnished.

False Claims Act (31 USC 3729-3733) – This law provides for penalties and triple damages for anyone who knowingly submits or causes the submission of false or fraudulent claims for government funds, such as Medicaid funds.

Under this law's *quid tam* provisions, an individual with evidence of fraud, also known as a "whistleblower" is authorized to file a case in federal court and sue, on behalf of the federal government, persons or entities engaged in fraud and to share in any money that the government may recover.

Fraud – An intentional deception or misrepresentation made by a person/subcontractor 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. Examples of fraud may include billing for services that were not provided, altering claim forms to obtain a higher payment amount, and paying for a referral (offering a kickback).

Whistleblower Law – It is against the employment practice law for a public employer to prohibit any employee from disclosing, or take or threaten to take disciplinary action against an employee for the disclosure of any information the employee reasonably believes is evidence of a violation of any federal or state law, rule or regulation by the state, agency or political subdivision; or mismanagement, gross waste of funds or abuse of authority or substantial and specific danger to public health and safety resulting from action of the state, agency or political subdivision; or the fact that a person receiving services, benefits or assistance from the state or agency or subdivision is subject to a felony or misdemeanor warrant for arrest. It is also unlawful for a public employer to require any employee to give notice prior to making or disclosure or engaging in any of the items listed in the previous sentence. The same is true for discouraging, restraining, dissuading, coercing, preventing or otherwise interfering with disclosure or discussions related to the employee’s belief about a violation.

Prohibited kickback relationships – Remuneration or payment practices that may result in federal civil penalties or exclusion for violation of 42 C.F.R. § 1001.951.

Program Fraud Civil Remedies Act (31 USC 3801-3812) – Under this law known as a remedy for false claims and statements, anyone who makes, presents or submits (or causes to be made, presented or submitted) a claim to the federal government, such as for Medicaid funds, that the person knows or has reason to know is false, fictitious or fraudulent, or that omits a material fact, is subject to penalty of up to \$5,000 per claim, plus an assessment of up to twice the amount of each false or fraudulent claim. The US Inspector General investigates violations of this law. Enforcement can begin with a hearing before an administrative law judge. The government can recover penalties by a lawsuit or through an administrative offset against “clean” claims.

Suspension – CFBHN will not reimburse a specified NSP who has been convicted of a program-related offense in a federal, state or local court for items or services that NSP furnished.

III. FRAUD & ABUSE LAWS

CFBHN adheres to and requires all NSPs to adhere to all provisions of the False Claims Act established under sections 3729 through 3733 of Title 31, United States Code, administrative remedies for false claims and statements established under sections 3801 through 3812 of Title 31, United States Code, any Florida laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs.

IV. CFBHN COMPLIANCE PROCEDURES

A. CFBHN Internal Controls, Prevention, & Detection Activities

1. CFBHN activities to prevent and detect fraud and abuse include, at minimum, the following:

- a. Written policies, procedures, and standards of conduct that articulate agencies commitment to comply with all applicable Federal and state standards to guard against fraud and abuse. The Fraud & Abuse Plan is reviewed and updated by the organization on an annual basis.
- b. CFBHN's QI department conduct site reviews of each contracted NSP and audits a random sample of treatment records including a review of claims paid data.
- c. CFBHN maintains a quality assurance and review process requirement for each contractor and a process for filing grievances.
- d. CFBHN maintains procedures that require prompt repayment of funds paid in error, and to correct the corresponding billing data. If the occurrence is found during the year, the NSP will reduce their invoice by backing out the units from the data system.
- e. Enforcement of standards that guard against fraud and abuse through guidelines included in each NSP's contract. In the event of a Major deficiency in a contracted NSP's delivery of Services or in a NSP's compliance with any contractual agreement, nothing shall limit or qualify any right or authority of DCF under state or federal law to take action directly against a contracted NSP. CFBHN shall ensure that each contracted NSP conducts an end of the year audit of which is reviewed by CFBHN and a copy is sent to DCF (NSP's who do not reach the minimum threshold for Federal or State grant dollars are not required to conduct an audit).
- f. Provision for internal monitoring and auditing including appropriate controls on employee and NSP access to clinical records, billing and accounting records, service authorization records, eligibility data, and related resources that could be used to facilitate fraud or abuse.
- g. Provision for a prompt response to detected offenses and for the development of corrective action initiatives relating to the Agreement.
- h. Services may not be provided by the following persons/subcontractors or their affiliates:
 - 1) Persons who are currently suspended, debarred or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in:

- Persons with business activities with the Governments of Sudan and Iran as described in s.219.473, F.S.
- non-procurement activities under regulations issues pursuant to Executive Order No. 12549 or under guidelines implementing such order,

i. CFBHN shall not refer clients to such persons and or subcontractors, as identified in item i. 1. Above, and shall not accept billings for services by such persons.

j. NSP may not knowingly have a person described in Item h. 1. above as a Director, Officer, Partner, or person with beneficial ownership of more than 5% of organization's equity, or have an employment, consulting, or other agreement with a person for the provision of items and services that are significant and material to the organization's obligations.

k. Procedures for NSP to report cases of suspected fraud or abuse involving funds to CFBHN or the DFC Fraud Investigation Unit.

l. The policies and procedures will be in conjunction with CFBHN's internal controls.

B. ACCOUNTING ANALYST AND COMMITTEE

1. Compliance

a. CFBHN will have a designated Accounting Analyst.

b. Responsibilities include, but are not limited to, the following:

- 1) Receive training on, and maintain current knowledge of, the federal and state laws and regulations regarding fraud and abuse;
- 2) Establish and implement a clear and accessible process for any individual to bring concerns or evidence of fraud or abuse to the attention of the Accounting Analyst or Committee Member;
- 3) Ensure compliance with the organization's program to prevent and detect fraud and abuse, including training staff about the disciplinary process for those involved in fraud or abuse; coordinating a financial risk assessment on all NSPs annually;
- 4) Disseminate written information and provide guidance to employees and NSPs about the program;
- 5) Maintain records of cases reported to the organization;
- 6) Submit any required reports to DCF;

7) Serve as a point of contact for cases referred to CFBHN and the DCF Fraud Investigation Unit;

8) Provision for prompt response to detected offenses and for development of corrective action initiatives relating to the Contract.

The Accounting Analyst has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the plan. If the investigation substantiates that fraudulent activities have occurred, the Accounting Analyst will issue reports to appropriate designated personnel and, if appropriate, to the Board of Directors through the Audit Committee.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final decisions on disposition of the case.

2. Fraud and Abuse Compliance Committee

- a. The Committee consists of the Accounting Analyst, and others appointed by CFBHN.
- b. The Committee will meet as needed to discuss and review cases reported as suspected fraud or abuse to make recommendations about technical assistance, process improvements, and/or corrective actions necessary for NSPs to fully comply with federal and state laws and/or meet their contractual obligations.

C. REPORTING OF FRAUD AND ABUSE

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way.

An employee who discovers or suspects fraudulent activity will *contact the Accounting Analyst immediately*. The employee or other complainant may remain anonymous. An email may be sent to fraudcompliance@cfbhn.org. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the Investigations Unit or the Legal Department. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: "I am not at liberty to discuss this matter." *Under no circumstances* should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference.

1. CFBHN shall promptly notify DCF of all verified cases of fraud and abuse, including fraud by employees and NSPs to the DCF Fraud and Audit Unit. CFBHN may also refer cases of suspected fraud and abuse to DCF prior to verification. Examples of cases that should be referred:

- a. NSP who consistently demonstrate a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited services are not supported by documentation in the clinical records.

b. NSP who consistently demonstrate a pattern of intentionally reporting overstated or up-coded levels of service. A pattern would be evident by 20% or more of sampled or audited services that are billed at a higher level procedure code than is documented in the clinical records.

c. Any verified case where the NSP purposefully altered, falsified, or destroyed clinical record documentation for the purpose of artificially inflating or obscuring compliance rating or collecting payments not otherwise due.

d. NSPs who intentionally or recklessly make false statements about the credentials of persons rendering care to clients.

e. NSPs who intentionally fail to render medically appropriate covered services to clients.

f. NSPs who knowingly charge clients for services that are covered.

g. Any case of theft, embezzlement or misappropriation of program money.

2. Incidents of verified or suspected fraud or abuse by a NSP should be reported to DCF Fraud Investigation Unit by mail or online through the Florida Department of Children and Families website: <http://www.dcf.state.fl.us/programs/pbi/fraud/>.

ACCESS Central Mail Center

Fraud Report

PO Box 1770

Ocala, FL 34478-1771

(850) 487-0800

<http://www.dcf.state.fl.us/programs/pbi/fraud/>

3. CFBHN will promptly report all fraud and abuse as required under contract obligations. CFBHN also notifies DCF of complaints of fraud and abuse that warrant investigation. This notification shall include the following information:

- a. NSP's name and address
- b. Type of NSP
- c. Source of complaint
- d. Nature of complaint
- e. The approximate range of dollars involved
- f. The disposition of the complaint when known.

4. CFBHN will cooperate with DCF Fraud Unit and allow DCF to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities as required to investigate an incident of fraud or abuse.

D. CORRECTIVE ACTION

1. CFBHN may determine that it is necessary for a NSP to go through disciplinary action in order to fully comply with laws and rules to prevent and detect fraud and abuse and/or meet contractual responsibilities.

2. CFBHN may determine that it is necessary for a NSP to go through disciplinary or corrective action due to acts of fraud and abuse. If the action of the NSP was such that termination would occur, the process described in the Contract for termination with cause would be implemented.

3. Disciplinary or Corrective action may include, but is not limited to:

- a. Reduced funding
- b. Financial or Performance benchmarks
- c. Enhanced NSP monitoring
- d. Additional or modified data submission requests

E. COOPERATION WITH FRAUD AND ABUSE INVESTIGATIONS

CFBHN shall provide access to records and cooperate with activities consistent with the DCF Contract, on record keeping and government access to records. Right of access is provided to facilities, financial records, clinical and personnel records, books, documents, papers, plans and writings of CFBHN related to the fraud and abuse examination and audit. All records and items listed above are kept accessible for a minimum of five years or longer for financial records and seven years for clinical records as required by applicable laws, following the final payment and termination of the contract between DCF and CFBHN, or until the conclusion of any audit, controversy or litigation arising out of or related compliant, whichever date is later.