Cooperative Advantage D-SNP

Administered By:

First-Tier, Downstream and Related Entities (FDR) Compliance Guide

2023-2024

Administered By:
Group Health Cooperative of Eau Claire
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group health Cooperative™ of eau claire

OUR PURPOSE

Optimize the health of our members through the Cooperative's pooling of health-related resources.

OUR VALUES

Engage our members to create responsible solutions

Compete enthusiastically

Act with fairness and respect

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COOPERATIVE ADVANTAGE D-SNP: WHO WE ARE

Cooperative Advantage D-SNP (Cooperative Advantage) is a Medicare Advantage (MA) Plan from Group Health Cooperative of Eau Claire (the Cooperative) for individuals who are eligible for both Medicare and Medicaid coverage, and which offers benefits above those of traditional Medicare. Cooperative Advantage is a Medicare Advantage plan, meaning members get all of the benefits covered by Medicare Part A, Part B and Part D Prescription Drug coverage.

Care management is the cornerstone of Cooperative Advantage. Our team of nurses, case managers, and administrative staff are trained in a model of care designed specifically for the members of this plan. The Cooperative's administrative and clinical support team will ensure you receive the care when you need it.

Cooperative Advantage members will receive a comprehensive health assessment, evaluation, and care plan upon joining the Cooperative Advantage plan. With these defined goals in place, our model of care will successfully achieve the following:

- Emphasize early intervention, chronic disease management and individualized care.
- Open lines of communication between care teams and providers to ensure your goals, preferences, and assessment-based needs are being met.
- Channel the expertise and years of specialized experience our team has managing the complex needs of our members to best serve you.

INTRODUCTION TO THE FIRST-TIER, DOWNSTREAM, AND RELATED ENTITY (FDR) COMPLIANCE GUIDE

The Cooperative relies on our contracted providers and other contracted individuals and entities to help us meet the needs of our membership in accordance with MA/Part D program requirements. These individuals and entities are considered First-Tier, Downstream, and Related Entities (FDRs). (see 42 C.F.R. §423.501). FDRs are individuals or entities which the Cooperative has delegated administrative or health care service functions relating to the Cooperative's Medicare Advantage contract with the Centers for Medicare and Medicaid Services (CMS).

As a Cooperative FDR, you must satisfy specific Medicare compliance program requirements. These requirements are described in this guide. The Code of Federal Regulations (CFR) outlines these requirements in 42 C.F.R. §§422.503(b)(4)(vi) and 423.504(b)(4)(vi), and they are also defined by CMS in the Compliance Program Guidelines in Chapter 21 of the Medicare Managed Care Manual and Chapter 9 of the Prescription Drug Benefit Manual.

Examples of FDRs include, providers contracted to provide services to our Cooperative Advantage members, sales agents, vendors providing administrative services for our Cooperative Advantage members/products and delegated entities contracted to make decisions on our behalf for our Cooperative Advantage members/products. CMS defines FDRs in 42 CFR §§ 422.500 and 423.501 as follows:

First-Tier Entity means any party that enters into a written arrangement with an MA organization or contract applicant to provide administrative services or health care services for a

Medicare eligible individual under the MA program or Part D program.

Downstream Entity means any party that enters into an acceptable written arrangement below the level of the arrangement between an MA organization (and contract applicant) and a First-Tier Entity. These written arrangements continue down to the level of the ultimate provider of health and/or administrative services.

Related Entity means any entity that is related to the MA organization by common ownership or control and:

1. Performs some of the MA organization's management functions under contract or delegation;
2. Furnishes services to Medicare enrollees under an oral or written agreement; or
3. Leases real property or sells material to the MA organization at a cost of more than $2,500 during a contract period.

FDRs Providing Health Care Services

The Medicare compliance program requirements outlined in this guide apply to health care providers contracted in our Medicare network. This includes physicians, hospitals, and other provider types and the following provides further explanation:

- MA regulations and CMS rules state that providers contracted with the Cooperative to provide health care services are "First-Tier Entities."
- Chapter 21 § 40 of the Medicare Managed Care Manual lists "health care services" as an example of the types of functions that a third party can perform that relates to an MA organization's contract with CMS.

CMS provides a chart in Chapter 21 § 40 of the Medicare Managed Care Manual, showing that entities providing health care services and hospital groups are First-Tier Entities. If we contract with a hospital group and don't have a direct contract with the group's hospital and other providers, the hospital and providers are considered Downstream Entities. Therefore, the hospital group is a First-Tier Entity and must comply with CMS compliance requirements in this guide and also ensure its Downstream Entities comply.

FDRs Providing Administrative Services

The Medicare compliance program requirements described in this guide also apply to entities we contract with to perform administrative service functions for our Cooperative Advantage contract with CMS. Examples of administrative service functions include:

> claims processing, agents, broker organizations, pharmacies, and other individuals, entities, vendors, or suppliers contracted to provide administrative and/or health care services for our MA plans.

Additional information can be found in Chapter 21 § 40 Sponsor Accountability for and Oversight of FDRs of the Medicare Managed Care Manual, including the Stakeholder Relationship Flow Charts.

THE COOPERATIVE'S COMPLIANCE PROGRAM AND ATTESTATION REQUIREMENTS

The Cooperative is committed to conducting business practices in compliance with ethical standards, contractual obligations, and all applicable state and federal laws, regulations and rules. The Cooperative's compliance commitment extends to its FDRs.

It is important that our FDRs comply with these requirements and follow applicable laws, rules and regulations. Although we contract with FDRs to provide administrative and/or health care services for our Cooperative Advantage plan, we're ultimately responsible for fulfilling the terms and conditions of our contract with CMS and for meeting applicable Medicare program requirements. Our FDRs are responsible for complying with applicable Medicare requirements, and they must ensure that their Downstream Entities also comply with all applicable laws and regulations, as well as the requirements in this guide.

According to CMS requirements, the Cooperative must implement a Compliance Program that is effective in preventing, detecting, and correcting noncompliance as well as program fraud, waste, and abuse. The Cooperative's Compliance Program is organized by the seven elements that CMS deems necessary for an effective program. A description of these elements as they relate to FDRs is provided below:

Medicare Compliance Program Requirements

As a Cooperative FDR, you must comply with Medicare compliance program requirements including, but not limited to:

- Complete General Compliance and Fraud, Waste, and Abuse (FWA) Training
- Distribute Code of Conduct/Compliance Program
- Complete Exclusion List screenings
- Maintain record retention
- Make employees aware of reporting mechanisms
- Report FWA and compliance issues to the Cooperative
- Report and request to use offshore operations
- Fulfill specific federal and state compliance obligations
- Monitor and audit FDRs

Medicare compliance requirements apply to all employees (including temporary employees and volunteers), governing board members, and contractors providing health or administrative services relating to our Cooperative Advantage plan.

This guide summarizes the Medicare compliance program requirements. Please review it to make sure you have internal processes to support compliance with these requirements each calendar year. Please reference the "Resources for FDRs" section at the end of this guide to assist you with meeting these requirements.

Failure to Comply with Medicare Compliance Program Requirements

If our FDRs fail to meet Medicare compliance program requirements, the Cooperative will handle noncompliance on a case-by-case basis. Our response to noncompliance depends on the severity of the issue, which may lead to:

- Retraining
- Development of a corrective action plan (CAP)
- Increased monitoring, or
- Termination of your contract and relationship with the Cooperative

Record Retention and Record Availability of the Completion of Requirements

You must retain evidence of your compliance with Medicare compliance requirements for no less than 10 years. This evidence may include employee training records and completed exclusion list screenings.

Each year, an authorized representative from your organization must attest to your compliance with the Medicare compliance program requirements described in this guide. This must be someone who has responsibility, directly or indirectly, for all:

- Employees
- Contracted personnel
- Providers/practitioners
- Vendors who provide health care and/or administrative services for our Cooperative Advantage plan.

This could be your compliance officer, chief medical officer, practice manager/administrator, an executive officer or someone in a similar position.

All Cooperative FDRs are required to complete an Annual Compliance Attestation at this link: https://forms.office.com/r/5DLTdbusu4. A sample of the attestation questions that will be asked of FDRs and other FDR related documents are available under the "Resources for FDRs" section at the end of this guide and under the Cooperative Advantage section of the Cooperative's webpage at https://group-health.com/cooperative-advantage.

In addition to completing an annual attestation, the Cooperative and/or CMS may request that you provide documentation of your compliance with these Medicare compliance program requirements. This is for monitoring and auditing purposes.

COMPLETING GENERAL COMPLIANCE AND FWA TRAINING/EDUCATION

As a First-Tier Entity, your organization must provide General Compliance and FWA training to all employees and downstream entities assigned to provide administrative and/or health care services for the Cooperative Advantage plan.

CMS no longer requires FDRs to complete its Medicare Parts C and D General Compliance and Combating Medicare Parts C and D Fraud, Waste, and Abuse Training. Instead, you may complete your own version of General Compliance and FWA training specific to your organization's needs.

Deadline to Complete Training/Education

Required training/education must be completed:

- Within 90 days of initial hire or the effective date of contract
- When materials are updated
- Annually thereafter

You must maintain evidence of training completion for ten years after conducting the training. Evidence of completion may be in the form of certificates, attestations, training logs or other means determined by the FDR to best signify fulfillment of these obligations. If training logs or standardized reports are utilized as documentation of completion, they should include:

- Employee names
- Dates of hire
- Name of training topic
- Date of completion
- Test score (if captured)

A sample training log is located in the "Resources for FDRs" section at the end of this guide which provides a way to document your employees' completion of training. You can also send this to your Downstream Entities to use for their employees' training completion. FDRs can find the training requirements in Chapter 21 §§ 50.3.1 and 50.3.2. of the Medicare Managed Care Manual.

Who is required to complete the training?

Not every employee needs to take the training. Your organization should make the determination as to which individuals in the organization provide an administrative or health care service to our MA plans. Below are examples of critical roles that CMS requires to fulfill the training requirements:

- Senior managers or managers directly responsible for the FDR's contract (for example, senior vice president, departmental managers, chief medical or pharmacy officer);
- Individuals directly involved with establishing and administering the Cooperative Advantage plan formulary and/or medical benefit coverage policies and procedures;
- Individuals involved with decision-making authority on behalf of the Cooperative Advantage plan (for example, clinical decisions, coverage determinations, appeals and grievances, enrollment/disenrollment functions, processing of pharmacy or medical claims);

- Reviewers of beneficiary claims and services submitted for payment; or
- Individuals with job functions that place the FDR in a position to commit significant noncompliance with CMS program requirements or health care FWA.

If you are unsure which employees at your organization are required to complete the training, please review the requirements document located in the "Resources for FDRs" section at the end of this guide.

Exception to the FWA Training Requirement

The only exception to the FWA training requirement is if you or your organization is "deemed" to have met the FWA training and education requirements through one or both of the following:

- Enrollment into Medicare Part A or B of the Medicare program
- Accreditation as a supplier of Durable Medical Equipment, Prosthesis, Orthotics, and Supplies (DMEPOS) supplier

Requirements and information about deemed status can be found:

- 42 CFR § 422.503(b)(4)(vi)(C) for MA
- 42 CFR § 423.504(b)(4)(vi)(C) for Part D
- Medicare Managed Care Manual, Chapter 21, §50.3

Those parties deemed to have met the FWA training through enrollment into CMS Medicare are still obligated to complete General Compliance training. Evidence of your "deemed" status must be made available to the Cooperative and/or CMS upon request.

DISTRIBUTING CODE OF CONDUCT AND COMPLIANCE PROGRAM

The Code of Conduct is a set of key principles and expectations by which an organization operates, and defines the underlying framework for compliance policies and procedures. The Code of Conduct and Compliance Program established by the Cooperative describe our organization's expectations that all employees conduct themselves in an ethical manner; that issues of noncompliance and potential FWA are reported through appropriate mechanisms; and that reported issues will be investigated, addressed, and corrected. The Code of Conduct communicates to employees of your organization and those of your Downstream Entities that compliance is everyone's responsibility.

As a Cooperative FDR, you must provide either the Cooperative's Code of Conduct and applicable compliance program policies or your own comparable code of conduct and applicable compliance program policies to all employees and Downstream Entities. The written compliance policies and code of conduct must contain all the elements set forth in Section 50.1 and its subsection of Manual, Chapter 21, and articulate the entity's commitment to comply with federal and state laws, ethical behavior and compliance program operations. You must also retain

evidence of the distribution of the Code of Conduct for 10 years.

FDRs must distribute the Code of Conduct/applicable policies as follows:

- Within 90 days of hire or effective date of contracting
- When there are updates to the code of conduct
- Annually thereafter.

The Code of Conduct requirements can be found as follows:

- 42 CFR § 422.503(b)(4)(vi)(A) for MA
- 42 CFR § 5423.504(b)(4)(vi)(A) for Part D
- Medicare Managed Care Manual, Chapter 21 § 50.1

COMPLETING EXCLUSION LIST SCREENINGS

Federal law prohibits Medicare, Medicaid and other federal health care programs from paying for items or services furnished or prescribed by a person or entity excluded from participation in federal programs.

Before hiring or contracting, and monthly thereafter, each FDR must check the exclusion lists from the Office of Inspector General (OIG) and U.S. General Services Administration (GSA) to confirm your employees and Downstream Entities aren't excluded from participating in federally funded programs.

FDRs can utilize the websites below to complete the required exclusion list screening:

- Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE)
- General Services Administration (GSA) System for Award Management (SAM)

Screenings must be conducted before hiring or contracting, and monthly thereafter for the following individuals:

- Employee
- Temporary employee
- Volunteer
- Consultant
- Governing board member

You must also maintain for 10 years evidence that you have checked the OIG and GSA exclusion lists. You can utilize logs, reports, or other records to document that you or your organization has screened each employee and Downstream Entity.

The documentation that you use to demonstrate compliance with this requirement should clearly identify the following:

- the name of the entity/individual checked;
- the exclusion/debarment list that was checked;

- the date the check was performed;
- the results of the check, and
- any actions taken if sanctioned individuals or entities were identified.

The Cooperative is also required to check these exclusion lists prior to hiring or contracting with any new employee, temporary employee, volunteer, consultant, governing body member or FDR, in addition to monthly checks.

The Cooperative is unable to check these exclusion lists for your employees and Downstream Entities. Therefore, to make sure we comply with this CMS requirement, FDRs must confirm that their permanent and temporary employees and Downstream Entities that provide administrative and/or health care services for our Cooperative Advantage plan are not on either of these exclusion lists.

If any of your employees or Downstream Entities are on one of these exclusion lists, you must immediately remove them from work directly or indirectly related to the Cooperative Advantage plan and notify us right away. If your organization becomes excluded, the Cooperative must be notified immediately.

These exclusion lists requirements are noted in the following:

- § 1862(e)(1)(B) of the Social Security Act
- 42 C.F.R. §§ 422.503(b)(4)(vi)(F), 423.504(b)(4)(vi)(F)
- 422.752(a)(8)
- 423.752(a)96)
- 1001.1901
- Medicare Managed Care Manual, Chapter 21, § 50.6.8.

Confidential Compliance Reporting:

- Contact the Executive Director of Compliance (toll free at 888-203-7770)
- Contact the Director of Compliance (toll free at 888-203-7770)
- Contact the Executive Director of Human Resources (toll free at 888-203-7770)

Anonymous Compliance Reporting:

Telephone:
English speaking USA and Canada: (877) 472-2110 (not available from Mexico)
Spanish speaking North America: (800) 216-1288 (from Mexico user must dial 001-800-216-288)
E-mail: reports@lighthouse-services.com
Website: http://www.lighthouse-services.com/group-health
Fax: (215) 689-3885

CMS MEDICARE ADVANTAGE PROGRAM AUDITS

The CMS Medicare Parts C and D Oversight and Enforcement Group (MOEG) conducts Part C and Part D program audits to ensure MA plan sponsors are appropriately delivering benefits to Medicare beneficiaries and are safeguarding beneficiaries' access to medically necessary services and prescription drugs. Program audits evaluate compliance with a number of requirements including the Cooperative's oversight of activities delegated to FDRs.

During a CMS Program Audit, the Cooperative may be requested to produce the following documentation related to FDRs:

- Evidence of FDR compliance and FWA training
- Evidence of OIG/Exclusion list checks
- Documents related to monitoring and auditing of FDRs
- Copies of detailed corrective actions taken with FDRs in response to identified issues
- Timeliness demonstration implementation of corrective actions
- Other documentation CMS may request to demonstrate effective oversight of FDR activities

Part of our continuous process improvement efforts is to be "audit ready" at any time. Included in audit readiness is working with our FDRs to ensure we coordinate efforts so that all parties are evaluating their performance for compliance on an ongoing basis and are prepared to produce the necessary audit documentation within the CMS required timeframes and formats.

ADDITIONAL INFORMATION OR QUESTIONS

For compliance questions or concerns, please call the Cooperative at 888-203-7770 or email us at compliance@group-health.com.

RESOURCES FOR FDRS

FDR Requirement	Time Frame
Code of Conduct and Compliance Program	
Feel free to distribute our Code of Conduct and Compliance policies to your employees and Downstream Entities.	**90 days** of hire or effective date of contract and **annually** thereafter
Exclusion List Screenings	
• Complete **OIG** exclusion list screening • Complete **GSA's SAM** exclusion list screening Evidence of exclusion verification may include screen print of the exclusion results, reports, etc. Evidence must clearly show the name of the individual/entity checked; date of hire; what exclusion list was checked; date the check was performed, and results of the check.	**Before** hire/contracting and **monthly** thereafter for your employees and Downstream Entities.
Record Retention	
Maintain records and supporting documentation for a period of 10 years and furnish evidence of the above to the Cooperative and CMS upon request.	Retain evidence for a minimum **10 years**
Reporting Mechanisms	
How do I report noncompliance or potential FWA to the Cooperative? This Compliance Hotline Poster provides ways for reporting issues that impact the Cooperative. Feel free to share this throughout your organization so that your employees know how to report concerns. This poster can also be distributed to any of your Downstream/Related Entities.	Issues of noncompliance or FWA must be reported **immediately**
Monitoring and Oversight	
Downstream Entity oversight You must conduct oversight of your Downstream Entities. This can be done by requesting attestations from your Downstream Entities to monitor their compliance.	**Annual** (high risk) **Periodic** (medium and low-risk)
Offshore Services Attestation	
FDRs who use an offshore subcontractor to perform services that involve the processing, transferring, handling, storing or accessing of Medicare member PHI, must complete the Offshore Services Attestation at this link: https://forms.office.com/r/1sSTMtxmzE	
Additional References	
Group Health Cooperative of Eau Claire Compliance Dept.: 715-552-4300 or 888-203-7770 www.group-health.com/cooperative-advantage **Chapter 21 of the Medicare Managed Care Manual** **Chapter 9 of the Prescription Drug Benefit Manual** **U.S. Dept. of Health & Human Services:** www.hhs.gov/ **Wisconsin Department of Health Services Office of the Inspector General:** https://www.dhs.wisconsin.gov/oig/index.htm **Centers for Medicare & Medicaid Services:** https://www.cms.gov/	**Intermittent** when there are questions or concerns regarding compliance

First-Tier, Downstream, and Related (FDR) Entity Code of Conduct

Introduction

Group Health Cooperative of Eau Claire (the Cooperative) is committed to comply with all Wisconsin Office of the Commissioner Insurance (OCI), Wisconsin Department of Health Services (DHS), U.S. Department of Health and Human Services (HHS) (including the Office of the Inspector General (OIG)), Centers for Medicare and Medicaid Services (CMS), and any other applicable governing body requirements. In addition, we hold ourselves to the highest ethical standards on behalf of our stakeholders and members.

Our FDRs and business partners are important to our success and play a critical role in providing services to our members. This FDR Code of Conduct is an easy way to communicate our expectations as your company fulfills the terms of the contract held with the Cooperative.

Although this Code of Conduct does not cover every situation that may arise, it is designed to provide general guidelines and direct you to appropriate channels of information when needed.

As a Cooperative FDR, you must provide either the Cooperative's Code of Conduct and applicable compliance program policies or your own comparable Code of Conduct and applicable compliance program policies to all employees and Downstream Entities. FDRs must be able to show proof that they provided the Code of Conduct. FDRs must provide these documents:

- Within 90 days of hire or the effective date of contracting
- When there are updates to the Code of Conduct
- Annually thereafter

Code of Conduct

The Cooperative is committed to ethical behavior and full compliance with all laws and regulations that apply to our health care business. We have an obligation to act in a way that merits the trust, confidence, and respect of those we serve. We have a Compliance Program to support our commitment to operating with the highest degree of integrity. The Program includes the Cooperative's policies and procedures regarding compliance

training and education, auditing and monitoring, and mechanisms for individuals to raise issues and concerns without fear of retaliation. Individuals working on Medicare Part D business will be required to complete (at hire and annually) the CMS Medicare Part C & D Compliance Training and Fraud, Waste and Abuse Training.

This Code of Conduct applies to all business associates, agents, contractors, subcontractors, and FDRs of the Cooperative. Everyone is expected to understand the laws, regulations, policies, procedures, and contractual obligations and abide by the requirements in the Code of Conduct. This document is intended to describe those responsibilities.

Complying with the Code of Conduct

Everyone is accountable for understanding and complying with the Code of Conduct and for reporting any possible violations. This document cannot address every specific circumstance you may encounter. Therefore, the Cooperative relies on your good judgment, honesty, business ethics, and regulatory compliance. The failure to comply with all statutes, regulations, and guidelines applicable to federal and state health care programs and company policies and procedures, or the failure to report non-compliance, can result in civil and criminal liability, sanctions, and penalties. Noncompliance is conduct that does not conform to the law, Federal health care program requirements, or an organization's ethical and business policies. You are required to report suspected noncompliance.

Ethical Violations

Ethical violations include, but are not limited to:

- any suspicious activity
- conflicts of interest
- criminal misconduct
- dishonest or unethical behavior
- fraud
- questionable accounting and internal controls
- violations of laws or policies

The above list is intended to be a guide to ethical behavior and not an exhaustive set of rules to follow. Every organization should have its own set of business ethics requirements related to the type of business it performs, including a formal program for ethics compliance and ongoing training. The Cooperative's Code of Conduct should not

be relied upon or used as a substitute for consultation with your own legal advisors.

Upon becoming aware of a known or potential violation, the matter must be reported within one (1) business day through any one of the methods described below. It is important to remember that having knowledge of a potential compliance violation and choosing not to report it equally implicates the person who refrains from coming forward.

An individual may remain anonymous when reporting but should provide enough specific information about the incident or situation, including location, so the investigation can begin. All reports are treated confidentially. The Cooperative prohibits any person from retaliating against or engaging in harassment of any person who has reported a potential violation. All potential violations are logged, and the appropriate action is taken to review and/or investigate the report promptly.

Upon discovery of any potential violations, FDRs are also expected to report the incident to the Cooperative. All FDRs should do what is permissible, acceptable and expected. That means using common sense, good judgment and appropriate behavior. Ethical violations could compromise the Cooperative's reputation and may result in termination of the contract held with a FDR. Also, depending on the type of violation, it may require reporting to the appropriate authorities. It is expected that FDRs will take appropriate disciplinary actions for those employees, representatives and subcontractors found to be in violation, up to and including termination of the contract or employment.

The Cooperative assumes the responsibility to report Medicare program noncompliance, violations of law, criminal misconduct and fraud, waste and abuse to the Centers for Medicare and Medicaid Services (CMS), CMS designee, other regulatory agencies and/or law enforcement, as applicable, for any violations related to the Cooperative.

Conflicts of Interest

All business associates, agents, contractors, subcontractors, and first-tier, downstream, and related entities (FDRs) are required to avoid conflicts of interest. A conflict of interest is any behavior that might compromise or give the appearance of compromising your integrity, creating a situation in which your personal interests are, or appear to be, favored over legitimate business interests.

No individual shall use their position, or the knowledge gained therefrom, in such a manner that would compete with any of the Cooperative's lines of business. All health care providers, business associates, agents, contractors, and subcontractors and FDRs must be sensitive to these relationships and avoid creating situations that encourage an individual to violate these policies. A good general rule is to avoid any action or association that would be embarrassing to you, your organization, or the Cooperative if

it were disclosed to the public, or that could be perceived as a conflict of interest or appear improper.

FDRs must effectively screen their governing bodies and senior leadership for any actual or conflicts of interest at the time of hire and on an annual basis thereafter.

Ineligible Parties

As a health care organization, the Cooperative is subject to strict governmental regulation and oversight. Various regulatory agencies require the Cooperative to refrain from contracting with FDRs and their employees, representatives and subcontractors who have engaged in certain types of activities. FDRs and their employees, representatives and subcontractors will be ineligible for any contractual relationship if they have been or are:

- convicted of a criminal offense related to health care
- convicted of any felony involving dishonesty or a breach of trust (Violent Crime Control and Law Enforcement Act of 1994)
- identified and listed on the Office of the Inspector General (OIG) Exclusion List or the General Servies Administration System for Award Management
- listed as debarred, excluded or otherwise ineligible for participation in federal health care programs*

The exclusion lists are checked upon initial engagement and monthly thereafter. The Cooperative reserves the right to obtain attestations from all FDRs to verify the FDR and their employees, representatives and subcontractors are not on any exclusion lists. In addition, FDRs must notify the Cooperative if any of their employees, representatives or subcontractors has been excluded from any federal program.

* There may be instances where a person or entity was previously listed as excluded, but that status has been removed. In such a case, the Cooperative should be contacted so it can determine whether the involved party(ies) may support the Cooperative.

Compliance with Federal and State Laws

The Cooperative is firmly committed to complying with all applicable Federal and State laws. The list below is not exhaustive and other FWA laws may apply to commercial business and/or a given scenario. These laws are simply selected statutes which are applicable to Federally- and State-funded programs.

Anti-Inducement Statute of the Civil Monetary Penalties Law

The Anti-Inducement Statute prohibits anyone from offering or giving anything that has value to a Medicare or Medicaid beneficiary that is likely to influence the beneficiary to

use a particular provider for Medicare- or Medicaid-covered items or services.

Anti-Kickback Law

The federal Anti-Kickback Law prohibits anyone from asking for or receiving, or offering or giving, anything that has value in exchange for any of the following:

- Referrals for goods or services paid for (even in part) by a federal healthcare program
- Buying, leasing or ordering a facility, service or item paid for (even in part) by a federal healthcare program
- Recommending or arranging for someone else to buy, lease or order a facility, service or item paid for (even in part) by a federal healthcare program. Value means the value of an item or service in the marketplace; it is not the cost of the item or service to the giver.

False Claims Act

The False Claims Act is a federal statute that imposes liability on any individual who knowingly, recklessly or with deliberate ignorance:

- Submits or causes someone else to submit to the government a false or fraudulent claim for approval or payment
- Makes, uses or causes someone else to use a false record or statement to get a claim paid or approved by the government
- Has possession or control of the government's money or property and delivers or causes someone else to deliver less than all of the government's money or property
- Makes a false record or statement related to an obligation to pay the government or conceals, avoids or decreases an obligation to pay or transmit money or property to the government
- Conspires to do any of the above

The Federal and State False Claims Act have what is known as whistleblower protections. Individuals with specific knowledge of false claims submissions have the right to file a claim and will be protected under both the Federal and the State False Claims Act for doing so. A whistleblower is someone who reports suspected or detected misconduct that would be considered an action against company policy or federal or state rules, laws or regulations. In the context of the False Claims Act, whistleblower protections apply to actions taken to prevent False Claims Act violations. These whistleblower protections prevent retaliation against the whistleblower. If any retaliation does occur, the whistleblower has a right to obtain legal counsel to defend the actions he or she has taken.

Stark Law (Physician Self-Referral Prohibition Statute)

This federal statute prohibits a physician from making a referral for certain health services to an entity in which the physician (or a member of his or her family) has an ownership/investment interest or with which he or she has a compensation arrangement. The government has carved out specific exceptions to this prohibition that must be strictly followed, otherwise, any claim tainted by an arrangement that does not fit within an exception is not payable.

Identifying Fraud, Waste, and Abuse (FWA)

The detection, correction and prevention of FWA is essential to maintaining a healthcare system that is affordable for everyone. State and federal law enforcement agencies are increasingly focused on investigating healthcare FWA. Examples of FWA include but are not limited to:

Fraud:

- A person makes a material statement of fact.
- The statement is false and the person making the statement knows that it is false.
- The person making the false statement intends to deceive or mislead the person to whom the statement was made with the expectation of receiving something of value.
- The person to whom the false statement is made is expected to rely on the statement to his or her detriment.

Waste:

- Overutilization of items or services or other practices that result in unnecessary cost.

Abuse:

- Any activity that unjustly robs the health care system but does not constitute fraud. In abuse, a provider or consumer may obtain money or health care services to which he/she is not entitled, but there is not the intent to deceive that is necessary for fraud to have occurred. This includes provision of services that are not medically necessary.

Everyone who performs a function that in some way supports the Cooperative business is required to report suspected FWA to one of the designated contacts at the end of this document.

Investigation of Suspected Violations

The Cooperative's Compliance Officer or other staff from the Compliance Department will initiate prompt and reasonable steps to investigate the concern in question to determine whether a violation of applicable law or requirements of the Compliance Program has occurred, and if so, take steps to correct the problem.

An investigation may include any of the following procedures, but is not limited to these:

- Interviews with parties involved
- Risk analysis
- Root cause analysis
- A review of processes and systems
- Impact assessments to the Organization or other external constituents

At the conclusion of an investigation, all findings will be documented, and if the incident warrants, formal corrective action will be taken. Serious matters may be referred to state and/or federal agencies, including law enforcement.

Non-Retaliation Statement

The Cooperative has a policy of non-retaliation. This means the Cooperative will not retaliate against those who report concerns in good faith that they believe violate policy, HIPAA, or other applicable laws. This includes, but is not limited to: reporting potential issues; assisting in investigation of issues, audits, and remedial actions; and reporting to appropriate officials. This does not preclude disciplinary action when appropriate for staff, or contract termination for contractors/vendors, who have violated applicable company policies and procedures or applicable laws. Anyone who has concerns about retaliation should contact the Cooperative's Compliance Department immediately.

Contact Information for Reporting Violations, Noncompliance, and FWA Concerns

Whether you are a business associate, agent, contractor, subcontractor, or FDR, **you are <u>expected and required</u> to**:

- Act with honesty and integrity in all of your business activities.
- Follow all laws and regulations that apply to your work activities, including the requirements of Medicare, Medicaid, and other federal health care programs. The

requirements generally include maintaining complete and accurate documentation, and medical records, and submitting only complete and accurate claims for services provided.

It is the expectation that everyone will read, understand and be accountable for following the Code of Conduct. This document will help provide guidance if there is a question or concern about a particular behavior, practice or activity. Even if you are unsure about the right course of action to take, you should still report the incident.

The following resources are available to you to report incidents regarding legal/regulatory compliance issues, violations of the company policy or the Code of Conduct:

1. Speak with your department manager/director/supervisor/team leader
2. Contact the Executive Director of Compliance (toll free at 888-203-7770)
3. Contact the Director of Compliance (toll free at 888-203-7770)
4. Contact the Executive Director of Human Resources (toll free at 888-203-7770)
5. Use the Cooperative's **anonymous** toll-free hotline phone number, fax, email, or internet reporting tools. **The Syntrio Lighthouse reporting mechanisms are absolutely anonymous, and your identity will not be disclosed to the Cooperative unless you request it to be.**

   SYNTRIO LIGHTHOUSE ANONYMOUS REPORTING CONTACT INFORMATION:

   Telephone:
   English speaking USA and Canada: (877) 472-2110 (not available from Mexico)
   Spanish speaking North America: (800) 216-1288 (from Mexico user must dial 001-800-216-288)
   E-mail: reports@lighthouse-services.com
   Website: http://www.lighthouse-services.com/group-health
   Fax: (215) 689-3885
   ***If reporting via Syntrio Lighthouse, please include the details of the issue (who, what, when, how, why) as anonymous reports are very hard to investigate.**

Application of the Code of Conduct

It is the responsibility of the Cooperative's FDRs to demonstrate behavior consistent with the Code of Conduct. Should a provider, sales agent, vendor, supplier, customer, volunteer, or affiliate exhibit behavior inconsistent with the Code of Conduct, a thorough investigation will be conducted in accordance with the Cooperative's policy.

Depending on the severity and circumstances of the situation, the Cooperative will take action to remedy the situation, which may result in termination of contract, potential indemnification to the Cooperative for the Cooperative's payment of regulatory agency financial penalties, and potential reporting of the conduct to law enforcement and the appropriate regulatory agencies.

Your Responsibilities and Resources

As a Cooperative Advantage FDR, you must provide either the Cooperative's Code of Conduct and applicable compliance program policies or your own comparable Code of Conduct and applicable compliance program policies to all employees and downstream entities. All FDRs also must provide General Compliance and FWA training to all employees and downstream entities assigned to provide administrative and/or health care services for the Cooperative Advantage business. The required training must be completed within 90 days of initial hire or the effective date of the contract and annually thereafter.

Compliance Reporting Hotline

The following resources are available to you to report incidents regarding legal/regulatory compliance issues, violations of the company policy or the Code of Conduct:

1. Speak with your department manager/director/supervisor/team leader
2. Contact the Executive Director of Compliance (toll free at 888-203-7770)
3. Contact the Director of Compliance (toll free at 888-203-7770)
4. Contact the Executive Director of Human Resources (toll free at 888-203-7770)
5. Use the Cooperative's **anonymous** toll-free hotline phone number, fax, email, or internet reporting tools. **The Syntrio Lighthouse reporting mechanisms are absolutely anonymous, and your identity will not be disclosed to the Cooperative unless you request it to be.**

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   E-mail: reports@lighthouse-services.com
   Website: http://www.lighthouse-services.com/group-health
   Fax: (215) 689-3885

All reports are treated confidentially. The Cooperative prohibits retaliation against anyone who reports suspected violations in good faith.

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FDR General Compliance and FWA Training Requirements

FDRs must provide training to all applicable employees within 90 days of initial hiring and annually thereafter. Not every employee is required to take the training. Below are examples of critical roles within a FDR that would be required to fulfill the training requirements. This is not a complete list and your organization's titles and positions could be different. If you have questions about which employee positions within your organization should be required to take the training, please contact us at compliance@group-health.com.

Examples of FDR employees that are required to complete the General Compliance and FWA Training Requirements	**Examples of FDR employees that <u>are not required</u> to complete the General Compliance and FWA Training Requirements**
• Providers (e.g. physicians, chiropractors, dentists) • Nurses and nurses' aides • Radiology and laboratory technicians • Pharmacists and pharmacy technicians • Therapists • Social workers • Home health aides • Medical coding personnel • Medical directors • Billing personnel, including certified coders and medical/dental/chiropractic/pharmacy claim processors • Clinical receptionist, schedulers, and admission clerks (with access to PHI/member ID cards) • All personnel responsible for fulfilling the Cooperative's contract (e.g. Senior VPs, departmental directors, managers and supervisors, chief medical or pharmacy officer, and office manager) • Individuals directly involved with administering the formulary or medical benefit coverage policies and procedures (e.g. customer service or call center staff that answer benefit questions) • Individuals involved with decision-making authority on behalf of Senior Preferred (e.g. clinical decisions, Part D pharmacy coverage determinations, Part C medical organization determinations, appeals and grievances, enrollment/disenrollment functions, processing of pharmacy and medical claims • Reviewers of member claims and services submitted for payment • Individuals with job functions that place the FDR able to commit significant noncompliance with CMS requirements or health care FWA	• General receptionist/front desk coordinators (without access to PHI/member ID cards) • Housekeeping/custodial staff • Cafeteria workers • Maintenance workers • Retail staff (e.g. gift shops) • Machine service repair personnel • Non-clinical and clerical staff (e.g. payroll, human resources) • Purchasing agents/assistants and logistics coordinators • Mail clerks that sort/distribute mail • Employees who are not used for Cooperative Advantage Part C and Part D products

FDR Annual Compliance Attestation for Cooperative Advantage D-SNP

My organization is considered a First-Tier Entity as we provide administrative or health service functions for Cooperative Advantage D-SNP. The Centers for Medicare and Medicaid Services (CMS) requires any individual or organization that contracts with a Medicare Advantage Plan Sponsor to provide administrative or health service functions to comply with various CMS compliance program requirements. These requirements are listed below and apply to all services your organization provides for Cooperative Advantage D-SNP business. The requirements also apply to any Downstream Entities your organization uses for Cooperative Advantage D-SNP business.

By completing this attestation, you certify that your organization is committed to ensuring compliance with CMS and Cooperative Advantage requirements. Once completed, submit the completed form to compliance@group-health.com.

1. General Compliance & Fraud, Waste and Abuse (FWA) Training and Education

My organization provides general compliance training to all applicable employees (including temporary employees and volunteers), governing board members, and contractors, within 90 days of hire or contracting and annually thereafter. (§50.3.1)

☐ YES ☐ NO

My organization provides FWA training to all applicable employees (including temporary employees and volunteers), governing board members, and contractors within 90 days of hire or contracting and annually thereafter. (§50.3.2)

☐ YES ☐ NO

My organization has been deemed to have met the FWA training and education requirements through enrollment into Medicare Part A and B of the Medicare program or through accreditation as a supplier of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) suppler. (§50.3.2)

☐ YES ☐ NO

2. Code of Conduct and/or Compliance Program Policies

My organization has a Code of Conduct and/or Compliance Program policies that explain its commitment to comply with federal and state laws, ethical behavior and compliance program operations, which are distributed to all employees, (including temporary employees and volunteers), governing board members, and contractors within 90 days of hire or contracting, upon revision, and annually thereafter. (§50.1.3)

☐ YES ☐ NO

3. Exclusion List Screenings

Our organization screens our employees (including temporary workers and volunteers), consultants and governing body members against the Office of Inspector General (OIG) and General Services Administration (GSA) exclusions list prior to initial hire or contracting and monthly thereafter and have ensured that no persons or entities were found to be on such lists. (§50.6.8)

☐ YES ☐ NO

4. Reporting Mechanisms

My organization has communicated to employees how to report any suspected or detected noncompliance or potential fraud, waste, or abuse, and that it is their obligation to report without fear of retaliation or intimidation against anyone who reports in good faith.

☐ YES ☐ NO

My organization maintains confidential and anonymous mechanisms for applicable employees to report suspected and detected non-compliance either internally or anonymously. In turn, we report these concerns to the Cooperative when they occur.

☐ YES ☐ NO

5. Offshore Operations

My organization and/or our Downstream Entities engage in offshore services that involves the receipt, processing, transferring, handling, storing or accessing of Protected Health Information (PHI).

☐ YES ☐ NO

If you answered yes, you are required to complete the Cooperative's Medicare Advantage Offshore Services Attestation for each entity. Please return the completed attestation(s) to compliance@group-health.com.

6. Downstream Entity Oversight

My organization uses Downstream Entities for Cooperative Advantage business.

☐ YES ☐ NO

If you answered yes, my organization conducts oversight (e.g., monitoring/auditing, obtains annual attestations) to ensure that they comply with all applicable Medicare laws, rules, and regulations that apply to me as a First-Tier Entity, and communicates and requires compliance with Medicare compliance program requirements described in this attestation. (§50.6.6)

☐ YES ☐ NO

7. Operational Oversight

My organization will remain in compliance with all applicable CMS guidance during the term of the agreement with the Cooperative. We immediately report all suspected or known instances of noncompliance and/or FWA activity to the Cooperative. Our organization

includes in its policies and procedures an outline of the process
☐ YES ☐ NO

My organization will, upon request, furnish such information that the Cooperative deems is necessary to validate that the representations made in this attestation are accurate.
☐ YES ☐ NO

8. Record Retention and Availability

My organization understands and agrees to maintain supporting documentation (e.g. training materials, attestations, certificates, OIG and GSA exclusion screening search results, dissemination of COC and/or compliance program policies, reporting mechanisms, etc.) for a period of at least ten (10) years and will, upon request, furnish evidence of the above to the Cooperative, CMS, and/or agent of CMS upon request. (§50.3.2)
☐ YES ☐ NO

Attestation Authorization

I certify, as an authorized representative of my organization, that the statements made above are true and correct to the best of my knowledge. In addition, my organization will furnish evidence, upon request, and understands that the inability to provide this evidence may result in a request by the Cooperative for a Corrective Action Plan (CAP) or other contractual remedies such as contract termination.

Name of Provider/Organization:	
Organization's Authorized Representative (Print Name and Title):	
Organization's Authorized Representative (Phone # and E-mail Address):	
Signature of First-Tier Organization's Authorized Representative:	**Date:**

Offshore Services Attestation for Cooperative Advantage D-SNP

If you are a Cooperative contracted vendor or provider (also referred to as first-tier or downstream entity) using offshore services that involves receiving, processing, transferring, handling, storing, or accessing Cooperative Advantage member PHI, you are required to complete the below information for each entity and submit the completed form to compliance@group-health.com.

Offshore Services Information	
Offshore Entity Name:	
Offshore Entity Country or Countries, if multiple locations:	
Offshore entity address or addresses, if multiple locations: (The offshore entity address should include the full address for each offshore location, including the country, which will receive, process, transfer, handle, store or access PHI)	
Describe Offshore Functions the Offshore Entity Will Perform:	
State Proposed or Actual Effective Date of the Offshore Services: (The proposed or actual effective date is either the effective date of the Medicare contract with the Cooperative or the effective date of contract with the entity, whichever is later. The proposed or actual effective date for the services must include the month, date and year. Please use this format: MM/DD/YYYY).	
Precautions for Protected Health Information (PHI)	
Describe the member PHI that will be provided to the Offshore Entity:	
Explain why providing PHI is necessary to accomplish the Offshore Services:	
Describe any and all alternatives considered to avoid providing PHI. Why was each alternative was rejected? (When describing alternatives considered to avoid using PHI, be sure to include the reason why the alternative was rejected.)	

Attestation of Safeguards To Protect Beneficiary Information with the Offshore Entity And Audit Requirements To Ensure Protection of PHI	
Name of First-Tier Entity:	
Offshore Entity Name:	
With respect to the offshore services provided by the above-named offshore entity, first-tier entity certifies and attests that:	

1. The agreement it has with the offshore entity requires the offshore entity to have policies and procedure in place to ensure the Cooperative Advantage Plans' PHI and other personal information remains secure.
   ☐ YES ☐ NO

2. The agreement it has with the offshore entity prohibits the offshore entity's access to Cooperative Advantage data not associated with the functions the offshore entity staff performs for the Cooperative.
   ☐ YES ☐ NO

3. The agreement with the offshore entity allows the first-tier entity to immediately terminate the offshore services upon discovery of a significant security breach.
   ☐ YES ☐ NO

4. The agreement with the offshore entity includes all required Medicare Part C and D language. (e.g., record retention requirements, compliance with all Medicare Part C and D requirements, etc.).
   ☐ YES ☐ NO

5. The first-tier entity will conduct an annual audit or review of its relationship with the offshore entity and monitors offshore staff's access to PHI.
   ☐ YES ☐ NO

6. The results from the annual audit or review are used to evaluate the continuation of the relationship with the offshore entity.
   ☐ YES ☐ NO

7. The agreement it has with the entity requires the offshore entity to share audit results with CMS or with the Cooperative, upon request.
   ☐ YES ☐ NO

8. First-tier entity agrees to notify the Cooperative at least 60 days in advance of the first-tier's intent to use a new offshore entity or before employing new offshore staff for a function the Cooperative has asked the first-tier entity to perform.
   ☐ YES ☐ NO

Please provide a brief explanation for any "no" responses for the statements above.

Attestation Authorization

I certify, as an authorized representative of my organization, that the statements made above are true and correct to the best of my knowledge. In addition, my organization will furnish evidence, upon request, and understands that the inability to provide this evidence may result in a request by the Cooperative for a Corrective Action Plan (CAP) or other contractual remedies such as contract termination.

First-Tier Organization Name (Print):	
Tax ID #:	**NPI #:**
First-Tier Organization Mailing Address:	
First-Tier Organization's Authorized Representative (Print Name and Title):	
First-Tier Organization's Authorized Representative (Phone # and E-mail Address):	
Signature of First-Tier Organization's Authorized Representative:	**Date:**

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General Compliance & Fraud, Waste and Abuse Training Log

Name of Organization/Entity:	
Training Topics Included:	
☐	
☐	

Employee Name:	Title:	Date of Hire:	Date & Time of Training:	Test Score (if captured)
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

FDRs must maintain evidence of training completion. This sample training log can be utilized by FDRs to track training completion by employees. FDRs can also send this sample training log to their Downstream Entities to monitor their employees' training completion. General Compliance and Fraud, Waste and Abuse (FWA) Training is required within 90 days of hire or the effective date of contracting and annually thereafter for all FDRs and downstream entities who are assigned to perform administrative and/or health care services for Cooperative Advantage D-SNP.

"Sample Training Log"