Magellan Compliance Notebook

Magellan Behavioral Health of Pennsylvania, Inc. (Magellan) strives to be proactive and use education as a preventative tool to help ensure our members receive the highest quality of care through you, the provider. The Compliance Department at Magellan is committed to sending monthly e-mails to targeted providers regarding a Compliance-related subject.

This e-mail communication is specific to your HealthChoices (Pennsylvania Medicaid) Contract with Magellan.

This month we would like to share important reminders with providers specific to the screening of employees and contractors for Exclusion from Participation in Federal Health Care Programs.

Background

Pennsylvania Medical Assistance (MA) Bulletin 99-11-05 was issued in August, 2011 in order to remind providers who participate in the MA Program to screen their employees and contractors, both individuals and entities, to determine if they have been excluded from participation in Medicare, Medicaid or any other federal health care program.

The Department of Health and Human Services' Office of Inspector General (HHS-OIG) excludes individuals and entities from participation in Medicare, Medicaid, the State Children's Health Insurance Program (SCHIP), and all Federal health care programs (as defined in Section 1128B(f) of the Social Security Act (the Act)) based on the authority contained in various sections of the Act, including Sections 1128, 1128A, and 1156.

When the HHS-OIG excludes a provider, Federal health care programs (including Medicaid and SCHIP programs) are generally prohibited from paying for any items or services furnished, ordered, or prescribed by excluded individuals or entities. This payment ban applies to any items or services payable under a Medicaid program that are furnished by an excluded individual or entity, and extends to:

- All methods of reimbursement, whether payment results from itemized claims, cost reports, fee schedules, or a prospective payment system;
- Payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to Medicaid recipients, when those payments are reported on a cost report or are otherwise payable by the Medicaid program; and

- Payment to cover an excluded individual's salary, expenses or fringe benefits, regardless of whether they provide direct patient care, when those payments are reported on a cost report or are otherwise payable by the Medicaid program.

In addition, no Medicaid payments can be made for any items or services directed or prescribed by an excluded physician or other authorized person when the individual or entity furnishing the services either knew or should have known of the exclusion. This prohibition applies even when the Medicaid payment itself is made to another provider, practitioner or supplier that is not excluded. Similarly, Pennsylvania law provides that the Department of Human Services does not pay for services or items rendered, prescribed or ordered on and after the effective date of a provider's termination from the MA Program.

Thus, under both State and Federal law, the Department and its MA MCOs are generally prohibited from paying for any items or services furnished, ordered, or prescribed by individuals or entities excluded from the MA Program as well as other Federal health care programs. Medicaid providers and managed care entities who employ or enter into contracts with excluded individuals or entities to provide items or services to Medicaid recipients when those individuals or entities are excluded from participation in any Medicare, Medicaid, or other Federal health care programs are subject to termination of their enrollment in and exclusion from participation in the MA Program and all Federal health care programs, recoupment of overpayments, and imposition of civil monetary penalties.

The amount of the Medicaid overpayment for such items or services is the actual amount of Medicaid dollars that were expended for those items or services. When Medicaid funds have been expended to pay an excluded individual's salary, expenses, or fringe benefits, the amount of the overpayment is the amount of those expended Medicaid funds. In addition to the recoupment of overpayments, civil monetary penalties may be imposed against Medicaid providers that employ or enter into contracts with excluded individuals or entities to provide items or services to Medicaid recipients.

Databases to Monitor

- **List of Excluded Individuals/Entities**: database maintained by the OIG that identifies individuals or entities that have been excluded nationwide from participation in any federal health care program. An individual or entity included on the LEIE is ineligible to participate, either directly or indirectly, in the MA Program. Although the Department makes best efforts to include on the Medicheck List all federally excluded individuals/entities that practice in Pennsylvania, providers must also use the LEIE to ensure that the individual/entity is eligible to participate in the MA Program.

- **Pennsylvania Medicheck List:** database maintained by the Department of Human Services that identifies providers, individuals, and other entities that are precluded from participation in Pennsylvania's MA Program. If an individual's resume indicates that

he/she has worked in another state, providers should also check that state's individual list.

- **System for Award Management (SAM):** federal database used to identify and verify providers that are excluded from receiving Federal contracts, certain subcontracts and certain Federal financial and non-financial assistance and benefits.

- **National Plan and Provider Enumeration System (NPPES):** The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) mandated the adoption of standard unique identifiers for health care providers and health plans. The purpose of these provisions is to improve the efficiency and effectiveness of the electronic transmission of health information. The Centers for Medicare & Medicaid Services (CMS) has developed the National Plan and Provider Enumeration System (NPPES) to assign these unique identifiers.

Minimum Requirement for Screening

All employees, vendors, contractors, service providers, and referral sources whose functions are a necessary component of providing items and services to MA recipients, and who are involved in generating a claim to bill for services, or are paid by Medicaid (including salaries that are included on a cost report submitted to the Department), should be screened for exclusion **before employing and/or contracting with them** and, if hired, should be rescreened on an **ongoing monthly basis** to capture exclusions and reinstatements that have occurred since the last search.

Guidelines for Exclusion Monitoring

In order to protect the MA Program against payments for items or services furnished, ordered, or prescribed by excluded individuals or entities; to establish sound compliance practices, and to prevent potential monetary and other sanctions, providers must:

1. Develop policies and procedures for screening of all employees and contractors (both individuals and entities), at time of hire or contracting; and, thereafter, on an ongoing monthly basis to determine if they have been excluded from participation in federal health care programs. These policies and procedures should be part of the agency's compliance plan and are reviewed by Magellan during Integrated and Compliance Audits.

2. All employees, vendors, contractors, service providers, and referral sources whose functions are a necessary component of providing items and services to MA recipients must be screened utilizing the LEIE, Pennsylvania Medicheck List & SAM prior to hire/ contracting and monthly thereafter. Providers must develop and maintain auditable

documentation of screening efforts, including dates the screenings were performed and the source data checked and its date of most recent update.

3. Immediately self-report any discovered exclusion of an employee or contractor, either an individual or entity, to the Bureau of Program Integrity (BPI MA Provider Compliance Hotline Response Form) and Magellan (Compliance Alert February 2019- Instructions for Self-Reports).

4. Periodically conduct self-audits to determine compliance with this requirement.

At Magellan, we will continue to educate our providers with updated MA Bulletins, Regulations and other pertinent information in order to ensure Compliance. Although providers are ultimately responsible for knowing and complying with all applicable regulations, we proactively engage providers on an ongoing basis to make sure they are aware of compliance related requirements and expectations. Medicaid Program Integrity is truly a collaborative effort between our providers, county customers, Magellan, BPI and other oversight agencies. The monthly e-mail blast topics are generated from audit results and trends; however, are also sent in response to recent Magellan policy updates; newly released or relevant MA Bulletins and Policy Clarifications; or Regulation changes. The intention is to afford our providers with as many resources as possible to combat FWA and reduce overpayments.

Thank you for your ongoing hard work and dedication to our members!

Magellan of Pennsylvania's Compliance Team
O 215-504-3967 | **F** 866-667-7744