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## Section Q: Fraud Waste and Abuse (FWA) & Protected Health Information (PHI)

### Q1 Overview of Fraud, Waste and Abuse

CenCal Health is dedicated to the detection, investigation, prevention, and reporting of suspected or actual fraud, waste, and abuse (FWA). CenCal Health's Fraud Program is designed to prevent and detect suspected and or actual FWA. The Special Investigations Unit (SIU) in the Compliance Department investigates all reports of suspected FWA. The SIU works in tandem with state and federal agencies, and law enforcement to report individuals or organizations who may be involved in FWA activities. Under the terms of the contract between CenCal Health and its provider network, providers must report suspected cases of FWA to CenCal Health. CenCal Health maintains and supports reporting of any suspected FWA through variety of reporting channels including an anonymous reporting hotline. This section of the Provider Manual provides a general guidance for providers and other partners in identifying and reporting FWA to CenCal Health.

In addition, CenCal Health's website includes sections dedicated specifically to FWA concerning Members and Providers. The website highlights many of the same elements included in this manual and includes:

- A definition of FWA.
- What information reporters should provide to assist in an investigation.
- How to report potential FWA.

For more information on FWA, please visit our CenCal Health website page on Fraud at <http://www.cencalhealth.org/providers/suspect-fraud>.

### Q2 Fraud Waste and Abuse (FWA) Definitions

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

**Waste:** The overutilization or inappropriate utilization of services and misuse of resources.

**Abuse:** Activities that are inconsistent with sound fiscal, business, or medical practices, and result in the following: unnecessary cost to healthcare programs or reimbursement for services that are not Medically Necessary or fail to meet professionally recognized standards for healthcare. Abuse also includes beneficiary practices that result in unnecessary cost to healthcare programs.

### Q3 Examples of FWA

In general, health care fraud costs the state and federal taxpayers billions of dollars each year, harming both patients and taxpayers. Below are examples of FWA that must be reported to CenCal Health

#### Member/Beneficiary:

- Failure to report other health coverage;
- Loaning, giving, or using another individual's identity, BIC, CenCal Health identification card, Medi-Cal number, or other documentation of Medi-Cal or CenCal Health eligibility to obtain covered services, unless such person is an authorized representative who is presenting such document or information on behalf of a member to obtain covered services for that member;
- Selling a member's identity, BIC, CenCal Health identification card, Medi-Cal number, or other documentation of Medi-Cal or CenCal Health's eligibility;
- Using a Covered Service for purposes other than the purposes for which it was prescribed or provided, including use of such Covered Service by an individual other than the member for whom the covered service was prescribed or provided;
- Soliciting or receiving a kickback, bribe, rebate, or other illicit incentive, as outlined in the Federal Anti-Kickback Statute, as an inducement to receive or not receive Covered Services; and,
- Impersonating a provider or falsifying provider documentation to obtain unauthorized items (e.g. prescription medications, durable medical equipment).

#### Provider:

- When an individual or provider recruits and pays individuals money or offers gifts in exchange for referrals in the Medicare or Medi-Cal program;
- A provider charging a Medicare or Medi-Cal beneficiary for the difference between the allowed reimbursement rate and the customary charge for the service;
- Billing for services not rendered;
- Billing for services at a frequency that indicates the provider is an outlier as compared with their peers;
- Billing for non-covered services using an incorrect CPT, HCPCS and/or Diagnosis code in order to have services covered;
- Billing for services that are actually performed by another provider;
- Up-coding;
- Unbundling services that should be billed together;
- Billing for more units than rendered;
- Altering records to receive covered services.


### Q4 Reporting Fraud, Waste or Abuse (FWA)

Under the terms of the contract between CenCal Health and the Provider, the Provider and Subcontractors are required to report suspected cases of FWA. CenCal Health supports good faith and anonymous reporting through a variety of reporting channels accessible to all employees, members, business partners, and the public without fear of retaliation.

When Reporting Fraud, Waste or Abuse please provide as much of the following information as possible (if available):

- Name, Address, License, or Insurance ID of suspect.
- Description and Details of the Incident: who, what, where, when, date and time of incident(s).
- Any documentation you may have related to the incident(s).
- Your name, telephone number (if you would like to be contacted).

Any person may report a suspected FWA matter to CenCal Health through the following mechanisms:

 **By Telephone: Compliance Hotline (Anonymously): (866) 775-3944**  
The Compliance Hotline is available in both English and Spanish and can receive tips 24-hours a day, 7-days a week. The Compliance Hotline is operated by a third-party vendor to maintain confidentiality for the reporter.

 **By Fax: (805) 681-8279; ATTN: Compliance Department**

 **By E-mail: [compliance@cencalhealth.org](mailto:compliance@cencalhealth.org)**


 **By Mail:**  
CenCal Health  
Fraud Investigations  
Compliance Department  
4050 Calle Real  
Santa Barbara, CA 93110

 **By Compliance Alert Line: <https://cencalhealth.alertline.com/gcs/overview>**

 **CenCal Health Chief Compliance Officer: (877) 814-1861**


You may also report FWA to the following external agencies, directly:

Department of Health Care Services (DHCS)

 **Phone: (800) 822-6222**

 **Online: <http://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx>**

California Department of Justice, Bureau of Medi-Cal Fraud & Elder Abuse (BMFEA)

 **Phone: (800) 722-0432**

 **Online: <https://oag.ca.gov/bmfea/reporting>**

Office of Inspector General:

 **Phone: (800) HHS-TIPS (800-447-8477)**

 **Online: <https://oig.hhs.gov/fraud/report-fraud>**

#### **Q5: Health Insurance Portability and Accountability Act (HIPAA):**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that requires CenCal Health and its network Providers to protect the security and maintain the

confidentiality of its members' Protected Health Information (PHI) and to provide its members with certain privacy rights.

PHI is any individually identifiable health information, including demographic information. PHI includes but is not limited to a member's name, address, phone number, medical information, social security number, ID card number, date of birth, and other types of personal information.

This section of the Provider Manual seeks to guide Providers on the following:

- 1) implementation of safeguards to protect CenCal Health member PHI;
- 2) ensure appropriate uses and disclosures of PHI;
- 3) ensure members are able to timely access their own PHI; and
- 4) how to identify and report privacy incidents and breaches to CenCal Health.

### **Safeguarding PHI**

As HIPAA covered entities, CenCal Health and its Providers must comply with HIPAA requirements. Below are a few reminders on how to protect and secure PHI:

#### PHI in Paper Form

- Documents containing PHI should not be visible or accessible to visitors or others who are unauthorized to have access to PHI.
- When faxing documents containing PHI, verify the recipient, the recipient's fax number, and the documents being sent.
- Ensure that outgoing faxes include a fax cover sheet that contains a confidentiality statement.
- When mailing PHI, verify the recipient, the recipient's mailing address, and the documents being sent.
- Ensure that envelopes and packages are properly sealed, secured, and if using a clear window envelope, ensure that information is not visible through the window of the envelope, prior to mailing out.
- When transporting PHI, ensure that the information is protected by using binders, folders, or protective covers.
- PHI must not be left unattended in vehicles.
- PHI must not be left unattended in baggage at any time during traveling.
- PHI should be locked away during non-business hours.
- PHI must be properly disposed of by shredding. Never recycle or dispose of documents containing PHI in the trash bin.

#### PHI in Electronic Form

- When transmitting PHI via email ensure that the email is encrypted. This prevents anyone other than the intended receiver from obtaining access to the PHI.
- Do not include PHI such as an individual's name or Beneficiary ID number (CIN) in the subject line of the email.
- Confirm the recipient, recipient's email address, and documents or information being sent, prior to sending the email.

- Ensure all portable data storage devices (CDs, DVDs, USB drives, portable hard drives, laptops, etc.) are encrypted.

#### PHI in Oral Form

- Do not discuss PHI in public areas such as the patient waiting room.
- Do not discuss PHI with unauthorized people. Always verify the identification of an individual, prior to discussing PHI with the individual.
- Ensure to speak quietly when discussing PHI.

#### **Uses and Disclosures of Member PHI**

The HIPAA Privacy Rule allows member PHI to be used and disclosed without the member's written consent for the following reasons (not a complete list):

- Verifying eligibility and enrollment
- Authorization for Covered Services
- Claims processing activities
- Member contact for appointments
- Investigating or prosecuting Medi-Cal cases (e.g. fraud, waste, or abuse)
- Monitoring Quality of Care
- Medical treatment
- Case Management/Disease Management
- Providing information to public health agencies as permitted by law
- In response to court orders or other legal proceedings
- Appeals/Grievances
- Requests from State or federal agencies or accreditation agencies

Providers must obtain specific written consent through a HIPAA Compliant Authorization Form for all other uses and disclosures of PHI that do not fall within the list above or are otherwise permitted by the HIPAA Privacy Rule.

#### **Member Access to PHI**

The HIPAA Privacy Rule requires CenCal Health and its Providers to provide members, upon request, with access to their PHI. Providers must ensure that their medical records systems allow for prompt retrieval of medical records and that these records are available for review whenever a member requests access to their PHI. Providers must also ensure to provide the member with both timely access to their PHI and provide the PHI in the form and format requested by the member.

#### **Reporting of Privacy Incidents and Breaches to CenCal Health**

The HIPAA Breach Notification Rule, requires CenCal Health and HIPAA covered entities to provide notification following a breach of PHI. Providers must immediately, within 24 hours from discovery report both privacy incidents and breaches involving CenCal Health members to CenCal Health.

A privacy incident is defined as an event or situation where an individual or organization has suspicion or reason to believe that PHI may have been compromised. Privacy incidents include but are not limited to the following:


- PHI sent to the wrong individual or organization.
- PHI being sent unencrypted.

- Loss or theft of documents containing PHI.
- Loss or theft of unencrypted devices (laptop, hard drives, USB drives).


A breach is defined as an unauthorized access, use, or disclosure of PHI that violates either federal or state laws or PHI that is reasonably believed to have been acquired by an unauthorized person.

Timely reporting of incidents and breaches involving the PHI of our members is crucial in the response, investigation, and mitigation of incidents and breaches. To report suspected or known privacy incidents and breaches you may contact CenCal Health through any of the following means.

 Phone: Anonymous Compliance Hotline: 866-775-3944

 Fax: 805-681-8279

 E-mail: [HIPAATeam@cencalhealth.org](mailto:HIPAATeam@cencalhealth.org)

 Mail: CenCal Health  
Attn: Privacy Office  
4050 Calle Real  
Santa Barbara, CA 93110