DETROIT AREA AGENCY ON AGING

Policy Number / Policy Title: **1004 / Fraud Waste and Abuse / (OIG)**	**Approved by:** **President &CEO:** **Chief Compliance Officer & VP of Quality**
Responsible Department: **Quality and Compliance**	**Applies to** team members, whether related to conduct engaged in by fellow team members or someone not directly connected to DAAA (e.g., an outside vendor, contractors, temporary staff, volunteers, consultant or customer, students, and members of the governing authority), and First Tier, Downstream or Related Entity (FDR)

Effective Date:	**Last Date Revised:**	**Next Review Date:**
5/18/2015	**10/2025 AP**	**10/2026**

Policy Statement

The DAAA provides information to its Employees and Contractors/Providers about the federal and state False Claims Acts and the rights of its Employees and Contractors/Providers protection as whistleblowers (outlined in the Whistleblower policy) and about the organization's policies and procedures for detecting and preventing fraud waste and abuse.

The DAAA is committed to complying with all applicable laws, including but not limited to the Fraud and Abuse laws described in this policy and Attachment I. As part of this commitment, the DAAA has established and will maintain a Corporate Compliance Program that includes a Fraud, Waste and Abuse Program. Employees and Contractors are expected to immediately report any potential false, inaccurate or questionable claims to their supervisors, the Corporate Compliance Officer, the Compliance Hotline 1-313-396-5567 in accordance with the DAAA's policies.

The DAAA is prohibited by law from retaliating in any way against any Employee or Contractors/Providers who in good faith reports a perceived problem, concern or fraud, waste, or abuse issue.

The DAAA Employees and Contractors/Providers who prepare process and/or review claims should be alert for false claims or billing errors.

Frequency of training:

- Initial training and education will be conducted **within 90 days of hire** for workforce, governing body, vendors/ subcontractors and providers

- Subsequent training / education will be received **annually**; thereafter, which includes the following:
    - General compliance
    - Fraud, waste and abuse (FWA)
    - Information, Security and Privacy Training
    - Standards of Conduct / Code of Ethics
    - Critical Incident Reporting (Identify / Document)

Definitions

Fraud - An intentional deception or misrepresentation made by a person or entity with the knowledge that the deception could result in some unauthorized benefit under a state or federally funded program to himself or herself, the entity, or some other person. It also includes any act that constitutes fraud under applicable federal or state laws.

Waste - An over-utilization of services or other practices that, directly or indirectly, result in unnecessary costs to federal and state funded programs. Waste is generally not considered to be caused by criminally negligent actions but rather misuse of resources.

Abuse - Provider or enrollee practices that are inconsistent with sound fiscal, business or medical practices, and result in unnecessary cost to state and federally funded programs, including, but not limited to practices that result in reimbursement for services that are not Medically Necessary, or that fail to meet professionally recognized standards for health care. It also includes enrollee practices that result in unnecessary cost to state and federally funded programs. Contractor s/ Providers - Includes any contractor, subcontractor, agent, or other person which or who, on behalf of the DAAA, furnishes, or otherwise authorizes the furnishing of, Medicaid health care items or services, performing billing or coding functions, is involved in the monitoring of health care provided by the entity, or otherwise acts with authority on the Plan's behalf.

Examples of potential false claims include, but are not limited to, the following:

1. Claiming reimbursement for services that have not been rendered;
2. Characterizing the service differently than the service actually rendered;
3. Falsely indicating that a particular health care professional attended a procedure;
4. Billing for services/items that are not medically necessary;
5. Forging or altering a prescription or claim; and
6. Improperly obtaining prescriptions for controlled substances or card sharing.

MI HIDE-SNP - Michigan Highly Integrated Dual Special Needs Plan

Frequency of Policy Review

- Policies are reviewed and/or updated annually by the Management Team

Purpose / Scope

The purpose of this policy is to set forth the manner in which Detroit Area Agency on Aging (DAAA) complies with the requirements of the Deficit Reduction Act of 2005 (DRA) and its obligations related to Fraud and Abuse under its state and federal contracts. The DRA became effective on February 8, 2006. Under this law, any entity who receives more than $5 million per year in Medicaid payments is required effective as of January 1, 2007 to provide information to its employees about the Federal False Claims Act, any applicable state False Claims Act, the rights of employees to be protected as whistleblowers, and the organization's policies and procedures for detecting and preventing fraud, waste and abuse.

This policy also provides guidance regarding DAAA responsibilities under the DRA, Federal, Michigan False Claims Act, responsibilities of employees and contractors to report suspected or actual instances of FWA.

This policy applies to all providers and their contractors, employees, volunteers and participants.

Procedure

The DAAA has developed a comprehensive internal Fraud, Waste and Abuse Program, as part of its Compliance Program, to prevent and detect violations. As part of this program, and in compliance with federal and state requirements, The DAAA provides annual fraud, waste and abuse training for all Employees and Providers. DAAA will educate with less formal means of communication such as posters, newsletters, emails and will be distributed and approved by the Compliance Officer.

Employees and Contractors/Providers must immediately report any false, inaccurate or questionable claims or actions as well as questions, concerns or potential Fraud, Waste or Abuse issues to:

- Their immediate supervisor
- The DAAA's confidential, toll-free Hotline, 24 hours/day, 365 days/year 1-313-396-5567 (Information may be left on the Hotline anonymously)
- All activity reported pursuant to the Fraud, Waste and Abuse policy.

Auditing and Monitoring:

1. The employee, contractor/provider identifies or suspects FWA.
2. FWA is reported to the immediate supervisor and/or the Compliance Officer by dialing 1-313-396-5567.
3. The Compliance Officer reports all allegations of FWA within 24 hours of the filing to OIG Compliance Help Line 1-800-8477 or Medicare FWA Line: 1-800-633-4277.
4. Any suspected FWA activity will be reported to Contract Management and the ICO and/or escalated to OIG when applicable.
5. The Compliance Officer will begin a preliminary investigation within 2 weeks of identification which should be completed within 14 working days of the identification or allegation. An extensive Investigation will be conduct if applicable.
6. A preliminary investigation determines whether to request an extensive investigation and review of medical records or end the investigation. If the funds paid to provider or member requires recovery. DAAA will report any program integrity cases opened within the previous quarter to the OIG. Contract standards will be followed for the method and timing of required reporting.
7. The Compliance Officer will provide remediation for substantiated findings.
8. An extensive investigation will begin if the Compliance Officer deems necessary.
9. DAAA will respond to all OIG audit referrals within the timeframe designated in the referral prior to the provider receiving a final notice with appeal rights. Any extension request will be in writing no less than 2 business days prior to the due date.

Remediation when applicable:

- On-site Provider training may be recommended if possible FWA is determined.
- The Compliance Officer will make recommendations for monitoring Member's or Provider's activities for duration of 90 days.
- The Compliance Officer will make conduct on-site meetings, telephone conferences and educational letters to explain provider's potential liability and risks associated with the lack of adhering to the laws and regulations.

Non-Compliance Plan:

- The extensive investigation process includes the identifying medical records for review within 15 working days from completion of preliminary investigation requesting medical records and supporting documents from the provider within 15 working days of identification, requesting hardcopy claims, completing the investigation within 45 working days from receipt of the requested documentation when applicable.

The DAAA will not discriminate or retaliate against any Employee or Contractors/Providers for reporting in good faith a potential or actual fraudulent activity or for cooperating in any government or law enforcement agency's investigation or prosecution.

The DAAA will make diligent efforts to recover improper payments or funds misspent due to fraudulent or abusive actions by The Plan's Employees, its Contractors, Providers, Enrollees, or any other person or entity.

The DAAA will conduct its Fraud, Waste and Abuse Program in accordance with federal and state requirements.

ROLES AND RESPONSIBILITY:

The DAAA's Employees and Contractors/Providers - All the DAAA's Employees and Contractors/Providers are responsible for reporting any suspected or actual instances of fraud, waste or abuse. The DAAA's Quality and Compliance Department - The Compliance Department has oversight for the Fraud, Waste and Abuse Program, including but not limited to policies/procedures, communications, and ensuring that all reports of suspected fraud, waste or abuse are fully investigated and if appropriate, reported to the proper authorities. The Compliance Department will communicate with state and federal agencies on fraud, waste and abuse issues and will provide oversight and assistance with the fraud, waste and abuse regulatory reports to state and/or federal agencies. Compliance and FWA investigations will be maintained for 10 years.

The Corporate Compliance Officer is responsible for developing and maintaining an automated reporting protocol within the claims processing system to identify billing patterns that may suggest Provider and/or Enrollee Fraud, including:

- Monitoring for under-utilization or over-utilization of services;
- Conducting regular reviews and audits of operations to guard against fraud, waste and abuse;
- Receiving all referrals from employees, enrollees or providers involving cases of suspected fraud, waste and abuse;
- Developing protocols to triage and investigate all referrals involving suspected fraud, waste and abuse;
- Educating employees, providers and enrollees about fraud, waste and abuse and how to report it, including informing employees of their protections when reporting fraudulent activities;
- Establishing mechanisms to receive, process, and effectively respond to complaints of suspected fraud, waste and abuse from employees, providers and enrollees and reports such information to state and federal agencies.

The Corporate Compliance Officer will work with the Compliance Committee to meet these responsibilities. The Corporate Compliance Officer and compliance staff will provide training on compliance program integrity and FWA within the Michigan Medicaid Program and other state and federal guidelines.

Reporting of Escalating and Investigating of Alleged Fraud, Waste and Abuse

- DAAA will maintain a complaint database system to receive, record, respond to and track reports of suspected or detected fraud, waste and abuse.
- DAAA will also support reporting mechanisms; one of which will allow for anonymous reporting if desired.
- Any employee, enrollee/family member, or provider of the DAAA who suspects an improper or illegal activity associated with the DAAA is required to report such suspicion to the Compliance Officer.

- Any employee, enrollee/family member or provider who reports such matters shall not be subjected to retaliation or harassment in any manner and any employee of the DAAA engaging in such conduct will be subject to discipline up to and including termination.
- DAAA will investigate potential FWA activity to make a determination whether potential FWA has occurred.
- DAAA will conclude investigations of potential FWA within a reasonable time period **(within 2 weeks)**, after the activity is discovered.
- For all incidents of fraud, waste and abuse within any of the federal or state programs, the Compliance Officer will report this directly OIG.
- MI Choice Programs, any suspected FWA activity will be reported to Contract Management and escalated to OIG.
- MI HIDE-SNP Program - any suspected FWA activity will be reported to Contract Management and the ICO.

Reporting of Non-Compliance Training (Employees) / (Non-DAAA employees)

- Leaders will audit non-compliance report and investigate the root cause for continued non-compliance.
- The Leader will prepare a report summarizing the investigation for non-compliance and recommended actions to be taken to Human Resources (or Compliance for non-DAAA employees)
    - Additional actions may include, but not limited to: evaluate work assignments, schedule training modules; or discipline employees;
    - Report any non-Compliance activity to ICOs **within 10 business days**.

Disciplinary Actions for employees: Employees including Compliance Officer, managers and supervisors, all staff who fail to comply with applicable statutory and Medicaid Program requirements. See *below

DAAA is committed to ensuring that any employee, enrollee/family member or provider who reports such matters as listed in this policy shall not be subjected to retaliation or harassment in any manner and any employee of the DAAA engaging in such conduct will be subject to discipline up to and including termination. The right of protection for reporters does not include protection from disciplinary action if the report is found to be false, baseless, and/or not made in good faith. Any disclosure not made in good faith, and disclosure to any individual other than those identified herein, may subject the employee to disciplinary action. Disciplinary actions will be determined on a case-by-case basis including failure to detect non-compliance when routine observation of due diligence should have provided adequate clues or put one on notice.

Individuals engaging in fraud, waste, or abuse, as defined by this policy may be subject to disciplinary action. DAAA's employees suspected of perpetrating fraud, waste, or abuse may be placed on administrative leave during the course of the investigation. If the violation is identified as a crime, it will be reported to the OIG.

Sanctions for Negligent Action for vendors:

DAAA will impose the following sanctions for misconduct relating to non-compliance. Disciplinary measures will be taken on a case-by-case basis. DAAA reserves the right to apply sanctions at its discretion, based on the seriousness of the misconduct. Sanctions will include but not limited to non-compliance and/or failure to detect non-compliance when there is suspicion of FWA and failure to provide due diligence once misconduct is identified. If DAAA identifies an overpayment of 5K or greater involving a potential credible allegation of fraud, the case will be promptly referred to the OIG, DAAA must promptly refer the case to MDHHS-OIG and the AC-HCFD. DAAA will not contact the subject of the investigation about any matters related to the investigation and will not enter into any settlement or agreement regarding overpayment or accept any monetary amount settlement and will follow the guidelines in attachment E or the MI-Choice Waiver contract.

First or Second Offense (negligent action):
1. Issuing a verbal
2. Requiring additional compliance training or other educational requirements;
3. Requiring the submission and completion of a corrective action plan (CAP);
4. Auditing/Monitor both participant and financial records;

Second Offense
1. Issuing a written warning
2. Requiring the submission and completion of a corrective action plan (CAP);
3. Auditing of both participant and financial records;
4. Placing the health care professional on probationary status with DAAA
5. Placing the health care professional on probationary status with DAAA

Third Offense (negligent action):
1. Auditing of participant's and financial records;
2. Terminating the vendor from the network;
3. Reporting the misconduct to the OIG and/or appropriate federal and state authorities. Reporting to LARA as appropriate.

Sanctions for Intentional Action involving vendors: Some violations including but not limited to intentional misconduct or retaliation will carry more stringent disciplinary sanctions.

The following sanctions will be applied for misconduct relating to non-compliance. Disciplinary measures will be taken on a case-by-case basis. DAAA reserves the right to apply sanctions at its discretion, based on the seriousness of the misconduct.

First Offense (intentional action):
1. Requiring additional compliance training;
2. Requiring the submission and completion of a corrective action plan (CAP);
3. Temporarily suspending the vendor's ability to submit claims to DAAA;
4. Auditing of participant's and financial records;
5. Placing the vendor on probationary status with DAAA;
6. Terminating the vendor from the network;
7. Reporting the misconduct to the OIG.

Second Offense (intentional action):
1. Terminating the vendor from DAAA's network;
2. Reporting the misconduct to the OIG.

* *DAAA must refer all potential Enrollee Fraud, Waste or Abuse that the MCE identifies to MDHHS through https://www.Michigan.gov/fraud/ (File a Complaint – Medicaid Complaint Form) or via the local MDHHS office. In addition, the MCE must report all fraud, waste and abuse referrals made to MDHHS on their quarterly submission.*

References

Policy #122 – Training and Orientation; MDHHS.gov, OIG attachment E