

## **Garity Advantage Downstream oversight policy: review 12/4/2023**

### **PURPOSE**

The purpose of this policy is to implement relevant provisions of 42 C.F.R. Section 422.503(b)(4)(vi), and 423.504(b)(4)(vi), Chapters 9 and 21 of the Medicare Managed Care Manual and the Prescription Drug Benefit Manual which outlines the Centers for Medicare and Medicaid Services (CMS) requirements for Part C and D sponsors and their First Tier, Downstream and Related entities (FDRs) to implement an effective compliance program, including implementation and operation of an effective system for oversight of Medicare activities and downstream entities.

### **POLICY**

Garity Advantage will comply with all applicable federal and state laws and regulations regarding the establishment of a process to identify potential or actual compliance and/or FWA risks, including oversight of downstream entities, as applicable. Garity Advantage ensures a prompt review and response when risks are identified. Garity Advantage is required to make sure all contracted Downstream Entities are informed of all laws and regulations that apply to them, including ensuring: Contractual agreements contain all CMS-required provisions; Downstream Entities comply with all the Medicare compliance program requirements; Downstream Entities comply with any applicable Medicare operational requirements.

### **PROCEDURE**

#### **Identification of Downstream Entities**

Only subcontractors that provide administrative or health care services for our Medicare Advantage and Prescription Drug Plan Sponsors may be Downstream Entities. We have established criteria which defines key considerations reviewed to determine if a subcontractor should be considered a Downstream Entity including:

- An assessment of the functions the entity performs
- If the external entity provides a service, is it administrative or health care related
- If Garity Advantage is explicitly required to do or to provide the core functions performed by the sub-contractor under contract(s) with Medicare Advantage and/or Prescription Drug Plan Sponsor(s)
- If the function performed by the entity directly impact Medicare Plan members
- If the sub-contractor interacts with Medicare Plan members, either orally or in writing
- If the sub-contractor has access to Medicare Plan members' Protected Health Information (PHI)
- Is sub-contractor granted decision-making authority or do they strictly take direction
- Level of risk for sub-contractor to harm Medicare members or the Medicare program (e.g., commit health care fraud, waste or abuse)
- Level of risk for the sub-contractor or for the function/service it provides to violate Medicare program requirements, commit FWA, or place Company at risk of not meeting a Medicare Program requirement

All Downstream Entity determinations are completed prior to contract effectuation and are documented and maintained to ensure appropriate oversight is in place as described below.

### **Attestation Process**

As part of the overall downstream entity oversight process, Garity Advantage will assess the effectiveness of downstream entities' compliance and operational policies and procedures through receipt of a periodic attestation process. The attestation will include key compliance program requirements which the downstream entity is contractual obligated to perform such as:

- Delivery of Standards of Conduct to employees within 90 days of hire, upon changes, and annually thereafter
- Exclusion Screening prior to hire/contracting and monthly thereafter of employees and inform all contracted downstream entities of their responsibility to perform Exclusion Screening prior to hire/contracting and monthly thereafter of employees.
- Reporting Mechanism to report compliance and/or FWA concerns
- Downstream Entity and Operational Oversight

Annually, Garity Advantage selects five (5) existing Medicare supporting downstream entities to send an attestation to. In addition, as part of the new downstream entity onboarding process, an attestation is required to be signed by all contracted downstream entities. If the attestation is not received or is unable to be signed by an entity contracted or to be contracted, Garity Advantage will coordinate with other internal areas, if necessary, to assess any issues/potential issues of non-compliance and/or risk of FWA. These assessments are designed to review, rank risk, and prioritize the key regulatory risks for Garity Advantage business operations.

### **Annually**

- 1.) Randomly or Systematically (either by spend, alphabetically, or other means) select five (5) downstream entities to send attestation to.
  - a. Identify which or how you selected for documentation and reference purposes for the next year
- 2.) Send out via email or mail and allow (30 /60 /90) days to complete
  - a. Ensure name of department receiving and or tracking of appropriate email inbox are included for receipt
  - b. Ensure due date name of department receiving and or tracking or appropriate email inbox are included in means of distribution for receipt
- 3.) Check back within time frame if not received
- 4.) Allow an additional 30 days to receive
- 5.) If received – review responses and determine next step
  - a. Does education over the requirements need to be provided?
  - b. Does the entity need to be placed on a CAP
  - c. Is the attestation signed by the entity – then simply record and file

- 6.) If not received after the 90 days
  - a. Reach out to the entity to ask if they had a question or concern
  - b. If noncompliance place on a CAP
- 7.) Next year select new set of entities

#### New Contracts

- 1.) Send attestation to all newly contracted Downstream Entities
- 2.) Track date sent and receipt
  - a. allow (30 /60 /90) days to complete
  - b. Ensure due date name of department receiving and or tracking of appropriate email inbox are included in means of distribution for receipt
  - c. Determine means by how the delivery and receipt of the attestation is tracked i.e. spreadsheet
- 3.) Check back within time frame if not received
- 4.) Allow an additional 30 days to receive
- 5.) If received – review responses and determine next step
  - a. Does education over the requirements need to be provided?
  - b. Can Contract be signed /should it be delayed
  - c. Is the attestation signed by the entity – then simply record and file

Garity Advantage will conduct a timely, reasonable inquiry into cases of suspected misconduct, non-compliance and/or suspected FWA identified through the attestation process. Such investigations and the outcome and any corrective action taken, if applicable, will be recorded and maintained with the Compliance Department and/or Human Resources for a period of not less than ten years and any issues of non-compliance and/or FWA will be reported to plan sponsors as applicable.

In addition to receipt of the attestation, Garity Advantage may perform additional oversight activities such as a risk assessment, monitoring reports, and ad hoc audits, as determined necessary.

#### **Corrective Action**

Corrective Actions to address non-compliance or suspected FWA are developed and implemented on a case-by-case basis. Each corrective action will be designed to correct the underlying problem, prevent future instances or continued non-compliance, and will include timeframes for specific achievements. Such corrective action may include:

- Verbal Caution
- Verbal Warning
- Written Warning
- Performance Improvement Plan (PIP)
- Final Written Warning
- Termination

The Company will track completion of the corrective action to resolution.