

## **EXHIBIT Y**

### **GUIDELINES FOR SANCTIONS REGARDING FRAUD, WASTE AND ABUSE**

The Department recognizes its responsibility to administer the Community HealthChoices (CHC) Program and ensure that the public funds which pay for this program are properly spent.

To maintain the integrity of the CHC Program and to ensure that CHC-MCOs comply with pertinent provisions and related state and federal policies, including rules and regulations involving Fraud, Waste and Abuse issues, the Department will impose sanctions on the CHC-MCOs as deemed appropriate where there is evidence of violations involving Fraud, Waste and Abuse issues in the CHC Program. To that end, program compliance and improvement assessments, including financial assessments payable to BPI, will be applied by BPI for the CHC-MCO's identified program integrity compliance deficiencies. Note that the Department also retains discretion to impose additional remedies available under applicable law and regulations.

### **FRAUD, WASTE AND ABUSE ISSUES WHICH MAY RESULT IN SANCTIONS**

The Department may impose sanctions, for non-compliance with Fraud, Waste and Abuse requirements which include, but are not limited to, the following:

- A. Failure to implement, develop, monitor, continue and/or maintain the required compliance plan and policies and procedures directly related to the detection, prevention, investigation, referral or sanction of Fraud, Waste and Abuse by providers, caregivers, members or employees.
- B. Failure to cooperate with reviews by oversight agencies or their designees, including the Department, Pennsylvania Office of Attorney General Medicaid Fraud Control Unit, Office of Inspector General of the U.S. DHHS, and other state or federal agencies and auditors under contract to CMS or the Department 42 CFR §438.3(h).
- C. Failure to adhere to applicable state and federal laws and regulations.
- D. Failure to adhere to the terms of the CHC- Agreement, and the relevant Exhibits which relate to Fraud, Waste and Abuse issues.
- E. If a CHC-MCO fails to provide the relevant operating agency, upon its written request, encounter data, claims data and information, payment methodology, policies and/or other data required to document the services and items delivered by or through the CHC-MCO to Participants 42 CFR §438.604.

- F. CHC MCO engaging in actions that indicate a pattern of wrongful denial of payment for a health-care benefit, service or item that the organization is required to provide under its agreement.
- G. If a CHC-MCO or associate fails to furnish services or to provide Participants a health benefit, service or item that the organization is required to provide under its Agreement 42 CFR § 438.700(b)(1).
- H. CHC-MCO engaging in actions that indicate a pattern of wrongful delay of at least for 45 days or a longer period specified in the Agreement (not to exceed 60 days) in making payment for a health-care benefit, service or item that the organization is required to provide under its Agreement.
- I. Discriminating against Participants or prospective Participants on any basis including without limitation, age, gender, ethnic origin or health status 42 CFR §438.3(d)(3- 4)
- J. The CHC-MCO must conduct a preliminary investigation and may consult with other state agencies or law enforcement to determine credible allegations of fraud for which an investigation is pending under the Medicaid program against an individual, a provider, or other entity (42 CFR §455.23(a)). Allegations are to be considered credible when there is indicia of reliability and the State Medicaid agency has reviewed all allegations, facts and evidence carefully and acts judiciously on a case by case basis (42 CFR §455.2).
- K. CHC-MCO failure to pay overpayments to DHS as identified through network provider audits, reviews, investigations conducted by BPI or its designee and other state and federal agencies.

## RANGE OF SANCTIONS

The Department may impose any of the sanctions indicated in Section VIII.I. of the Agreement including, but not limited to, the following:

Preclusion or exclusion of the CHC-MCO, its officers, managing employees or other individuals with direct or indirect ownership or control interest in accordance with 42 U.S.C. §1320a-7, 42 C.F.R. Parts 1001 and 1002; 62 P.S. §1407 and 55 Pa. Code §§1101.75 and 1101.77.

These sanctions may, but need not be, progressive. The Department's intends to maintain an effective, reasonable and consistent sanctioning process as deemed necessary to protect the integrity of the CHC- Program.