




Section: <b>Compliance</b>	Procedure Name: <b>Compliance Reporting Procedure</b>	Procedure #: <b>10.08.01</b>
Overarching Policy: <b>10.08 Compliance Reporting Responsibilities</b>		
Owner: <b>Chief Compliance Officer</b>	Reviewed By: <b>Mila C. Todd</b>	Total Pages: <b>5</b>
Required By: <input checked="" type="checkbox"/> <b>BBA</b> <input checked="" type="checkbox"/> <b>MDHHS</b> <input type="checkbox"/> <b>NCQA</b> <input type="checkbox"/> <b>Other (please specify):</b> _____	Final Approval By:  Mila Todd (Feb 5, 2025 16:21 EST)	Date Approved: Feb 5, 2025
Application: <input checked="" type="checkbox"/> <b>SWMBH Staff/Ops</b> <input checked="" type="checkbox"/> <b>Participant CMHSPs</b> <input checked="" type="checkbox"/> <b>SUD Providers</b> <input checked="" type="checkbox"/> <b>MH/IDD Providers</b> <input type="checkbox"/> <b>Other (please specify):</b> _____	Line of Business: <input checked="" type="checkbox"/> <b>Medicaid</b> <input type="checkbox"/> <b>Other (please specify):</b> <input checked="" type="checkbox"/> <b>Healthy Michigan</b> _____ <input checked="" type="checkbox"/> <b>SUD Block Grant</b> <input checked="" type="checkbox"/> <b>SUD Medicaid</b> <input checked="" type="checkbox"/> <b>CCBHC</b>	Effective Date: <b>10/04/2018</b>

**Policy:** All employees, Board Members, and any persons or entities acting on behalf of or under contract with SWMBH, including participant CMHSPs and network providers, have the responsibility of ensuring the effectiveness of Regional compliance efforts by actively participating in SWMBH’s compliance program and by complying with applicable contract provisions, SWMBH’s Compliance Plan, policies and procedures, and HIPAA Privacy and Security standards. These standards are designed and intended to meet the Federal Sentencing Guidelines and the recommendations and guidelines issued by the Health and Human Services (HHS) Office of Inspector General (OIG). The SWMBH Chief Compliance Officer (CCO) shall ensure open and effective lines of communication are available for questions, consultation, and the reporting of compliance issues. By actively participating in SWMBH’s compliance program, SWMBH personnel, participant CMHSPs, and network providers will seek consultation and guidance as needed, will report compliance issues promptly and in accordance with this policy, and will cooperate with compliance investigation activities.

**Purpose:** To articulate the procedures that SWMBH, participant CMHSPs, and network providers will follow in reporting actual and potential compliance issues.

**Scope:** SWMBH personnel, participant CMHSPs, network providers

**Responsibilities:** SWMBH personnel, participant CMHSPs, and network providers shall report compliance issues to SWMBH’s CCO or designee as required in this Procedure.



SWMBH's CCO or designee will review and investigate, if warranted, reported compliance issues in accordance with SWMBH Operating Procedure 10.08.02.

SWMBH's CCO or designee shall report to the MDHHS OIG and/or MDHHS local office(s) as required by this Procedure.

#### Definitions:

- A. **Abuse.** Provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid or Medicare programs, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid or Medicare programs.
- B. **Compliance Issues:** As used in the Procedure, Compliance Issues refers to any activity that could be the basis of a finding of fraud, waste, or abuse (as defined by applicable laws), or any activity that could be a violation of SWMBH's Compliance Plan or Code of Conduct.
- C. **Fraud (per CMS).** An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act.
- D. **Fraud (per Michigan Court of Appeals).** Michigan law permits a finding of Medicaid fraud based upon "constructive knowledge." This means that if the course of conduct reflects a systematic or persistent tendency to cause inaccuracies" then it may be fraud, rather than simply a good faith error or mistake.
- E. **Prompt Response:** Action taken within 15 business days of receipt and identification by SWMBH of the information regarding a potential compliance problem.
- F. **Waste.** Overutilization of services, or other practices that result in unnecessary costs. Generally not considered caused by criminally negligent actions but rather the misuse of resources.

#### Procedure:

- A. **Reporting Compliance Issues.**
  - 1. SWMBH personnel, participant CMHSPs and network providers will report actual and suspected compliance issues consistent with SWMBH Operating Policy 10.08, through one of the following methods:
    - i. Electronically to [mila.todd@swmbh.org](mailto:mila.todd@swmbh.org) or [swmbhcompliance@swmbh.org](mailto:swmbhcompliance@swmbh.org);
    - ii. Via facsimile, attn: Mila Todd, 269-488-8270;
    - iii. By calling the SWMBH Compliance Hotline at 800-783-0914;
    - iv. In person at 5250 Lovers Lane, Ste. 200, Portage, MI 49002. Due to SWMBH's hybrid work setup, it is recommended that the reporter schedules an appointment in order to file a report in person.
  - 2. If possible, reporters should complete the SWMBH Compliance Violation Form (**Attachment 10.08.01A**) and submit it, along with any supporting documentation, to the SWMBH CCO when making the initial report. If this form is not completed and



submitted with the initial report, SWMBH's CCO or designee may request the reporter to complete and submit the form thereafter.

3. Regardless of the source of the report, SWMBH's CCO shall ensure review and investigation, if warranted, of reported compliance issues in accordance with **SWMBH Operating Procedure 10.08.02 Compliance Investigation Procedure**.
4. SWMBH personnel, participant CMHSPs and network providers may also choose to report compliance issues directly to the MDHHS OIG via the MDHHS OIG Medicaid Fraud and Abuse Online Complaint Form located at <https://www.michigan.gov/mdhhs/doing-business/providers/providers/billingreimbursement/report-medicaid-fraud-and-abuse> or by calling 855-MI-FRAUD (643-7283).

**B. Reporting Fraud, Waste, and Abuse to the MDHHS OIG.**

1. As needed and prior to making a referral, SWMBH's CCO or designee shall consult with MDHHS OIG with any questions regarding whether suspicions should be classified as fraud, waste, or abuse.
2. SWMBH shall ensure prompt response to detected offenses and for the development of corrective action plans.
3. Based on the findings of the Preliminary Investigation (see SWMBH Operating Procedure 10.08.02), the SWMBH CCO or designee will take the following action:

**i. FRAUD**

1. On behalf of the Region, SWMBH is responsible for submitting formal fraud referrals (where the subject of the referral is NOT a member) to the MDHHS OIG, using the MDHHS OIG Fraud Referral Form (**Attachment 10.08.01B**).
2. If the preliminary investigation results in a finding of a credible allegation of fraud AND an overpayment of at least \$5,000 is identified, the SWMBH CCO or designee will promptly refer the matter to the MDHHS OIG and the AG-HCFD using the MDHHS OIG Fraud Referral Form. If the overpayment is less than \$5,000 the matter shall not be immediately referred to MDHHS OIG, but shall be included in the OIG Quarterly Report referenced in SWMBH Policy 10.08(B)(2).
3. SWMBH will ensure the completed MDHHS OIG Fraud Referral Form is simultaneously uploaded to both the MDHHS-OIG sFTP and the AG-HCFD sFTP.
4. SWMBH and the reporting entity, as applicable, will cooperate in presenting the fraud referral to the MDHHS OIG and the MI Attorney General at an agreed upon time and location.
5. SWMBH and the reporting entity, as applicable, will cooperate in defending any finding of a credible allegation of fraud in any appeal should the fraud referral result in a suspension issued by MDHHS OIG.
6. After making the referral to MDHHS OIG and unless/until authorized by MDHHS OIG, SWMBH and its participant CMHSPs shall:



- a. immediately cease all efforts to take adverse action against or collect overpayments from the referred provider;
  - b. not contact the subject of the referral about any matters related to the referral;
  - c. not enter into or attempt to negotiate any settlement or agreement regarding the referral with the subject of the referral; and
  - d. not accept any monetary or other thing of valuable consideration offered by the subject of the referral in connection with the findings/overpayment.
7. If the State makes a recovery from an investigation and/or corresponding legal action where Contractor has sustained a documented loss, the State shall not be obligated to repay any monies recovered to the Contractor.
- ii. **ABUSE or WASTE.**
1. If the preliminary investigation results in a finding of a credible allegation of abuse and/or waste, the SWMBH CCO or designee will report the matter to the MDHHS OIG in the applicable OIG Quarterly Report, in accordance with SWMBH Operating Policy 10.08(B)(2).
- C. **Reporting to local MDHHS Office.**
1. SWMBH shall refer all identified potential Enrollee Fraud, Waste, or Abuse to MDHHS via the local MDHHS office through <https://www.michigan.gov/fraud> (File a Complaint - Medicaid Complaint Form).
- D. **Non-compliance.**
1. Reporting and cooperating in the investigation of compliance issues is mandatory. Failure to do so may result in contract action up to and including contract termination, or employment action up to and including termination, and referral to the appropriate regulatory bodies.

**References:**

- A. MDHHS-PIHP Agreement, Schedule A, Section 1, Subpart R – Program Integrity
- B. SWMBH Operating Policy 10.08 Compliance Reporting Requirements
- C. SWMBH Operating Procedure 10.08.02 Compliance Investigation Procedure

**Attachments:**

- A. Attachment 10.08.01A SWMBH Compliance Violation Form
- B. Attachment 10.08.01B MDHHS OIG Fraud Referral Form



**Revision History**

Revision #	Revision Date	Revision Location	Revision Summary	Revisor
01	07/08/24	Throughout	Moved to new template. Added (A)(3)&(4); and Paragraphs (B) and (C) in their entirety.	Mila C. Todd
N/A	07/19/24	N/A	Reviewed at Regional Compliance Coordinating Committee	Mila C. Todd
02	1/16/25	Throughout	Added "to the AG-HCFD" to B(3)(i)(2)  Added B(i)(7)	Alison Strasser