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| Section: Compliance | Procedure Name: Ownership & Control Disclosures, Criminal Conviction Disclosures, and Exclusions Monitoring | Procedure #: P10.13.01 |
| Overarching Policy: Operating Policy 10.13 Ownership & Control, Criminal Conviction Disclosures, and Exclusions Monitoring Requirements | | |
| Owner: Chief Compliance Officer | Reviewed By: Mila C. Todd | Total Pages: 6 |
| Required By: <input checked="" type="checkbox"/> BBA <input checked="" type="checkbox"/> MDHHS <input type="checkbox"/> NCQA <input type="checkbox"/> Other (please specify): _____ | Final Approval By:  Mila Todd (Jul 31, 2024 15:07 EDT) | Date Approved: Jul 31, 2024 |
| Application: <input checked="" type="checkbox"/> SWMBH Staff/Ops <input checked="" type="checkbox"/> Participant CMHSPs <input checked="" type="checkbox"/> SUD Providers <input checked="" type="checkbox"/> MH/IDD Providers <input type="checkbox"/> Other (please specify): _____ | Line of Business: <input checked="" type="checkbox"/> Medicaid <input type="checkbox"/> Other (please specify): <input checked="" type="checkbox"/> Healthy Michigan _____ <input checked="" type="checkbox"/> SUD Block Grant <input checked="" type="checkbox"/> SUD Medicaid | Effective Date: 3/23/20 |

Policy: Southwest Michigan Behavioral Health (SWMBH) and its provider network shall comply with federal regulations to obtain, maintain, disclose, and furnish required information about ownership, control interests, business transactions, and criminal convictions as specified in 42 CFR §455. In addition, SWMBH and its provider network shall ensure that all contracts, agreements, purchase orders, and leases to obtain space, supplies, equipment or services provided with Medicaid funds require compliance with 42 CFR §455.104-106. SWMBH will notify the MDHHS Behavioral and Physical Health and Aging Services Administration (BPHASA) Bureau of Specialty Behavioral Health Services, Division of Contracts and Quality Management and the MDHHS OIG when disclosures are made by providers with regard to any offenses detailed in sections 1128(a) and 1128(b) (1), (2) or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act. SWMBH and Participant Community Mental Health Service Providers (CMHSPs) will perform ongoing exclusions monitoring of applicable individuals.

Purpose: To direct how SWMBH, Participant CMHSPs, and network providers will adhere to Federal and State of Michigan rules and regulations, and to avoid risk exposure to SWMBH, its participant CMHSPs, and providers.



Scope: SWMBH Compliance, SWMBH Provider Network Management, participant CMHSPs, all network providers.

Responsibilities: SWMBH and participant CMHSPs will collect Ownership & Control Disclosures, make any required disclosures, and perform on-going exclusions monitoring as outlined in this Procedure.

Providers will disclose all required information in accordance with this Procedure and any other applicable laws, rules, and regulations.

Definitions:

- A. **Disclosing Entity** means a Medicaid provider (other than an individual practitioner or group of practitioners), or a fiscal agent.
- B. **Screened Person** means all officers, directors, any person with a direct or indirect Ownership interest of 5% or more of a Disclosing Entity; prospective and current employees, agents, practicing clinical staff (credentialed, consulting, or referring), allied health professionals, students, volunteers, contractors, and subcontractors. In addition, "Screened Persons" include immediate family members of, or a member of a person's household, to whom a transfer of ownership or control in a Disclosing Entity has been made in anticipation of or following a conviction, assessment of a CMP, or imposition of an exclusion. Finally, a "Screened Person" includes any person or entity under contract with SWMBH, a participant CMHSP, or a provider entity related to purchase orders, leases to obtain space, supplies, equipment or services provided under the Medicaid Agreement totaling more than \$25,000 during a 12-month period.
- C. **Immediate Family Member** means a person's husband or wife, natural or adoptive parent, child, sibling, stepparent, stepchild, stepsibling, father/mother/son/daughter/brother/sister-in-law, grandparent or grandchild, or spouse of a grandparent or grandchild.
- D. **Member of Household** means with respect to a person, any individual with whom they are sharing a common abode as part of a single-family unit, including domestic employees and others who live together as a family unit. A roomer or boarder is not considered a member of household.
- E. **Excluded Individuals** are individuals or entities that have been excluded from participating, but not reinstatement, in Medicare, Medicaid, or any other Federal health care programs. Bases for exclusion include convictions for program related fraud and patient abuse, licensing board actions, and default on Health Education Assistance loans.

Procedure:

A. Disclosure Statement Requirements

- 1. SWMBH and its Provider Network shall complete the SWMBH Federally Funded Health Care Program Disclosure Form at intervals prescribed by the Federal Rules.
- 2. SWMBH and its Provider Network may complete the SWMBH Federally Funded Health Care Program Attestation Form if and when the following conditions are met:
 - a. Provider Entity has submitted a complete Federally Funded Health Care Program Disclosure Form within the last 365 days; AND
 - b. Provider Entity has reviewed the full form that was previously submitted for continued accuracy; AND
 - c. There are no changes, additions, or deletions to any of the information previously disclosed.
- 3. Pursuant to 42 CFR 455.104, the State will review Federally Funded Health Care Program Disclosures submitted by SWMBH and any of SWMBH's participant CMHSPs and/or network providers.

B. Time of Disclosure & Responsibility for Collection



1. SWMBH/participant CMHSPs shall obtain Disclosure Forms from their providers and applicable contractors at any of the following intervals:
 - a. When the provider submits a provider application;
 - b. Upon execution of the provider agreement;
 - c. During re-credentialing or re-contracting;
 - d. Within 35 days of any change in ownership of a disclosing entity.
2. SWMBH shall collect Disclosure Forms from the following network providers:
 - a. Participant CMHSPs
 - b. Substance Use Disorder providers
 - c. Inpatient psychiatric providers
 - d. Crisis Residential providers
 - e. Autism services providers
3. Participant CMHSPs shall collect Disclosure Forms for their own network providers and contractors, exclusive of the provider types listed in Section B(2) above.
4. Shared network providers' Disclosure Forms shall be collected by either SWMBH or the CMHSP assigned to perform that shared provider's Provider Network Site Review. Completed Disclosure Forms shall be provided to SWMBH.
5. Out of network provider entities who seek payment from SWMBH or a participant CMHSP must execute an "Attestation Confirming Debarment, Suspension and Exclusion Responsibilities" (Attached to this Policy), OR the same terms from the Attestation will be included in an executed Single Case Agreement/Letter of Agreement.

C. Monitoring Staff, Contractors, and Provider Networks

1. SWMBH monitors its provider network entities and all "Screened Persons" included on the Disclosure Forms collected for Region 4. These "Screened Persons" are monitored via monthly Exclusion Database searches to capture exclusions since the last search and at any time providers submit new disclosure information. At least the following databases are searched by SWMBH on a monthly basis:
 - a. Michigan Sanctioned Provider List;
 - b. OIG Exclusion Databases (LEIE and GSA); and
 - c. System for Award Management (SAM).
2. In addition to monitoring "Screened Persons", SWMBH and its participant CMHSPs are each responsible for monitoring their own full staff (including volunteers and interns) and members of their Boards of Directors through the above referenced databases prior to hire or contracting, or the beginning of Board service, and monthly thereafter.
3. Network providers are responsible for monitoring their own full staff through the above referenced databases prior to hire or contracting, and as follows:
 - a. For credentialed practitioners, monthly thereafter with verification available in the practitioner credentialing record.
 - b. For non-credentialed staff, at a minimum annually thereafter.
4. Business process requirements: SWMBH HR must notify Compliance of staff changes; Provider Network Management must notify Compliance of network changes; SWMBH Participant CMHSPs must notify SWMBH of staff changes when SWMBH runs their exclusions.

D. Excluded Persons

1. An individual found to be excluded shall be immediately removed (e.g. through termination of employment or contract) from responsibility for, or involvement in, the following:
 - a. Business operations related to any Federally Funded Health Care Programs;



- b. The provision of items or services directly, or indirectly, to Federally Funded Health Care Program beneficiaries;
 - c. Any position for which the excluded individual's compensation, or the items or services furnished, ordered, or prescribed by the excluded individual are paid, in whole or in part, directly or indirectly, by Federally Funded Health Care Programs or otherwise with Federal funds.
2. Additionally, participant CMHSPs and providers must notify the SWMBH Chief Compliance Officer & Director of Provider Network as soon as possible following discovery of an excluded individual, and must attest to SWMBH that any costs and expenses related to the employment of or payment to the excluded individual are not submitted to SWMBH under its PIHP subcontract cost settlement process.

E. Reporting Requirements

1. SWMBH will immediately notify the MDHHS Behavioral and Physical Health and Aging Services Administration (BPHASA) Bureau of Specialty Behavioral Health Services, Division of Contracts and Quality Management and the MDHHS OIG of:
 - a. disclosures made by providers with regard to any offenses detailed in sections 1128(a) and 1128(b) (1), (2) or (3) of the Social Security Act, or that have had civil money penalties or assessments imposed under section 1128A of the Act; and/or
 - b. discovery of an excluded individual under Section D above; and/or
 - c. any administrative action that limits a provider's participation in SWMBH's provider network.
2. SWMBH shall use the approved MDHHS OIG reporting form and process for any required reporting.
3. Additionally, participant CMHSPs must notify SWMBH's Chief Compliance Officer & Director of Provider Network of the disclosure of any of the offenses referenced in Section E(1) above.
4. These offenses include convictions of program-related crimes, patient abuse, healthcare fraud, and controlled substances.

F. Failure to Comply

1. Failure to fully complete the Disclosure Form as required, or the submission of false or misleading information to SWMBH or a participant CMHSP may subject the Disclosing Entity to contractual sanctions or other action, up to and including immediate suspension of funding and termination of employment/contract termination.

G. MDHHS OIG Sanctions

1. When MDHHS OIG sanctions (suspends and/or terminates from the Medicaid Program) providers, including for a credible allegation of fraud under 42 CFR 455.23, SWMBH and its Participant CMHSPs must, at minimum, apply the same sanction to the provider upon receipt of written notification of the sanction from the MDHHS OIG. If MDHHS OIG lifts a sanction, SWMBH and its Participant CMHSPs may do the same.
2. MDHHS OIG notifies SWMBH via email of sanctions. SWMBH's Chief Compliance Officer and Director of Provider Network will notify Participant CMHSPs' designated compliance and provider network representatives via email and include the MDHHS OIG's written sanction.
 - a. In addition to the monitoring obligations under Section C, SWMBH and its Participant CMHSPs are responsible for reviewing their provider networks upon receipt of written MDHHS OIG sanctions, and taking appropriate action under this section.

References: SWMBH Operating Policy 10.13

Attachments:

- A. SWMBH Federally Funded Health Care Program Disclosure Form – Individual



- B. SWMBH Federally Funded Health Care Program Disclosure Form – Group
- C. SWMBH Federally Funded Health Care Program Disclosure Attestation – Individual
- D. SWMBH Federally Funded Health Care Program Disclosure Attestation – Group
- E. Attestation Confirming Debarment, Suspension, and Exclusion Responsibilities

Revision Log

| Revision # | Revision Date | Revision Location | Revision Summary | Revisor |
|------------|---------------|---|--|--------------|
| 1 | 02/14/2020 | Reformatted Procedure to new template; Added provisions applicable to checking the Medicare Preclusion List in Sections C(1)(d) and D(2). | Added provisions applicable to checking the Medicare Preclusion List provided by the ICO and notifying affected ICO of any positive hits. Added out of network provider attestation terms (Section B(3)). | Mila C. Todd |
| 2 | 03/18/2020 | Procedure Section B(3). | Added Attachment – Attestation Regarding Debarment, Suspension, and Exclusion Responsibilities. | Mila C. Todd |
| 3 | 12/27/21 | C (4) Business Processes | Added SWMBH, provider and CMH responsibilities | Mila C. Todd |
| 4 | 03/23/2023 | (C)(1)(d) – deleted (C)(3)(a) & (b) – added | Deleted Medicare Preclusion List in light of MHL extrication. Add C(3)(a) and (b) in line with MDHHS Credentialing Policy requirements for monthly exclusion monitoring for credentialed practitioners. | Mila C. Todd |
| 5 | 03/05/2024 | Heading Policy Section B(1)-(3) Section C(2) Section D(3) – Deleted Section E(1)(b) | Deleted MI Health Link; Updated MDHHS division name; Added clarity re: who is responsible for collecting Disclosures; Added “volunteers and interns” to staff; | Mila C. Todd |



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| | | | Deleted MI Health Link ICO reporting obligation; Added reporting obligation for exclusions findings | |
| 6 | 07/05/2024 | Procedure | Added paragraph (A)(3) related to State review of ownership & control disclosures. Added paragraph (E)(1)(c) and (E)(2) Added paragraph G requiring SWMBH and CMHs to implement the same sanctions as MDHHS OIG. | Mila C. Todd |
| N/A | 07/19/2024 | N/A | Reviewed at Regional Compliance Coordinating Committee. | Mila C. Todd |
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P10.13.01 Ownership & Control Disclosures, Criminal Conviction Disclosures, and Exclusions Monitoring

Final Audit Report

2024-07-31

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