

IEHP SUBCONTRACTOR MANUAL POLICY

Monitoring of First Tier, Downstream and Related Entities

Introduction

This policy applies to all Subcontractors and Downstream Subcontractors.

- A. IEHP may delegate the authority and responsibility to carry out program/plan activities that are otherwise performed by IEHP. IEHP retains accountability for services provided by Subcontractors and Downstream Subcontractors. Further, IEHP is responsible for maintaining compliance with applicable State and Federal requirements.^{1,2,3,4,5,6}
 - 1. The terms and conditions set forth in contracts with Subcontractors require that they perform and maintain delegated functions consistent with IEHP's contractual obligations.
- B. IEHP will conduct a pre-contractual evaluation and annual audit of all Subcontractors, as appropriate. IEHP monitors performance on an ongoing basis and will implement corrective actions and revoke delegation of duties if it determines that a Subcontractor is unable or unwilling to carry out its responsibilities.
- C. IEHP's Executive Compliance Committee is responsible to oversee the Compliance Program, including the outcomes of Subcontractor monitoring and auditing activities.

Definitions

- A. Subcontractor – an individual or entity that has a Subcontractor Agreement with the MCP that relates directly or indirectly to the performance of the MCP's obligations under its contract with DHCS. A Network Provider is not a Subcontractor solely because it enters into a Network Provider Agreement.⁷
- B. Downstream Subcontractor – an individual or entity that has a Downstream Subcontractor Agreement with a Subcontractor of the MCP or a Downstream Subcontractor that relates directly or indirectly to the performance of the Subcontractor's obligations under its Subcontractor Agreement with the MCP.⁸

Purpose

- A. To define the process for oversight and evaluation of Subcontractors to ensure compliance with Federal and State regulatory requirements, IEHP's contractual obligations, and IEHP policies and procedures.

Procedures

¹ Title 42 Code of Federal Regulations (CFR) §422.503(b)(4)(vi)(F), 422.504(i), 423.504(b)(4)(vi)(F), 438.230(b)

² Department of Health Care Services (DHCS) All Plan Letter (APL) 23-006, "Delegation and Subcontractor Network Certification"

³ 22 CFR §§ 51000-53999

⁴ California Welfare and Institutions Code (Welf. & Inst. Code), §§14100-14458

⁵ Knox-Keene Health Care Service Plan Act of 1974, §1340

⁶ DHCS-IEHP Primary Operations Contract, Exhibit A, Attachment I, Provision 1.0, Definitions

⁷ Ibid.

⁸ Ibid.

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- A. Initial Evaluation: Prior to granting delegation to a potential Subcontractor, an initial evaluation is conducted to determine the ability of the potential Subcontractor to assume responsibility for delegated activities and to maintain IEHP standards, applicable Federal, State, and accreditation requirements.
1. The following will be assessed in the initial evaluation:
 - a. The entity's ability to perform the required tasks. IEHP will verify that the Subcontractor meets both contractual and regulatory requirements.
 - b. Policies and procedures specific to the delegated function(s).
 - c. Operational capacity to perform the delegated function(s).
 - d. Resources (administrative and financial) sufficient and qualified to perform the required function(s).
 - e. The entities' Compliance and FWA Programs.
 - f. Eligibility to participate in State and Federal health care programs by review of the:
 - 1) Department of Health and Human Services (DHHS) Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE);
 - 2) The General Services Administration (GSA) System for Award Management (SAM);
 - 3) The Medicare Opt-Out List (as applicable);
 - 4) CMS Preclusion List (as applicable); and
 - 5) The DHCS Medi-Cal Suspended and Ineligible Provider List.
 2. An initial onsite evaluation may be conducted. If the Subcontractor is not in full compliance with delegated standards, the Subcontractor's action plan and timeline to achieve full compliance is reviewed. The oversight process may be modified for accredited Subcontractors, as applicable. The need for an onsite visit and/or file audit is at the sole discretion of IEHP. IEHP determines the frequency and format of contact with the Subcontractor to verify compliance with established, revised, or new State, Federal, and accreditation requirements. The Subcontractor is required to comply with IEHP reporting requirements.
 3. Results and recommendations of the initial evaluation are documented in a report and presented to the Chief Operating Officer (COO). Copies of the results are reviewed by the Delegation Oversight Subcommittee and subsequently the Executive Compliance Committee. To accommodate business needs, ad hoc meetings or electronic review and/or approval may substitute for routinely scheduled meetings.
- B. Contract: The contract specifies the delegated activities, responsibilities of the parties, reporting frequency, the process for evaluation, and remedies available to IEHP for inadequate performance, up to and including revocation of delegation or imposition of other sanctions. Subcontractor may not delegate their contractually assigned functions to another entity without prior approval of IEHP. A monitoring schedule and process of the Downstream Subcontractor's compliance requirements will be determined by IEHP.

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- C. Data: Once delegation is approved and a contract is executed, the Subcontractor must submit data as contractually required.
- D. Risk Areas: In identified risk areas, additional reporting may be required from the Subcontractor. The Subcontractor may be obligated to submit a report summarizing activities completed during timeframes specified by IEHP, identifying barriers to improvement and the effectiveness of any improvement plans. These reports will be reported to the Delegation Oversight Committee.
- E. Audit Plan: IEHP conducts a comprehensive review of the Subcontractor 's performance to establish an audit plan. High risk Subcontractors, as determined by the annual risk assessment and/or continued non-compliance, may be subject to more frequent focused auditing. In conjunction with policies and procedures, IEHP will not limit its audit calendar to high-risk subcontractors.
- F. Annual Audits: The following will be assessed during an annual audit:
1. The entities' ability to perform the required tasks. IEHP will verify the Subcontractor meets both contractual and regulatory requirements.
 2. Policies and procedures specific to the delegation function(s).
 3. Operational capacity to perform the delegated function(s).
 4. Resources (administrative and financial) sufficient and qualified to perform the required function(s).
 5. Annual Ownership and Control Disclosure documentation.
 6. Eligibility of the subcontractor to participate in Federal and State health care programs.
- G. Focused Audits: If IEHP has a reason to believe the subcontractor's ability to perform a delegated function is compromised, a focused audit may be performed. The results of these audits will be reported to the Delegation Oversight Committee. The Compliance Department may also recommend focused audits upon evaluation of non-compliant trends or reported incidents.
1. Focused audit criteria include, but are not limited to, the following:
 - a. Failure to comply with regulatory requirements and/or the IEHP service level performance indicators.
 - b. Failure to comply with a corrective action plan.
 - c. Reported or alleged fraud, waste and/or abuse.
 - d. Significant policy variations that deviate from the IEHP, Federal, State, or accreditation requirements.
 - e. Bankruptcy or impending bankruptcy which may impact services to Members (either suspected or reported).
 - f. Sale, merger or acquisition involving the subcontractor.
 - g. Significant changes in the management of the subcontractor.

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- h. Changes in resources which impact operations.
- H. Attestation Audits: Attestation audits are a form of validation audit that is performed to validate the information/data in the submitted attestation form are accurate and complete, therefore the scope, the sample size and the documents required at the time of the audit may vary depending on the nature of the attestation. The attestations must be signed by an authorized representative and certifies information such as training and policies and procedures are in compliance.
- I. Annual Risk Assessment: An annual risk assessment will be completed to aid in identifying high risk subcontractors. High risk subcontractors are those that possess characteristics such as; responsibility for tasks that aid in or have a potential for hindering member access to service, are continually non-compliant or at risk of non-compliance based on regulatory and IEHP requirements, or have a history of non-compliance as identified by a government agency. subcontractors determined to be high risk may be subjected to a more frequent monitoring and auditing schedule.
 - 1. The Delegation Oversight Committee will manage the annual comprehensive risk assessment process to determine the subcontractor's vulnerabilities and high-risk areas. A look-back period is determined which includes any corrective actions; service level performance; reported detected offenses; complaints and appeals, from the previous year. Any subcontractor deemed high risk or vulnerable is presented to the Compliance Committee for suggested action.
 - 2. The Delegation Oversight Committee is tasked with oversight of the Subcontractor Oversight process. The Committee reviews data and recommends modifications where appropriate. The key functions of the Delegation Oversight Committee for oversight of delegation management include:
 - a. Monthly reviews of Subcontractor performance data.
 - b. Review and approval of corrective actions; review recommendations for contractual penalties; assistance with the implementation of corrective actions and penalties; etc.
 - c. Approval of the annual audit calendar and any ad-hoc monitoring and auditing.
 - d. Determining approval for delegated and sub-delegated activities for new subcontractors based on the initial evaluation, assessment and approval of the operational functional leads.
 - e. Results and actions taken by the Delegation Oversight Committee are reported up to the Compliance Committee.
 - f. Provide reports at least annually to the IEHP Governing Board regarding monitoring and auditing activities conducted.
- J. Corrective Action: A corrective action plan is developed by the Subcontractor and reviewed and approved by the Delegation Oversight Committee in instances where non-compliance is identified. Each corrective action plan is presented to the Delegation Oversight Committee for approval. Supplementary, focused audits and additional reporting and/or targeted auditing may be required until compliance is achieved.

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1. At any time IEHP may require remediation by a Subcontractor for failure to fulfill contractual obligations including development and implementation of a corrective action plan. Failure to cooperate with IEHP in any manner may result in further remedial action leading up to and including termination of the agreement and/or return of delegated activities to IEHP.
- K. Training: IEHP will make training materials available to subcontractors. However, it is expected that Subcontractors institute their own training program intended to communicate the compliance characteristics related to the Subcontractor and their contractually delegated area(s). Training materials will be reviewed by IEHP during the audit process.
1. IEHP will distribute an annual attestation to the subcontractors. The completed, returned attestation confirms compliance with new hire and annual training and education requirements to include General Compliance; Fraud, Waste and Abuse; and, HIPAA Privacy.
 2. Training documentation will be requested and evaluated as part of the annual audit process. Material for review may include, but not be limited to, training presentations; sign-in sheets; test scores; trainer proficiencies; new hire orientation packets; employee list (including date of hire and date of previous training).
 3. Subcontractor are required to implement a training program that ensures its downstream subcontractors are also trained and have instituted a similar training program.
- L. The functional areas and business departments implement the Subcontractor oversight at an operational level. Oversight activities outlined in the plan are managed by the responsible business areas. The departments are responsible for the following:
1. Managing the day-to-day subcontractor relationship.
 2. Identifying negative trends or vulnerabilities.
 3. Monitoring subcontractor compliance according to the Program and associated tools and processes.
 4. Monitoring operational performance.
 5. Day-to-day management of issues and actions; escalated as required.
 6. Assisting with implementation, review and acceptance of corrective action plans.
 7. Managing subcontractor operational communications and/or training.
 8. Reporting performance to the Delegation Oversight Committee.
 9. Assisting the Compliance Department in identifying risk as part of the annual risk assessment.

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INLAND EMPIRE HEALTH PLAN		
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