



## SHIAWASSEE HEALTH AND WELLNESS POLICY MANUAL

<b>Title:</b>	Prohibited Affiliations and Disclosure of Ownership Control
<b>Section:</b>	Corporate Compliance
<b>Policy Number:</b>	4
<b>Issued By:</b>	Corporate Compliance Officer
<b>Approved by:</b> Corporate Compliance Committee <b>Approved on:</b> 06/19/2020	<b>Effective Date:</b> 10/27/08 <b>Last Revision:</b> 04/01/2024 <b>Last Review:</b> 04/1/2024 <b>Annual Policy Statement Review:</b> 05/07/2024

### **POLICY STATEMENT:**

It is the policy of Shiawassee Health and Wellness (SHW) that it will not knowingly hire or engage an individual, or other entity, or an affiliate who is suspended or excluded from participating in, or who is under sanction by any Federal or State health care program, including without limitation Medicare or Medicaid, or debarred from any procurement activities under applicable Federal Acquisition Regulations, or non-procurement activities under the regulations issued under Executive Order No. 12549 and 42 CFR 438.610, nor will it have such an individual on its governing board.

### **PURPOSE:**

This policy and procedure is established to provide a clear and defined process to ensure employees, licensed independent practitioners, contracted providers, affiliates, consultants, officers, and directors are not suspended by or excluded from participation in, or under sanction by, any Federal or State health care program, or debarred from participating in any Federal Executive Branch procurement or non-procurement program.

### **APPLICABILITY:**

This policy will apply to all SHW Board members, staff, contracted providers, and consultants.

### **BACKGROUND:**

The Office of the Inspector General (OIG) of the Department of Health and Human Services imposes exclusions on health care providers, individuals, and entities based on authority contained in Sections 1128 and 1156 of the Social Security Act. When exclusion is imposed, payment may not be made to anyone for any items or services (other than an emergency item or service provided in a hospital emergency room) furnished, provided, or prescribed by an excluded party under the Medicare (Title XV111), Medicaid (Title XIX), or other Federal health care programs. In addition, payment may not be made to any entity or facility (e.g., a facility that submits bills for payment of items or services provided by an excluded party). In addition

42 CFR 438.610 prohibits the pre-paid inpatient health plan (PIHP) from having relationships with individuals who are excluded from participating in Federal health care programs.

**PROCEDURE:**

**Process for new employees** - prior to hiring a new employee, SHW will:

1. Require the applicant to disclose any criminal convictions and whether he/she is currently or has previously been excluded, debarred, or suspended from participation in, or sanctioned by, any Federal or State health care program, or has been debarred from any procurement activities under applicable Federal Acquisition Regulations, or non-procurement activities under regulations issued pursuant to Executive Order No. 12549, or has a controlling interest in an entity that has been so excluded, suspended, debarred, or sanctioned.

Also, ensure that the applicant knows that one of the terms of employment requires that during the course of employment, he/she must immediately disclose to appropriate management any proposed or actual suspension, exclusion, sanction, disqualification or debarment from any health care program funded in whole or in part by the Federal or State government (including Medicare and Medicaid), or any debarment from procurement activities under applicable Federal Acquisition Regulations, or non-procurement activities under the regulations issued pursuant to executive Order No. 12549. (see related Attestation of Non-Debarment form)

2. Review on-line, via the Internet, the OIG's List of Excluded Individuals/Entities (LEIE) and the GSA's Excluded Parties List System to ensure that the individual is not included on either of those lists and to ensure that the individual is not an affiliate, as defined in the Federal Acquisition Regulations, of any one on the GSA's List. Also see Corporate Compliance Policy 05, "List of Excluded Individuals/Entities." This search can be carried out by other applications that fully support the purpose and expectations as stated above, e.g., LEIE Downloadable Databases, Medicare/Medicaid State Exclusion databases, etc.
3. Perform a criminal background check to ensure that the individual has not been charged with or convicted of a criminal offense relating to Medicare, Medicaid, or other Federal or State health care program, any other crime involving the delivery of a health care item or service, or any crime that would exclude the individual from providing governmentally funded health care services.

**Existing licensed employees** -, SHW will:

1. Every month SHW will conduct an on-line check of the OIG's List of Excluded Individuals/Entities and the GSA's Excluded Parties List System to ensure that employees of SHW are not included on either of those lists and to ensure that an employee is not an affiliate, as defined in the Federal Acquisition Regulations, of any one on the GSA's List.

2. Every two years SHW will perform:
  - a. A criminal background/history check to ensure that the employee has not been charged with or convicted of a criminal offense relating to Medicare, Medicaid, or other Federal or State health care program, any other crime involving the delivery of a health care item or service, or any crime that would exclude the individual from providing governmentally funded health care services.
  - b. Verification of State Licensure
  - c. Central Registry Check
  - d. National Practitioners Data Base check
  - e. Motor Vehicles/Driver's License Check
  - f. Protective Services Check
  - g. Verification of previous Recipient Rights or Corporate Compliance Complaints.
3. Anytime during their employment, employees are required to provided immediate disclosure of any criminal convictions that may have occurred since the last criminal background check.

#### **Existing Non-licensed Direct Care Staff/Aides**

1. Every two years SHW will perform:
  - a. A criminal background check

**Process for Licensed Independent Practitioners** - upon the initial and with the renewal of the verification of credentials of a Licensed Independent Practitioner (LIP), SHW will:

1. Ensure the LIP is aware that one of SHW's terms requires them to immediately disclose any proposed or actual suspension, exclusion, debarment, or sanction from any health care program funded in whole, or in part, by the Federal or State government, including Medicare or Medicaid, to the appropriate management personnel.
2. Require immediate disclosure of any criminal convictions and perform a criminal background check to ensure that the provider has not been charged with or convicted of a criminal offense relating to Medicare, Medicaid, or other Federal or State health care program, or any other crime involving the delivery of a health care item or service.
3. Review , the online OIG List of Excluded Individuals/Entities and the GSA Excluded Parties List System to ensure that the individual is not included on either of those lists. This process will be performed periodically or at least on a quarterly basis.

**Process for Contracted Providers, Affiliates and Consultants** - upon initial contract with and renewal of contracts.

1. Ensure new and existing contracts include, or have a written attestation (see related Attestation of Non-Debarment form) obtained from the Chief Executive Officer (CEO) of

the agency or affiliate stating the agency has, a procedure in place to ensure their employees, licensed independent practitioners, contracted providers, affiliates, consultants, officers, and directors are not suspended, debarred, or excluded from participation in, or subject to any sanction from a Federal or State health care program, or is debarred from (or knowingly is an affiliate, as defined under the Federal Acquisition Regulations, of any one who is debarred from) participating in procurement activities under applicable Federal Acquisition Regulations, or non-procurement activities under the regulations issued under Executive Order No. 12549.

2. Ensure the contracted provider, affiliate, or consultant has a procedure/process in place to periodically review (quarterly review recommended for those employees who, based upon the nature of their work, would have the greatest potential for debarment or exclusion from Medicare or Medicaid) the OIG's List of Excluded Individuals/Entities and the GSA's Excluded Parties List System to ensure their employees or contracted service providers are not on either list.
3. Ensure the contracted provider, affiliate, or consultant has a procedure/process in place that requires the immediate disclosure of any proposed or actual suspension, exclusion, debarment, or sanction from any health care program funded in whole or in part by the Federal or State government, including Medicare or Medicaid, to the appropriate management personnel.
4. Ensure the contracted provider, affiliate, or consultant require immediate disclosure of any charge or criminal convictions relating to Medicare, Medicaid, or other Federal or State health care program, or any other crime involving the delivery of a health care item or service.
5. Ensure the contracted provider, affiliate, or consultant notify SHW of any charge and/or confirmation of the immediately above listed items.

**Process for Officers or Directors** - upon engagement, with renewal of engagement terms, and with any changes to current status.

1. Obtain a written attestation that the officer or director is not suspended, excluded from participation in, or otherwise under sanction from a Federal or State health care program nor is debarred from participating in procurement activities under applicable Federal Acquisition Regulations, or non-procurement activities under the regulations issued under Executive Order No. 12549; or knowingly is an affiliate, as defined under the Federal Acquisition Regulations as follows: Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly, (1) either one controls or has the power to control the other, or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interest among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a contractor which has the same or similar management,

ownership, or principal employees as the contractor that was debarred, suspended, or proposed for debarment.

2. Ensure the officer or director is aware that one of the engagement terms requires the immediate disclosure of any proposed or actual suspension, exclusion, or sanction from any health care program funded in whole or in part by the Federal or State government, including Medicare or Medicaid, to the appropriate management personnel (see related Attestation of Non-Debarment form).
3. Require disclosure of any criminal convictions or a criminal offense relating to Medicare, Medicaid, or other Federal or State health care program, or any other crime involving the delivery of a health care item or service (see related Attestation of Non-Debarment form).

#### **SUPPLEMENTAL VERIFICATION:**

Monthly SHW will conduct a supplemental on-line check of the OIG's List of Excluded Individuals/Entities and the GSA's Excluded Parties List System for any employee, LIP, director, officer, or contracted provider who, based upon the nature of their association with SHW, has been determined to have a high potential for debarment or exclusion from Medicare or Medicaid. Evidence of the results of these searches will be retained in hard copy or digital format for no less than 7 years from the date of creation. Also see Corporate Compliance Policy 5, "List of Excluded Individuals/Entities."

#### **FOLLOW-UP ON MATCHES OR POTENTIAL MATCHES:**

Any potential matches of employees, licensed independent practitioners, contracted providers, affiliates, consultants, officers, or directors against one of the government databases will be treated as confidential and will be addressed as follows:

1. Any positive matches will be immediately reported to the CEO and the Corporate Compliance Officer. If it involves an employee, or Board Member, the Director of Human Resources will be included in the notification.
2. The Corporate Compliance Officer after consultation with the appropriate personnel (e.g., Human Resources, Finance Director and/or the CEO) will coordinate a thorough internal investigation to determine if there is a true match against the governmental listings. If, through those measures, it is still uncertain whether there is a match, an inquiry will be sent to the OIG or other appropriate agency for confirmation.
3. The Corporate Compliance Officer will assure that prompt response to compliance procedures will be followed.

**CONFIRMATION OF A CRIMINAL OFFENSE OR AN EXCLUDED OR SANCTIONED PROVIDER:**

Any confirmation of a criminal offense or exclusion/sanction/disqualification from a Federal or State health care program will be treated as confidential:

1. When SHW becomes aware that an employee, contracted licensed independent practitioner, contracted provider, affiliate, consultant, officer, or director has been proposed for exclusion, suspension, disqualification or sanction during his/her employment, contract, or engagement, SHW will take such actions as necessary that comply with the law, with legal consultation if appropriate. SHW will also notify the PIHP of any disclosures and/or convictions.
2. SHW will follow its personnel policies and procedures that are in effect at the time the offense is detected for employees that have a charge or confirmation of a criminal offense or exclusion/sanction.
3. The Corporate Compliance Officer will, after discussion with the CEO and legal counsel, coordinate an investigation into the need for repayment or self-disclosure.

**RELATED FORMS:**

Attestations of Non-Debarment from Participation in Federal Acquisition Programs, including Medicare and Medicaid

**REFERENCES/LEGAL AUTHORITY:**

42 CFR § 438.610

Federal Acquisition Regulations, Executive Order No. 12549

Social Security Act, Section 1128 and 1156

State of Michigan Records Retention and Disposal Schedule, Department of History, Arts and Libraries - Records Management, General Schedule 20, Community Mental Health Services Programs, Item 20.0051

Mid-State Health Network, Compliance Policy; Disqualified Providers.

**Change Log:**

<b>Date of Change</b>	<b>Description of Change</b>	<b>Responsible Party</b>
10/22/13	N/A	Dirk Love, Corporate Compliance Officer

10/26/16	N/A	Corporate Compliance Committee
12/16/18	Format Change	Jamie Burke, Executive Assistant
6/9/2020	Policy statement review, procedure revisions	Dirk Love, Corporate Compliance Officer
4/18/2022	Policy Statement Review, Procedure Revision	Dirk Love, Corporate Compliance Officer
1/17/2023	Policy Statement Review, Procedure Revision	Dirk Love, CCO; Vickey Hoffman, Compliance Specialist
04/01/2024	Policy Statement Review, minor Procedure revision to provide clarity	Vickey Hoffman; Corporate Compliance Officer