

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
CONTRACT REQUIREMENTS FOR**

Reporting for Office of Inspector General

MI CHOICE PROGRAM

**HOME AND COMMUNITY BASED SERVICES WAIVER
FOR ELDERLY AND YOUNGER ADULTS WITH DISABILITIES**

October 1, 2021

Program Integrity Section

The Michigan Department of Health and Human Services (MDHHS) Office of Inspector General (OIG) is responsible for overseeing the program integrity activities of the Michigan Medicaid MI Choice Waiver Agencies (Grantees) consistent with this Contract and the requirements under 42 CFR 438.608.

A. Fraud, Waste and Abuse – Grantee must implement and maintain administrative and management arrangements or procedures designed to detect and prevent Fraud, Waste, and Abuse, including a mandatory compliance plan. The arrangements or procedures must include the following:

1. Grantee's Fraud, Waste and Abuse compliance program and plan must include, at a minimum, all the following elements:

a. Written policies and procedures and standards of conduct that articulate the Grantee's commitment to comply with all applicable Fraud, Waste, and Abuse requirements and standards under the Contract and all applicable Federal and State requirements.

i. **Standards of Conduct –** Grantee must have written standards of conduct that clearly state the Grantee's commitment to comply with all applicable statutory, regulatory and Medicaid program requirements. The standards of conduct must be written in an easy to read format and distributed to all employees. All employees must be required to certify that they have read, understand and agree to comply with the standards.

ii. **Written Compliance Policies and Procedures –** Grantee must have comprehensive written compliance policies and procedures, developed under the direction of the compliance officer and Compliance Committee, which direct the operation of the compliance program.

The written compliance policies and procedures must include, at a minimum, the following elements:

- (ii)i Duties and responsibilities of the compliance officer and Compliance Committee
- (ii)ii How and when employees will be trained
- (ii)iii Procedures for how employee reports of noncompliance will be handled
- (ii)iv Guidelines on how the compliance department will interact with the internal audit department
- (ii)v Guidelines on how the compliance department will interact with the legal department
- (ii)vi Guidelines on how the compliance department will interact with the Human Resources department

- (ii)vii Duties and responsibilities of management in promoting compliance among employees and responding to reports of non-compliance
 - (ii)viii Ensuring that prospective employees receive appropriate background screening and agree to abide by the Grantee's code of conduct
 - (ii)ix Conducting periodic reviews, at least annually, of the code of conduct and the compliance policies and procedures
- b. The designation of a compliance officer who is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with Contract requirements and who reports directly to the Chief Executive Officer and the Board of Directors.
- i. Grantee must designate a compliance officer whose primary responsibility is to oversee the implementation and maintenance of the compliance program.
 - ii. The compliance officer must have adequate authority and independence within the Grantee's organizational structure in order to make reports directly to the board of directors and/or to senior management concerning actual or potential cases of non-compliance.
 - iii. The compliance officer must also report directly to corporate governance on the effectiveness and other operational aspects of the compliance program.
 - iv. The compliance officer's responsibilities must encompass a broad range of duties including, but not limited to, the investigation of alleged misconduct, the development of policies and rules, training officers, directors and staff, maintaining the compliance reporting mechanism and closely coordinating with the internal audit function of the Grantee.
- c. Maintenance of a Regulatory Compliance Committee on the Board of Directors and at the senior management level charged with overseeing the Grantee's compliance program and its compliance with requirements under the Contract.
- i. Grantee must establish a compliance committee of the Board of Directors. This executive compliance committee advises the compliance officer and assists in the implementation of the compliance program.
 - ii. The executive compliance committee may be comprised of the heads of the major departments within the Grantee, such as Provider Audit, Claims, Human Resources and the General Counsel, as well as any other departments that may be high risk areas.
 - iii. The compliance officer must chair the executive compliance committee.
- d. A system for training and education for the compliance officer, the Grantee's senior management, and the Grantee's employees on Federal and State standards and requirements under the Contract. The Compliance Officer must not perform their own training and education.
- I. **Formal Training Programs** – Grantee must provide general

compliance training to all employees, officers, managers, supervisors, board members and long-term temporary employees that effectively communicates the requirements of the compliance program, including the company's code of conduct and applicable Medicaid statutory, regulatory and contractual requirements.

- (i) Grantee must also determine under what circumstances it may be appropriate to train nonemployee agents and Grantees.
 - (ii) Employees, officers, managers, supervisors and Board members must be required to complete compliance training and to sign certifications that they have completed the appropriate trainings.
 - (iii) The initial compliance training for new employees must occur at or near (within 90 days of) the date of hire.
 - (iv) Grantee must provide annual refresher compliance training that highlights compliance program changes or other new developments. The refresher training should re-emphasize Medicaid statutory, regulatory and contractual requirements and the Grantee's code of conduct.
- ii. **Informal On-going Compliance Training** – Grantee must employ additional, less formal means for communicating its compliance message such as posters, newsletters and Intranet communications. The compliance officer must be responsible for the content of the compliance messages and materials distributed to employees and managers.
- e. Effective lines of communication between the Compliance Officer and the Grantee's employees.
 - i. **Hotline or Other System for Reporting Suspected Noncompliance** – Grantee must have mechanisms in place for employees and others to report suspected or actual acts of non-compliance.
 - (i) In order to encourage communications, confidentiality and non-retaliation policies must be developed and distributed to all employees.
 - (ii) Grantee must use e-mails, newsletters, suggestion boxes, and other forms of information exchange to maintain open lines of communication.
 - (iii) A separate mechanism, such as a toll-free hotline, must be employed to permit anonymous reporting of non-compliance.
 - (iv) Matters reported through the hotline or other communication sources that suggest substantial violations of compliance policies or health care program statutes and regulations must be documented and investigated promptly to determine their veracity.
 - (v) Grantee must create an environment in which employees feel free to report concerns or incidents of wrongdoing without fear of

- retaliation or retribution, when making a good faith report of non-compliance.
- ii. **Routine Communication and Access to the Compliance Officer** – Grantee must have a general “open door” policy for employee access to the compliance officer and the Compliance Department staff. Staff must be advised that the compliance officer’s duties include answering routine questions regarding compliance or ethics issues.
 - iii. The Compliance Officer must establish, implement and maintain processes to inform the Grantee’s employees of procedure changes, regulatory changes, and contractual changes.
- f. Enforcement of standards through well-publicized disciplinary guidelines.
- i. **Consistent Enforcement of Disciplinary Policies** – Grantee must maintain written policies that apply appropriate disciplinary sanctions on those officers, managers, supervisors, and employees who fail to comply with the applicable statutory and Medicaid program requirements, and with the Grantee’s written standards of conduct. These policies must include not only sanctions for actual noncompliance, but also for failure to detect non-compliance when routine observation or due diligence should have provided adequate clues or put one on notice. In addition, sanctions should be imposed for failure to report actual or suspected non-compliance.
 - (i) The policies must specify that certain violations, such as intentional misconduct or retaliating against an employee who reports a violation, carry more stringent disciplinary sanctions.
 - (ii) In all cases, disciplinary action must be applied on a case-by-case basis and in a consistent manner.
 - (iii) Grantee may identify a list of factors that will be considered before disciplinary action will be imposed. Such factors may include degree of intent, amount of financial harm to the company or the government or whether the wrongdoing was a single incident or lasted over a long period of time.
 - ii. **Employment of, and Contracting with, Ineligible Persons** – Grantee must have written policies and procedures requiring a reasonable and prudent background investigation to determine whether prospective employees and prospective non-employee subcontractors or agents were ever criminally convicted, suspended, debarred or excluded from participation in a federal program. Grantee must also conduct periodic reviews of current employees and/or subcontractors and agents to determine whether any have been suspended or debarred or are under criminal investigation or indictment.
 - iii. If an employee or non-employee agent or subcontractor is found to be

ineligible, Grantee must have a written policy requiring the removal of the employee from direct responsibility for, or involvement with, the Medicaid program, or for the termination of the subcontract, as appropriate.

- g. Maintenance of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with requirements under the Contract.

- i. **Auditing** – Grantee must have a comprehensive internal audit system to ensure that the Grantee is in compliance with the range of contractual and other MDHHS requirements in critical operations areas. The internal audit system staff must be independent from the Grantee's management team and competent to identify potential issues within the critical review areas. The staff must have access to existing audit resources, relevant personnel and all relevant operational areas. Written reports must be provided to the compliance officer, the Compliance Committee and appropriate senior management. The reports must contain findings, recommendations and proposed corrective actions that are discussed with the compliance officer and senior management.

Grantee must ensure that regular, periodic evaluations of its compliance program occur to determine the program's overall effectiveness. This periodic evaluation of program effectiveness may be performed internally, either by the compliance officer or other internal source - or by an external organization. These periodic evaluations must be performed at least annually, or more frequently, as appropriate.

- ii. **Monitoring** – Grantee must have a means of following up on recommendations and corrective action plans to ensure that they have been implemented. Grantee must develop an Exit Interview Questionnaire that includes questions regarding whether the exiting employee observed any violations of the compliance program, including the code of conduct, as well as any violations of applicable statutes, regulations and Medicaid program requirements during the employee's tenure with the Grantee. The Compliance Department must review any positive responses to questions regarding compliance violations.

- 2. Provision for prompt reporting of all overpayments identified or recovered, specifying the overpayments due to potential Fraud, to MDHHS OIG. See "2.b." of this Section for the method and timing of such reporting.

- a. If the Grantee identifies an overpayment involving potential fraud to the

- MDHHS OIG, Grantee must obtain written consent from MDHHS OIG prior to recovering the overpayment.
- b. If the Grantee identifies an overpayment involving waste or abuse prior to the MDHHS OIG, Grantee must recover the overpayment and report the overpayment on its quarterly program integrity submission.
 - c. If MDHHS OIG identifies an overpayment prior to the Grantee, the State will explore options up to and including recovering the overpayment from the Grantee.
3. Provision for prompt notification to MDHHS when it receives information about changes in an Enrollee's circumstances that may affect the Enrollee's eligibility, including all the following:
- a. Changes in the Enrollee's residence;
 - b. The death of an Enrollee.
4. Provision for notification to MDHHS OIG when it receives information about a change in a provider's circumstances that may affect the provider's eligibility to participate in the managed care program, including the termination of the provider agreement with the Grantee. See **B Reporting** of this Section for method and timing of such reporting.
5. Provision for a method to verify, by sampling or other methods, whether services that have been represented to have been delivered by providers were received by Enrollees and the application of such verification processes on a regular basis.
- a. Grantee must have methods for identification, investigation and referral of suspected Fraud cases (42 CFR § 455.13, 455.14, 455.21).
 - b. Grantee must have adequate staffing and resources to investigate unusual incidents and develop and implement corrective action plans to assist the Grantee in preventing and detecting potential Fraud, Waste and Abuse activities.

- i. Special Investigations Unit – The Grantee must operate a distinct Fraud, Waste and Abuse Unit, Special Investigations Unit (SIU).
 - (i)i The investigators in the unit must detect and investigate Fraud, Waste and Abuse by its Michigan Medicaid Enrollees and Providers. It must be separate from the Grantee's utilization review and quality of care functions. The unit can either be a part of the Grantee's corporate structure or operate under contract with the Grantee.
 - (i)ii On a yearly basis, the Grantee's SIU or its designee, must conduct program integrity training to all applicable areas or function with the Grantee to enhance information sharing and referrals to the SIU regarding Fraud, Waste and Abuse within the Grantee's Medicaid program.
- c. Grantee, at a minimum, must perform the following verification processes:
 - i. In compliance with Attachment K of this Contract, perform 30-day phone calls to Enrollees, 90-day and annual assessments of Enrollees.
 - ii. Grantee must track any complaints received from Enrollees and resolve the complaints according to its established policies and procedures based on the 30-day and 90-day conversations with Michigan Medicaid Enrollees. The resolution may be Enrollee education, Provider education or referral to MDHHS OIG.
 - iii. Grantee must report all complaints identified from the 30-day and 90-day conversations with Enrollees within the previous quarter to MDHHS OIG. See **B Reporting** of this section for the method and timing of such reporting.
- d. Data Mining Activities – Grantee must have surveillance and utilization control programs and procedures (42 CFR § 456.3, 456.4, 456.23) to safeguard the Medicaid funds against unnecessary or inappropriate use of Medicaid services and against improper payments.

Grantee must utilize statistical models, complex algorithms and pattern recognition programs to detect possible fraudulent or abusive practices. The Grantee must report all data mining activities performed (including all program integrity cases opened as a result) within the previous quarter to MDHHS OIG. See **B Reporting** of this section for the method and timing of such reporting.
- e. Preliminary Investigations – Grantee must promptly perform a preliminary investigation of all incidents of suspected Fraud, Waste and Abuse. The Grantee must report all tips (any program integrity case opened within the previous quarter) to MDHHS OIG. See **B Reporting** of this section for the

method and timing of such reporting. All confirmed or suspected provider Fraud must immediately be reported to MDHHS OIG.

Unless prior written approval is obtained from MDHHS OIG, Grantee must not take any of the following actions as they specifically relate to Michigan Medicaid claims:

- i. Contact the subject of the investigation about any matters related to the investigation;
 - ii. Enter into or attempt to negotiate any settlement or agreement regarding the incident; or
 - iii. Accept any monetary or other thing of valuable consideration offered by the subject of the investigation connected with the incident.
- f. Audit Requirements – in compliance with Attachment J of this Contract, Grantee must conduct provider audits.

In accordance with the Affordable Care Act, Grantee must promptly report overpayments made by Michigan Medicaid to the Grantee as well as overpayments made by the Grantee to a provider and/or Subcontractor. See **B Reporting** of this section for the method and timing of such reporting.

6. Provision for written policies for all employees of the Grantee, and of any Grantee or agent, that provide detailed information about the False Claims Act and other Federal and State laws described in section 1902(a)(68) of the Act, including information about rights of employees to be protected as whistleblowers.

Grantee must include in any employee handbook a description of the laws and the rights of employees to be protected as whistleblowers.

7. Provision for the prompt referral of any potential Fraud that the Grantee identifies to MDHHS OIG. The Grantee must have internal controls and policies and procedures in place that are designed to prevent, detect and report known or suspected Fraud, Waste and Abuse activities.

- a. Grantee must refer all potential Grantee employee and provider Fraud via MDHHS OIG's secure file transfer protocol (sFTP) using MDHHS OIGs standard Fraud referral template.
 - i. Grantee questions regarding whether suspicions should be classified as Fraud, Waste and Abuse should be presented to MDHHS OIG for clarification.
 - (i) Grantee provider Fraud referrals must be made using the MDHHS OIG MCO Fraud Referral template and, at a minimum, include the following information:

- Subject (name, NPI, address, provider type)
 - Source/origination of complaint
 - Date reported to or discovered by Grantee
 - Description of suspected misconduct, with specific details including:
 - Category of service
 - Factual explanation of the allegation
 - Specific Medicaid statutes, rules, regulations and/or policies violated
 - Date(s) of conduct
 - Amount paid to provider during the past three (3) years or during the period of alleged misconduct, whichever is greater
 - Copies of all provider enrollment agreements/contract(s)
 - Relevant Grantee encounter data
 - All communications between the Grantee and provider concerning conduct at issue
 - Contact information for Grantee staff person with practical knowledge of workings of the relevant program
 - * Sample/exposed dollar amount [when available]
- (i)ii Immediately upon making a referral, the Grantee must cease all efforts to take adverse action against or collect overpayments from referred provider until it is directed to do so by MDHHS OIG.
- b. Grantee must refer all potential Enrollee Fraud, Waste or Abuse that the Grantee identifies to MDHHS through <https://mdhhs.michigan.gov/Fraud/> or the local MDHHS office.
- In addition, the Grantee must report all of Fraud, Waste and Abuse referrals made to MDHHS on their quarterly submission described in **B Reporting** of this section.
8. Provision for the Grantee's suspension of payments to a provider for which the State determines there is a credible allegation of fraud in accordance with 42 CFR § 455.23
- A credible allegation of Fraud may be an allegation, which has been verified by the State, from any source, including, but not limited to the following:
- a. Fraud hotline complaints;
 - b. Claims data mining; or
 - c. Patterns identified through provider audits, civil false claims cases and law enforcement investigations.

Allegations are considered credible when they have 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.

9. Provision for the Grantee to include available methods (e.g., toll-free telephone numbers, websites, etc.) for reporting Fraud, Waste, and Abuse to the Grantee and MDHHS OIG in employee, member, and provider communications annually. Grantee must indicate that reporting of Fraud, Waste, and Abuse may be made anonymously.
 10. Provision for the Grantee to submit to MDHHS-OIG a list of all entities with whom it has contracted to perform MI Choice Waiver services, under this contract. This list shall contain all facility locations where services are provided or business is conducted, all NPI numbers assigned to the entity and what services the entity is contracted to provide. **The Grantee is responsible for updates to this information 30 days after changes are made (See Section B).**
- B. **Reporting** – Grantee must send all program integrity notifications via the MDHHS OIG sFTP and compliance reports via COMPASS SFE. The Grantee must follow the procedures and examples contained within the MDHHS OIG quarterly submission forms and accompanying guidance document. See Appendix 1 at the end of this Attachment for the listing of compliance reports and their respective due dates:
1. On a quarterly basis, the Grantee must submit to MDHHS OIG, in a format determined by MDHHS OIG, a report detailing the program integrity activities performed by the Grantee, as required by A of this section, during the previous quarter. This report must include any improper payments identified and overpayments recovered by the Grantee during its program integrity activities. It is understood that identified overpayments may not be recovered during the same reporting period.
 2. Notwithstanding the obligation to report suspicions of provider and subcontractor Fraud directly to MDHHS OIG as required by this Contract, Grantee must, on a quarterly basis, submit to MDHHS OIG, in a format determined by MDHHS OIG, a report detailing all allegations of provider and subcontractor Fraud received and reviewed by the Grantee during the previous quarter.
 3. On an annual basis, Grantee must submit to MDHHS OIG, in a format determined by MDHHS OIG, an annual Program Integrity Plan for Michigan Medicaid. The plan must include the Grantee's plan of activities for the upcoming year including, but not limited to, the following activities:
 - a. Data analytics and algorithms;
 - b. Clinical reviews;
 - c. Audits;

- d. Investigations planned;
 - e. Payment edits and audits;
 - f. Provider credentialing/enrolled with Michigan Medicaid;
 - g. TPL identification; and
 - h. Coordination of care between waiver services or other services to prevent duplication of services, ensure Enrollees are in the correct programs, and ensure Enrollees are not also receiving Medicaid home help services.
4. Pursuant to 42 CFR § 438.608(d)(3), on an annual basis, Grantee must submit to MDHHS OIG, in a format determined by MDHHS OIG, an annual Program Integrity Report containing details of the improper payments identified, overpayments recovered and costs avoided for the program integrity activities conducted by the Grantee for the preceding year. The report must include a report of all provider and service-specific program integrity activities such as, but not limited to, the following activities:
- a. Data analytics and algorithms;
 - b. Clinical reviews;
 - c. Audits;
 - d. Investigations;
 - e. Authorization denials;
 - f. Payment edits and audits;
 - g. Provider credentialing/Michigan Medicaid enrollment outcomes and terminations;
 - h. TPL outcomes; and
 - i. Findings of coordination of care activities.

Pursuant to 42 CFR § 438.606, the annual Program Integrity Report must be certified by either the Grantee's Chief Executive Officer; Chief Financial Officer; or an individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated authority to sign for the Chief Executive Officer or Chief Financial Officer so that the Chief Executive Officer or Chief Financial Officer is ultimately responsible for the certification. The certification must attest that, based on best information, knowledge and belief, the information specified is accurate, complete and truthful.

5. Grantee must submit to MDHHS OIG, in a format determined by MDHHS OIG, a complete list of all contracted entities as described in A.10 and is due within 60 days after the start of the contract year.
 6. Any excluded individuals and entities discovered in the screening described in G of this section, including the provider applications, credentialing and credentialing processed, must be reported to the federal HHS OIG and MDHHS OIG, in a format determined by MDHHS OIG, within 20 Business Days of discovery.
 7. Grantee must submit to MDHHS OIG, in a format determined by MDHHS OIG, a Quarterly Provider Disenrollment Log including providers terminated due to sanction, invalid licenses, services, billing, data mining, investigation and any related program integrity involuntary termination; provider terminations for convenience; and providers who self-terminated.
 8. Compliance Review Score – Grantee will be scored based on the quantity and quality of the quarterly reports submitted to MDHHS OIG.
 - a. Grantee will receive a score of pass if they initiated program integrity activities as required by A of this section during the reporting period, complied with the MDHHS OIG quarterly submission form content requirements and accompanying guidance document, and complied with deliverable due dates.
 - b. Grantee will receive a score of fail for any compliance review quarter where it has not initiated any program integrity activities, as required by A of this section, during the previous quarter.
 - c. Grantee will receive a score of incomplete for any compliance review quarter where it has not complied with the MDHHS OIG quarterly submission form content requirements and accompanying guidance document.
 - d. Grantee will receive a score of incomplete for any compliance review quarter where it has not complied with the deliverable due dates.
- C. **Availability of Records** – Grantee must cooperate fully in any further investigation or prosecution by any duly authorized government agency, whether administrative, civil or criminal. Such cooperation must include providing, upon request, information, access to records and access to interview Grantee employees and consultants, including but not limited to those with expertise in the administration of the program and/or in medical or pharmaceutical questions or in any matter related to an investigation.

1. Grantee and its providers, subcontractors and other entities receiving monies originating by or through Michigan Medicaid must maintain books, records, documents and other evidence pertaining to services rendered, equipment, staff, financial records, medical records and the administrative costs and expenses incurred pursuant to this Contract as well as medical information relating to the

individual Enrollees as required for the purposes of audit, or administrative, civil and/or criminal investigations and/or prosecution or for the purposes of complying with the requirements set forth in this Contract.

2. Grantee must ensure within its own organization and pursuant to any agreement the Grantee may have with any other providers of service, including, but not limited to providers, subcontractors or any person or entity receiving monies directly or indirectly by or through Michigan Medicaid, that MDHHS representatives and authorized federal and State personnel, including, but not limited to MDHHS OIG, the Michigan Department of Attorney General, the US Department of Health and Human Services, US Office of Inspector General (DHHS OIG) and the Department of Justice (DOJ), and any other duly authorized State or federal agency must have immediate and complete access to all records pertaining to services provided to Michigan Medicaid Enrollees, without first obtaining authorization from the Enrollee to disclose such information (42 CFR § 455.21 and 42 CFR § 431.107).
3. Grantee and its subcontractors and any providers of service, including, but not limited to providers or any person or entity receiving monies directly or indirectly by or through Michigan Medicaid must make all records (including, but not limited to, financial, medical and enrollee grievance and appeal records, base data in 42 CFR 438.5(c), Medical Loss Ratio (MLR) reports in 42 CFR 438.8(k), and the data, information, and documentation specified in 42 CFR 438.604, 438.606, 438.608, and 438.610) available at the Grantee's, provider's, and/or the subcontractor's expense for administrative, civil and/or criminal review, audit, or evaluation, inspection, investigation and/or prosecution by authorized federal and state personnel, including representatives from the MDHHS OIG, the Michigan Department of Attorney General, DHHS OIG and the DOJ, or any duly authorized State or federal agency for 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later.
 - a. Access will be either through on-site review of records or by any other means at the government agency's discretion and during normal business hours, unless there are exigent circumstances, in which case access will be at any time.
 - i. Upon request, the Grantee, its provider or subcontractor must provide and make staff available to assist in such inspection, review, audit, investigation, monitoring or evaluation, including the provision of adequate space on the premises to reasonably accommodate MDHHS OIG or other state or federal agency.
 - b. Grantee must send all requested records to MDHHS OIG within 30 Business Days of request unless otherwise specified by MDHHS or MDHHS rules and regulations.
 - c. Records other than medical records may be kept in an original paper state or preserved on micromedia or electronic format. Medical records must be

maintained in their original form or may be converted to electronic format if the records are readable and/or legible. These records, books, documents, etc., must be available for any authorized federal and State personnel during the Contract period and seven years thereafter, unless an audit, administrative, civil or criminal investigation or prosecution is in progress or audit findings or administrative, civil or criminal investigations or prosecutions are yet unresolved in which case records must be kept until all tasks or proceedings are completed.

D. Provider Enrollment Agreements - Grantee must submit its Provider Enrollment Agreements to MDHHS OIG upon request.

E. Affiliations with Debarred or Suspended Persons – Pursuant to 42 CFR § 438.610:

1. Grantee must not knowingly have a director, officer, partner, managing employee or person with beneficial ownership of more than 5% of the Grantee's equity who has been or currently debarred or suspended from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order.
2. Grantee must not knowingly have a director, officer, partner or person with beneficial ownership of more than 5% of the Grantee's equity who is affiliated (as defined in the Federal Acquisition Regulation at 48 CFR § 2.101) with another person who has been debarred or suspended from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities under regulations issued pursuant to Executive Order No. 12549 or under guidelines implementing such order.
3. Grantee must not have a Provider or person with an employment, consulting or any other contractual agreement with a debarred or suspended person or entity for the provision of items or services that are significant and material to this Contract.
4. Grantee must agree and certify it does not employ or contract, directly or indirectly, with:
 - a. Any individual or entity excluded from Medicaid or other federal health care program participation under Sections 1128 (42 U.S.C. § 1320a-7) or 1128A (42 U.S.C. § 1320a) of the Social Security Act for the provision of health care, utilization review, medical social work or administrative services or who could be excluded under Section 1128(b)(8) of the Social Security Act as being controlled by a sanctioned individual;
 - b. Any individual or entity discharged or suspended from doing business with Michigan Medicaid; or

- c. Any entity that has a contractual relationship (direct or indirect) with an individual convicted of certain crimes as described in Section 1128(b)(8) of the Social Security Act.
- d. The Federal and State sanction database will be checked at least monthly to ensure compliance with this contract. Federal exclusions database: <http://exclusions.oig.hhs.gov>; State exclusion database URL: https://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_42542_42543_42546_42551-16459--,00.html
- 5. MDHHS may refuse to enter into or renew a contract with the Grantee if any person who has an ownership or control interest in the Grantee, or who is an Agent or managing employee of the Grantee, has been convicted of a criminal offense related to that person's involvement in any program established under Medicare, Medicaid or the title XX Services Program. Additionally, MDHHS may refuse to enter into or may terminate the Contract if it determines that the Grantee did not fully and accurately make any disclosure required under F of this section.

F. Disclosure by Managed Care Entities: Information on Ownership and Control –
Pursuant to 42 CFR § 455.104: MDHHS may review ownership and control disclosures submitted by the Grantee and any of the Grantee's Subcontractors.

- 1. Grantee must provide to MDHHS the following disclosures:
 - a. The identification of any person or corporation with a direct, indirect or combined direct/indirect ownership interest of 5% or more of the Grantee's equity (or, in the case of a Subcontractor's disclosure, 5% or more of the Subcontractor's equity);
 - b. The identification of any person or corporation with an ownership interest of 5% or more of any mortgage, deed of trust, note or other obligation secured by the Grantee if that interest equals at least 5% of the value of the Grantee's assets (or, in the case of a subcontractor's disclosure, a corresponding obligation secured by the Subcontractor equal to 5% of the Subcontractor's assets);
 - c. The name, address, date of birth and Social Security Number of any managing employee of the MI Choice Waiver Agency. For the purposes of this Subsection "managing employee" means a general manager, business manager, administrator, corporate officer, director (i.e., member of the board of directors), or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization or agency.
- 2. The disclosures must include the following:
 - a. The name, address and financial statement(s) of any person (individual or corporation) that has 5% or more ownership or control interest in the Grantee.

- b. The name and address of any person (individual or corporation) that has 5% or more ownership or control interest in any of the Grantee's Subcontractors.
 - c. Indicate whether the individual/entity with an ownership or control interest is related to any other Grantee's employee such as a spouse, parent, child or siblings; or is related to one of the Grantee's officers, directors or other owners.
 - d. Indicate whether the individual/entity with an ownership or control interest owns 5% or greater in any other organizations.
 - e. The address for corporate entities must include as applicable primary business address, every business location and P.O. Box address.
 - f. Date of birth and Social Security Number (in the case of an individual).
 - g. Other tax identification number (in the case of a corporation) with an ownership or control interest in the MI Choice Waiver Agency or its Subcontractor.
3. The Grantee must terminate or deny participation if a provider, or any person with 5% or greater direct or indirect ownership interest fails to submit sets of fingerprints in a form and manner to be determined by MDHHS, within 30 Days when requested by MDHHS or any authorized federal agency.
 4. Disclosures from the Grantee are due to MDHHS at any of the following times:
 - a. When the Grantee submits a proposal in accordance with an MDHHS procurement process.
 - b. When the Grantee executes the Contract with MDHHS.
 - c. Upon renewal or extension of the Contract.
 - d. Within 35 Days after any change in ownership of the Grantee.
 - e. Upon request by MDHHS.
 5. The Federal and State sanction database will be checked at least monthly to ensure compliance with this contract. Federal exclusions database: <http://exclusions.oig.hhs.gov>; State exclusion database: https://www.michigan.gov/mdhhs/0,5885,7-339-71551_2945_42542_42543_42546_42551-16459--,00.html
 6. All required disclosures under this subsection must be made to MDHHS, the Secretary of the US Department of Health and Human Services and the Inspector General of the US Department of Health and Human Services in the format developed by the requestor. Failure to provide required information may lead to sanctions including withholding of capitation payment. Federal financial participation is not available for entities that do not comply with disclosures, therefore, MDHHS may withhold capitation from the Grantee for services provided

during the period beginning on the day following the date the information was due and ending on the day before the date on which the information was supplied.

G. Excluded Individuals and Entities – Grantee is prohibited from paying with funds received under this Contract for goods and services furnished by an excluded person, at the medical direction or on the prescription of an excluded person. (Social Security Act (SSA) section 1903(i)(2) of the Act; 42 CFR § 455.104, 42 CFR § 455.106, and 42 CFR § 1001.1901(b)). Grantee must monitor for excluded individuals and entities by requiring:

1. Grantee must not make any payments for goods or services that directly or indirectly benefit any excluded individual or entity effective with the date of exclusion. The Grantee must immediately recover any payments for goods and services that benefit excluded individuals and entities that it discovers.
2. Grantee is prohibited from entering into any employment, contractual and control relationships with any excluded individual or entity.
3. Civil monetary penalties may be imposed against the Grantee if it employs or enters into a contract with an excluded individual or entity to provide goods or services to Enrollees (SSA section 1128A(a)(6)).
4. An individual or entity is considered to have an ownership or control interest if they have direct or indirect ownership of 5% or more, or are a managing employee (e.g., a general manager, business manager, administrator, or director) who exercises operational or managerial control, or who directly or indirectly conducts day-to-day operations (SSA section 1126(b), 42 CFR § 455.104(a), and 42 CFR § 1001.1001(a)(1)).
5. Grantee must immediately terminate all beneficial, employment, and contractual and control relationships with any individual or entity excluded from participation by MDHHS.

Appendix 1 - COMPLIANCE REVIEW

November 15

Quarterly Program Integrity Report (Jul-Sep)

December 1

Contracted Entities List (updates due 30 days after changes are made)

February 15

Quarterly Program Integrity Report (Oct-Dec)

March 15

Annual Program Integrity Report for Michigan Medicaid for previous fiscal year

April 15

Fraud Compliance Program

May 15

Quarterly Program Integrity Report (Jan-Mar)

June 15

Annual Program Integrity Plan for Michigan Medicaid for upcoming FY

July 15

Program Integrity – Grantee screening and disclosure requirements (Attestation form)

August 15

Quarterly Program Integrity Report (Apr-Jun)