

EXHIBIT Y

GUIDELINES FOR SANCTIONS REGARDING FRAUD, WASTE AND ABUSE

The Department recognizes its responsibility to administer the Community HealthChoices (CHC) Program and ensure that the public funds which pay for this program are properly spent.

To maintain the integrity of the CHC Program and to ensure that CHC-MCOs comply with pertinent provisions of State and Federal law and rules and policies involving Fraud, Waste and Abuse issues, the Department will impose sanctions on the CHC-MCOs as deemed appropriate where there is evidence of violations involving Fraud, Waste and Abuse issues in the CHC Program. To that end, program compliance and improvement assessments, including financial assessments payable to BPI, will be applied by BPI for the CHC-MCO's identified program integrity compliance deficiencies. Note that the Department also retains discretion to impose additional remedies available under applicable law and regulations.

FRAUD, WASTE AND ABUSE ISSUES WHICH MAY RESULT IN SANCTIONS

The Department may impose sanctions against a CHC-MCO for non-compliance with Fraud, Waste and Abuse requirements which include, but are not limited to, the following:

- A. Failing to implement, develop, monitor, continue and/or maintain the required compliance plan and policies and procedures directly related to the detection, prevention, investigation, referral or sanction of Fraud, Waste and Abuse by providers, caregivers, members or employees.
- B. Failing to cooperate with reviews by oversight agencies or their designees, including the Department, the Pennsylvania Office of Attorney General Medicaid Fraud Control Section, the Pennsylvania Office of Inspector General, the Comptroller General, and other state or federal agencies and auditors under contract to CMS or the Department. See 42 CFR § 438.3(h).
- C. Failing to adhere to applicable state and federal laws and regulations.
- D. Failing to adhere to the terms of the CHC- Agreement, and the relevant Exhibits which relate to Fraud, Waste and Abuse issues.
- E. Failing to provide the data, information, and documentation required by 42 C.F.R. § 438.604 (relating to Data, information, and documentation that must be submitted), including encounter data; claims data; data relating to capitation rate actuarial soundness; data relating to compliance with the medical loss ratio requirement; data relating to provision against the risk of insolvency;

documentation relating to compliance with requirements for availability and accessibility of services and adequacy of provider network; information on ownership and control; annual report of overpayment recoveries; and data, documentation, or information relating to the performance of the entity's obligations..

- F. Engaging in actions that indicate a pattern of wrongful denial of payment for a health-care benefit, service or item that the organization is required to provide under its agreement.
- G. Failing to furnish services or to provide Participants a health benefit, service or item that the organization is required to provide under its Agreement. See 42 CFR § 438.700(b)(1).
- H. Engaging in actions that indicate a pattern of wrongful delay of at least 45 days or a longer period specified in the Agreement (not to exceed 60 days) in making payment for a health-care benefit, service or item that the organization is required to provide under its Agreement.
- I. Discriminating against Participants on any basis including, but not limited to, race, color, national origin, disability, sex, health status, or need for health care services. See 42 CFR §438.3(d)(3- 4).
- J. Failing to conduct a preliminary investigation of a potential fraud referral to the level of the indicia of potential fraud, i.e., there is indicia of reliability of the allegation of fraud.
- K. Failing to pay overpayments to DHS as identified through network provider audits, reviews, investigations conducted by BPI or its designee and other state and federal agencies.

RANGE OF SANCTIONS

The Department may impose any of the sanctions indicated in Section VIII.I. of the Agreement including, but not limited to, the following:

- A. Preclusion or exclusion of the CHC-MCO, its officers, managing employees or other individuals with direct or indirect ownership or control interest in accordance with 42 U.S.C. § 1320a-7, 42 C.F.R. Parts 1001 and 1002; 62 P.S. §1407 and 55 Pa. Code §§ 1101.75 and 1101.77.

These sanctions may, but need not be, progressive. The Department intends to maintain an effective, reasonable and consistent sanctioning process as deemed necessary to protect the integrity of the CHC Program.