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## ARCHCARE AND AFFILIATED ENTITIES POLICY

**SUBJECT:** Compliance and Ethics Program, Special Investigations Unit for Managed Long-Term Care

**ORIGINATING DEPARTMENT:** Compliance

**EFFECTIVE DATE:**

**BOARD COMPLIANCE COMMITTEE APPROVAL DATE:**

**LAST PERIODIC REVIEW DATE:** N/A

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**PURPOSE:** To establish a Special Investigation Unit (SIU) to detect, investigate, resolve, correct and report incidents of suspected Fraud, Waste and Abuse (FWA) in compliance with all applicable state and federal laws and regulations in the Managed Long Term Care plans. To ensure appropriate investigation, resolution and corrective action of all potential FWA. To ensure the appropriate referral, notification, and/or reporting of all suspected and confirmed incidents of FWA to federal and state agencies, as appropriate, and to assist state and federal investigative agencies on FWA investigations upon request. Managed Long-Term Care (MLTC) is required by law, regulations and contract to detect, investigate, report and prevent FWA and to have a SIU that is responsible for investigating cases of suspected fraudulent or abusive activity and for implementing the ArchCare Fraud, Waste and Abuse Prevention Plans<sup>1</sup> that has been submitted to the New York State Department of Health (DOH).

**ENTITIES AFFECTED:** Catholic Managed Long Term Care Inc., d/b/a ArchCare Senior Life (PACE) and d/b/a ArchCare Community Life

**SCOPE:** This policy applies to the workforce<sup>2</sup> of ArchCare and its affiliated entities. Specifically, ArchCare “workforce” includes, but is not limited to, employees (including

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<sup>1</sup> Prevention Plans were developed and submitted for ArchCare Community Life (ACL) and ArchCare Senior Life (ASL).

<sup>2</sup> This definition is aligned with the updated Part 521 of Title 18 of the Codes, Rules and Regulations of the State of New York which defines “[a]ffected [i]ndividuals as defined by the as all persons who are affected by the provider’s risk areas, including employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers.”

chief executive and other senior administrators and managers), medical staff, volunteers, and students. The term “workforce” also applies to contractors, subcontractors, agents and independent contractors<sup>3</sup> who, on behalf of ArchCare, furnish, or otherwise authorize the furnishing of Medicare and/or Medicaid health care items or services, perform billing or coding functions, or are involved in monitoring of health care provided by ArchCare.

**POLICY:** The ArchCare Special Investigation Unit (“SIU”) investigates all reports of suspected FWA related to ArchCare Community Life (ACL) and ArchCare Senior Life (ASL) in accordance with the ArchCare Policies and Procedures on Fraud Waste and Abuse, and the ArchCare Corporate Policy on Investigating Compliance Issues. ArchCare maintains a strict policy of zero tolerance toward FWA and is committed to complying with all applicable federal and state standards on FWA.

#### **DEFINITIONS:**

**Abuse** is a practice that is inconsistent with accepted business, financial or medical practices or standards and that results in unnecessary cost or in reimbursement.

**Fraud** is an intentional deception, concealment or misrepresentation made by someone with knowledge that the deception will result in benefit or financial gain.

**FWA** means Fraud, Waste and Abuse.

**SIU** means the Special Investigations Unit.

**Waste** includes any practice that results in an unnecessary use or consumption of financial or medical resources. Waste does not necessarily involve personal gain, but often signifies poor management decisions, practices or controls.

**Compliance Officer** means the ArchCare Chief Compliance Officer or their designee.

#### **POLICY:**

1. The objective of the SIU is to reduce the incidence of FWA through a program that includes education and training, prevention, detection, investigation and reporting. The SIU has authority for conducting inquiries and investigations of

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<sup>3</sup> This policy applies to designated contractors who engage in the provision of quality healthcare service and/or who fall under the following risk areas of "billings, payments, ordered services, medical necessity, quality of care, governance, mandatory reporting, credentialing, contractor oversight, and other areas that should reasonably be identified by the provider through its organizational experience".

suspected FWA and will coordinate with any and all resources deemed necessary to thoroughly conduct an investigation.

2. All workforce members have a responsibility to detect, report and prevent FWA. Reporting instances of FWA is a protected activity, when done in good faith.
3. ArchCare has established and has created the SIU to detect, prevent, document, investigate, report, correct and deter FWA in ACL and ASL operations.
4. The SIU reports, as required by state and federal guidelines, all suspected or confirmed incidents of FWA and, upon request, assists state and federal investigative agencies in investigating FWA.
5. Compliance Department and others in ACL and ASL will refer all complaints involving suspected FWA to the SIU.
6. The SIU promotes the immediate reporting of suspected incidents of FWA
7. ArchCare is committed to detecting and deterring FWA to ensure that inappropriate payments are identified and recouped, and that appropriate action is taken against perpetrators of FWA, which may include prosecution and the initiation of civil actions.
8. The SIU, assisted by other individuals, entities, and departments as appropriate, is responsible for the timely investigation of suspected FWA
9. The SIU uses a multi-faceted approach to prevent and detect suspected or potential FWA, involving both pre-payment and post-payment strategies. The SIU uses a combination of analytical tools, clinical expertise, investigative knowledge, internal and external referrals and education and awareness training program to maximize.

#### **PROCEDURE:**

1. ArchCare's Chief Compliance Officer is responsible for planning, designing, implementing and maintaining a comprehensive compliance program at ACL. The ACL compliance program promotes a culture that fosters ethical and complaint behavior, provides the basis for ensuring adequate internal controls, compliance with all laws and regulatory requirements applicable to the program and ensures compliance with all state and federal regulations.
2. The SIU Director will be responsible for implementing the Fraud, Waste and Abuse prevention program and the Chief Compliance Officer will be responsible for coordinating with the SIU, if issues arise.
3. SIU will be responsible for the following functions:
  - a. Perform datamining activities within Fraud, Waste and Abuse analytics to identify aberrancies on a provider, member or vendor level.
  - b. Review individual provider's claims to identify issues that need to be reviewed in more detail.
  - c. Review providers identified to ensure they are not excluded/sanctioned by the State or Federal regulatory agencies.
  - d. Review provider contracts to ensure rates are paid in accordance with the contract review medical policies.
  - e. Review any FWA referrals received:

- i. Respond within five (5) business days on preliminary findings and recommendations;
- ii. If regulatory referrals are warranted, then SIU will draft the referral and submit to the regulatory agency;
- iii. If a full investigation is warranted, SIU will prepare an opening memo documenting provider identified, background, scheme, frequency, potential exposure and next steps;
- iv. Draft medical record request and send to provider (both targeted review and random sample review);
- v. Medical record review completed by Certified Professional Coder/Auditor when warranted;
- vi. Comparison of record review of paid claims;
- vii. Calculation of overpayment and audit findings;
- viii. Audit letter documenting issues and overpayments;
- ix. Interviews with members and providers;
- x. Negotiation of overpayment with providers;
- xi. Settlement agreements with providers;
- xii. Corrective Action Plan implementation;
- xiii. Law enforcement liaison meetings;
- xiv. Regulatory referrals to state and local regulatory agencies;
- xv. Yearly SIU Work Plan;
- xvi. Yearly reports totaling investigations, total dollars recovered and total dollars outstanding; and
- xvii. Monthly reports on pending cases and current projects.

#### 4. Internal Referrals to SIU

- a. Any allegations of potential Fraud, Waste and Abuse identified internally by ArchCare shall be referred to the SIU for further review. This includes any FWA issues identified internally by different ArchCare departments and hotline calls relating to FWA. These allegations will be sent to the SIU Director or Lead Investigator for further review and action.

#### 5. Investigation of Referrals of Fraud, Waste or Abuse

- a. The SIU Director or Lead Investigator shall determine whether a referral of fraudulent, wasteful, abusive, or other improper conduct warrants further review. Upon determination that a further review is warranted, the matter shall be promptly assigned to an Investigator for a preliminary assessment. The preliminary assessment shall generally consist of one or more of four basic steps to determine if the referral warrants further investigation by the SIU.

#### 6. Review of Referral Documentation

- a. The Investigator shall review all the documentation relating to the referral involving an allegation of fraud or abuse, including, but not limited to, claims, correspondence, copies of bills/benefit statements,

and internal notes related to telephoned reports and/or data analysis reports.

7. Review of Claims History

- a. In addition to the quantitative review of monies paid to the provider, the Investigator shall review the provider's claims history for any previous unusual activity, complaints, or scrutiny by the SIU.

8. Query of External Information Sources

- a. At the same time, the Investigator may review external information related to the provider including, but not limited to, the following:
  - i. State or professional disciplinary boards;
  - ii. Other insurers (either directly or via a regional or national anti-fraud organization);
  - iii. Law enforcement agencies (on a general basis as to any prior actions against the provider);
  - iv. The US Department of Health & Human Services records of provider sanctions for fraud-related Medicaid/Medicare violations; and
  - v. Court records of prior civil and criminal litigation.

9. Evaluation of Preliminary Assessment

- a. Based on the preliminary assessment, the Director in consultation with the Compliance Department, shall then decide among the following courses of action:
  - i. Conduct a formal fraud, waste or abuse investigation;
  - ii. Place the provider on a "watch list" for an indefinite period; and
  - iii. Educate the member or provider of what appears to be simply a misunderstanding or miscommunication.

10. Datamining

- a. SIU will evaluate claims data from Medical, Pharmacy, Vision, and Dental claims. This data will present the investigator with prioritized leads based on composite results and risk scores from different detection models.

11. Reporting to Federal and State Agencies

- a. The SIU is responsible for notifying applicable federal and state agencies, and law enforcement as appropriate, of suspected FWA. Notified agencies may include OIG, DFS, the OMIG, MEDIC, or the New York State Medicaid Fraud Control Unit (MFCU).

12. The SIU coordinates with ArchCare, as appropriate, to obtain additional information, data and reports that will assist in identifying, investigating and preventing FWA.

- a. If any ArchCare Employee, Director, Officer, Contractor, Agent, FDR or other person associated with ArchCare receives or uncovers information that suspects FWA, such person must notify the SIU by one of the previously noted approaches. Upon receipt of this information, the SIU will log the information internally in the SIU Database, review the facts presented and open an investigation as appropriate.
- b. Reports of potential FWA can be made anonymously via the ArchCare Compliance Hotline 1-800-443-0463 or [www.archcare.ethicspoint.com](http://www.archcare.ethicspoint.com)
- c. All possible measures are to be taken to protect the anonymity and confidentiality of the reporting individual or entity, in accordance with confidentiality policies. ArchCare will not retaliate against or intimidate any individual who reports suspected FWA, in accordance with the Non-Retaliation and Non-Intimidation Policy.

### 13. FWA Reporting Requirements:

- a. ArchCare has developed and submitted to DOH a Fraud, Waste and Abuse Prevention Plan as well as a designation of an SIU, reporting up to the Compliance Officer, as the officer with responsibility for carrying out the provisions of the Fraud, Waste and Abuse Prevention Plan.
- b. The ArchCare Compliance Department shall file an annual report with DOH no later the January 30 of each year, which shall describe ArchCare ACL's and ASL's experience, performance and efficiency in implementing the Fraud, Waste and Abuse Prevention Plan and proposals for improving the Fraud, Waste and Abuse Prevention Plan.
- c. In addition, for each case of FWA confirmed by the SIU or law enforcement or other government regulatory agency, the SIU shall report to the DOH on an ongoing basis.
- d. The SIU shall also, notify the New York State Office of the Medicaid Inspector General ("OMIG"), of any suspected misconduct committed by a member, provider or a contractor's employee. If the during the investigation the SIU determines that potential fraud or misconduct has occurred, the SIU forwards the referral to the Chief Compliance Officer. If approved, the SIU reports the misconduct to the appropriate agency (MEDIC, DFS, OMIG, OIG or MFCU) within seven days after the determination that a violation may have occurred. The SIU will continue to work the active investigation unless instructed otherwise.
- e. The SIU reviews all allegations and determines whether a case is initiated. If the allegation cannot be addressed by the SIU (e.g., provider/member collusion cases that require undercover and/or surveillance or allegations of kickbacks or bribery) than OMIG or another Law Enforcement Agency will be notified, and the case referred. A case is opened in the SIU Database documenting the referral. The case is closed but any assistance required by OMIG is quickly responded to by the SIU and is logged into the file. If OMIG returns the investigation the case will be reopened and handled accordingly.

14. Corrective Action:

- a. Corrective action will be taken as necessary to address the findings of any investigation, to ensure compliance with regulatory requirements going forward and/or to ensure that FWA does not recur. Corrective action may include:
  - i. The development and completion of a Corrective Action Plan;
  - ii. A referral to criminal and/or civil law enforcement authorities having jurisdiction over such matter, or a report to state or federal agencies;
  - iii. Recoupment and/or submission of any overpayments;
  - iv. Appropriate education or training, including education of FDRs and providers; and/or
  - v. Appropriate disciplinary action, including termination of FDR contract.

**15. REVISION HISTORY:**

Date	Change/Note
2023	New policy developed.

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