

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

PHI is individually identifiable health information that:

- Is oral or recorded in any form or medium (e.g., paper, electronic).
- Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse.
- Relates to an individual's physical/mental condition, health care, or payment for care.

Uses and Disclosures of PHI

- PHI may not be used or disclosed **except** with the individual's consent or as permitted by law.
- You must limit use or disclosure of PHI to the **minimum necessary** information to accomplish the intended purpose. There are four **exceptions** to this "minimum necessary" requirement:
 1. Uses or disclosures made to the individual.
 2. Disclosures made to or requests by a health care provider for treatment, payment, or health care operations.
 3. Uses or disclosures made according to a valid authorization.
 4. Uses or disclosures specifically required by law.

Breach and Notification

Breach: The unauthorized acquisition, access, use, or destruction of PHI that compromises the privacy or security of the information.

HIPAA CONTINUED...

There are three **exceptions** to breach:

1. Unintentional acquisition, access, or use of PHI by a workforce member acting under the authority of a covered entity or business associate.
2. Disclosure of PHI from a person authorized to access the PHI at a covered entity or business associate to another person authorized to access the PHI at the covered entity or business associate.
3. Covered entity or business associate has a good faith belief that the unauthorized individual, to whom the impermissible disclosure was made, would not have been able to retain the information.

Notification of a breach to health plan members, government entities, and/or the media is **ONLY REQUIRED** when the use or disclosure poses a "significant risk of financial, reputational or other harm to the member." Notification is **NOT** required if the PHI was secured through encryption or destruction.

If you discover a breach, you MUST inform Central Health and identify each plan member involved, unless otherwise specified in your Business Associate Agreement.

- **CALL US:** 626-388-2392 is a dedicated telephone line & voice mailbox that can be used 24 hours a day, from any location, for reporting concerns or violations.
- **EMAIL US:** compliance@centralhealthplan.com

Central Health protects employees who report suspected violations in good faith and ensures confidentiality of compliance investigations to the greatest extent possible. If you report a problem, know that the law protects you from retaliation!

2011 Compliance and HIPAA Guide



Review this guide to learn about the laws and regulations applicable to you as an employee of a first tier, downstream, or related entity of Central Health Medicare Plan!



If you have questions about Compliance or HIPAA, contact Central Health's Compliance Department at compliance@centralhealthplan.com



INTRODUCTION

As an employee of a first tier, downstream, or related entity of Central Health, it is important that you are aware of and comply with the laws and regulations relating to Medicare Part C and D fraud, waste, and abuse. In addition to the information in this Guide, you must also abide by your company's internal policies and procedures addressing fraud, waste, and abuse, which it is required to have in place.

CONFLICTS OF INTEREST

A conflict of interest may exist if your outside activities or interests influence your ability to make objective decisions at your company. All employees have a duty to be loyal to their company, act in its best interest, and protect its assets by disclosing any conflict of interest.

ANTI-KICKBACK

Under this statute, you may not:

- knowingly and willfully
- solicit, receive, offer, or pay
- any remuneration (including a kickback, bribe, or rebate)
- in return for (or as an inducement to make)
- a Medicare or Medicaid patient referral or the purchase, lease, or ordering of any item or service
- for which payment may be made under a federal health program.

STARK

Prohibits

- A physician
- from making a referral
- of a Medicare patient
- to an entity providing “designated health services”
- if the physician has a financial relationship with the entity
- unless an exception applies.

Self-Disclosure Rule

If physicians believe they committed a Stark violation, they may report the violation to the Office of the Inspector General (OIG) or Department of Justice (DOJ). This may lead to a lighter penalty and will temporarily suspend the 60 day timeframe for reporting and returning overpayments.

MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008 (MIPPA)

- Medicare Advantage organizations, like Central Health, must use state-licensed, certified, or registered individuals for sales and marketing activities.
- **Marketing:** Steering, or attempting to steer, a potential enrollee towards a plan or limited number of plans, or promoting a plan or a number of plans.
- Customer service activities are not “marketing” and do not require a state license. Examples include providing factual information requested by a health plan member, fulfilling a request for materials, and taking demographic information in order to complete an enrollment application.

FEDERAL FALSE CLAIMS ACT (FCA)

- Prohibits any individual or business entity from knowingly submitting, or causing to be submitted, a false or fraudulent claim to the U.S. Government or its contractors.
 - Examples of Prohibited Activities
 - Billing for undocumented or medically unnecessary services
 - Falsifying certificates of medical necessity
 - Upcoding
 - Double billing
 - Unbundling
 - Failing to report and refund overpayments or credit balances
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OVERPAYMENTS

Any overpayment must be reported and repaid to the government within **60 days** of when you know or should have known of an overpayment by the government.

QUI TAM (“WHISTLEBLOWER”) ACTIONS

- Anyone may file a lawsuit on behalf of the government if he or she becomes aware of false or fraudulent claims against a government health care program.
- Whistleblowers are protected from retaliatory action taken for filing a Qui Tam action and for investigating, or assisting in an investigation of, a false claim.