



First-Tier, Downstream and Related Entities (FDR) Compliance Guide



Table of Contents

SECTION I.	My Choice Wisconsin: Who We Are	3
SECTION II.	Introduction to the FDR Compliance Guide	4
SECTION III.	My Choice Wisconsin Compliance Program	6
SECTION IV.	FDR Compliance Requirements and How to Meet Them	9
SECTION V.	Fraud, Waste & Abuse (FWA) and Reporting Compliance Issues	18
SECTION VI.	CMS Medicare Advantage Program Audits	20
SECTION VII.	Privacy and Confidentiality	21
APPENDIX A:	My Choice Wisconsin Code of Conduct	23
APPENDIX B:	My Choice Wisconsin Compliance and FWA Reporting Notice	25
APPENDIX C:	FDR Annual Compliance Attestation	26
APPENDIX D:	Offshore Subcontractor Information	30

To report suspected fraud and abuse or other violations of company policy, call 1-833-253-3465 or go to www.mychoicewi.org.

Section I. My Choice Wisconsin: Who We Are

My Choice Wisconsin matches frail seniors and individuals with disabilities to the health care and long-term care supports and services they need.

We offer government-funded (Medicare and Medicaid) programs and partner with providers to create strong, local provider networks.

We are dedicated to our Mission and Values:

To promote the quality of life of our communities by empowering others and working together to creatively solve unique health and long-term care needs.

To operate on a sustainable financial basis through growth, and continuous improvement.

Our culture is based on integrity, accountability, partners and each other with dignity and respect.

As a federal contractor of healthcare services, My Choice Wisconsin is committed to ensuring it is fully compliant with all laws, regulations, and standards. In addition, My Choice Wisconsin must ensure that we and our participating vendors, subcontractors (downstream and related entities) are all in compliance with the applicable laws, rules, and regulations.

My Choice Wisconsin is committed to ensuring our members have access to medically necessary covered services.

Our approval or denial of services must be based on My Choice Wisconsin's policies and procedures, including appropriate consideration of benefit coverage and medical necessity. Our partnership ensures that My Choice Wisconsin continues to provide high quality service while adhering to the highest standards of ethics and compliance.



Section II. Introduction to the First Tier, Downstream, and Related Entity (FDR) Compliance Guide

My Choice Wisconsin relies on our contracted providers and other contracted individuals and entities to help us meet the needs of our members according to Medicare Advantage/Part D program requirements. These individuals and organizations are considered First-Tier, Downstream, and Related Entities, or FDRs. (see 42 C.F.R. §423.501). FDRs are individuals or entities to which My Choice Wisconsin has delegated administrative or health care service functions relating to My Choice Wisconsin's Medicare Advantage contract with the Centers for Medicare and Medicaid Services (CMS). They are a vital part of the My Choice Wisconsin Medicare Advantage program and have specific responsibilities under Medicare guidelines.

First Tier Entity - Any party that enters into a written arrangement, acceptable to CMS, with a Medicare Advantage Organization ("MAO") or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the Medicare Advantage program or Part D program (e.g., independent practice association, pharmacy benefit manager, Credentialing entities)

Downstream Entity - Any party that enters into a written arrangement below the level of the arrangement between a sponsor and a First Tier Entity for the provision of administrative services or health care services to a Medicare eligible individual under the Medicare Advantage program or Part D program (e.g., hospitals, providers, billing companies)

Related Entity - Any entity that is related to the sponsor by common ownership or control and either: (1) performs some of the sponsor's management of functions under a contract of delegation; (2) furnishes services to Medicare enrollees under an oral or written agreement; or (3) leases real property or sells materials to the sponsor at a cost of more than \$2,500 during a contract period

This guide contains compliance resources you need, as a delegated entity, to learn about My Choice Wisconsin's compliance requirements. The purpose of this Compliance Guide is to assist you in understanding and meeting the compliance obligations under the My Choice Wisconsin Compliance Program. It contains the CMS requirements and the steps you need to follow to comply as delegated entity. **Please review this guide to make sure you have internal processes to support your compliance with these requirements each calendar year.** To ensure ongoing compliance, My Choice Wisconsin conducts

Section II. Introduction to the First Tier, Downstream, and Related Entity (FDR) Compliance Guide

random audits, which request evidence of your compliance with the elements contained in this guide.

These resources include:

- My Choice Wisconsin Code of Conduct
- Information about the My Choice Wisconsin confidential reporting Compliance Hotline
- Compliance and Fraud, Waste and Abuse Reporting Poster
- Information about training requirements and how to obtain a copy of the CMS Compliance and FWA training modules
- A copy of the mandatory attestation form and how to submit the annual form

Section III. My Choice Wisconsin Compliance Program

As a partner in serving our members, we want to thank you for ensuring your organization's compliance with Medicare regulations. This guide and associated links and documents describe some of the Medicare compliance program requirements applicable to our partnership.

The mission of the My Choice Wisconsin Compliance Program is to assist the organization in achieving financial, operational and strategic goals through a commitment to ethical, legal and professional standards of conduct. The program reinforces these standards by providing leadership, direction, education, oversight and guidance to all My Choice Wisconsin employees, board members, and delegated entities. The Compliance Program is committed to fostering a culture of integrity, accountability, dignity and respect throughout the organization, resulting in high quality care for our members.

According to CMS requirements, My Choice Wisconsin must implement a compliance program that is effective in preventing, detecting, and correcting noncompliance as well as program fraud, waste, and abuse.

The My Choice Wisconsin Compliance Program is organized by the seven elements that CMS deems necessary for an effective program. A description of these elements as they relate to FDRs is provided below.

1. Written Policies, Procedures and Standards of Conduct

The code of conduct describes principles and values by which My Choice Wisconsin operates and is the foundation for compliance policies and procedures. My Choice Wisconsin makes its Code of Conduct available to FDRs in Appendix A of this guide and on the Provider page of the My Choice Wisconsin website

2. Designation of Compliance Officer and Committee

The My Choice Wisconsin Compliance Committee oversees the Compliance Program by supporting and advising the Compliance Officer and the Compliance Team. The Committee meets regularly with the Compliance Officer to discuss status of the Compliance Program. My Choice Wisconsin executive management including the My Choice Wisconsin Board of Directors are provided regular reports of compliance activities, risk areas and strategies.

Section III. My Choice Wisconsin Compliance Program

3. Effective Training and Education

The effectiveness of training and education is apparent when everyone involved with providing health or administrative services to My Choice Wisconsin enrollees understands the rules and regulations that apply to their duties and assignments. Effective training also prepares us to identify and report program noncompliance or potential fraud, waste, and abuse (FWA). Due to our strong commitment to the highest standards of ethics, annual compliance and FWA training is considered a requirement for all My Choice Wisconsin employees and FDRs.

4. Effective Lines of Communication

My Choice Wisconsin makes available several reporting methods, including a mechanism for anonymous reporting. Section VI outlines the reporting methods and Appendix B provides a Reporting Poster that can be distributed to FDR employees. Reporting is critical to the prevention, detection, and correction of program noncompliance and FWA. My Choice Wisconsin policy protects any individual or organization who reports a legitimate concern in good faith from retaliation and intimidation.

5. Disciplinary Standards

My Choice Wisconsin has systems, policies, and procedures in place to detect, correct, prevent, and monitor issues of noncompliance. These requirements apply to all individuals involved in the administration or delivery of benefits or services. Disciplinary standards may include re-training, specialized training, corrective action plans or disciplinary action up to and including termination of a contract for behavior that is serious or repeated.

6. Monitoring, Auditing, and Identification of Risk

My Choice Wisconsin routinely monitors and periodically audits First Tier Entities to ensure compliant administration of the contracted delegated functions as well as applicable laws and regulations. Each First Tier Entity is required to cooperate and participate in the monitoring and auditing activities. If a First-Tier entity performs its own audits, My Choice

Section III. My Choice Wisconsin Compliance Program

Wisconsin may request the audit results affecting My Choice Wisconsin business. In addition, first tier entities are expected to routinely monitor and periodically audit their Downstream Entities. All monitoring and auditing activities must be documented and retained for a ten (10) year period. My Choice Wisconsin may require evidence of monitoring and auditing for future oversight and/or auditing purposes

7. Response and Corrective Action

Compliance issues or suspected FWA may be identified through Compliance Hotline reports, a member complaint, routine monitoring or auditing, or by regulatory authorities. If misconduct is discovered or suspected, a prompt investigation is initiated by My Choice Wisconsin. If My Choice Wisconsin determines that an FDR is not in compliance with any of the requirements set forth in this policy, the FDR will be required to develop and submit a Corrective Action Plan (CAP). My Choice Wisconsin will assist the FDR in addressing the issues identified. At times the corrective action could include disclosing the issue to applicable regulators.

Section IV. FDR Compliance Requirements and How to Meet Them

The key compliance requirements for FDRs and recommendations for meeting those requirements are outlined below. My Choice Wisconsin provides an FDR Annual Compliance Attestation (see Appendix C) for your organization to validate compliance with these requirements.

My Choice Wisconsin oversight activities of the Compliance Programs of First Tier, Downstream and Related Entities are required by CMS as described in [CMS Compliance Program Guidelines](#) in the Medicare Managed Care Manuals Chapters 9 and 21.

My Choice Wisconsin may audit your organization by asking for evidence that supports these requirements.

1. Code/Standards of Conduct and Compliance Policies

The purpose of the My Choice Wisconsin Code of Conduct is to provide clear guidance and expectations about our standards. We expect every FDR to respect these principles and to conduct business with My Choice Wisconsin in accordance with their standards. My Choice Wisconsin requires each FDR to establish and sustain a culture of compliance. My Choice Wisconsin FDRs must either (1) establish and publicize comparable Standards of Conduct that meet CMS requirements set forth in 42 CFR § 422.503(b)(4)(vi)(A) and 42 CFR § 423.504(b)(4)(vi)(A) and reflect a commitment to preventing, detecting, and correcting noncompliance, or (2) adopt and distribute to all employees and contractors My Choice Wisconsin's Code of Conduct, which can be found in Appendix A.

In addition to the Code of Conduct, each FDR must distribute compliance information to all employees and contractors within 90 days of hire/contract and annually thereafter. My Choice Wisconsin provides compliance information in this guide that can be utilized. If an FDR opts to use different material, it must include, at minimum, a description of the Compliance Program instructions on how to report suspected noncompliance, the requirement to report potential noncompliance and FWA, disciplinary guidelines for noncompliant behavior, a non-retaliation provision, a FWA training requirement, and an overview of relevant laws and regulations (such as the Deficit Reduction Act of 2005, False Claims Act, and HIPAA).

Section IV. FDR Compliance Requirements and How to Meet Them

My Choice Wisconsin may ask for evidence that you have disseminated the Code of Conduct and compliance information to employees that support My Choice Wisconsin business. If you opt to disseminate your own materials,

My Choice Wisconsin may request to review your materials and for evidence of dissemination.

Section IV. FDR Compliance Requirements and How to Meet Them

2. General Compliance and Fraud, Waste, and Abuse (FWA) Training

Requirement:

General Compliance Education –

Plans sponsors must ensure that general compliance information is communicated to their FDRs. My Choice Wisconsin's compliance expectations are communicated through this guide.

FWA training – FDRs' employees who have involvement in the administration or delivery of Parts C and D benefits must, at a minimum, receive FWA training within 90 days of initial hiring (or contracting in the case of FDRs), and annually thereafter. My Choice Wisconsin can assist you in determining which employees need to complete the training.

(Medicare Managed Care Manual Ch. 21§50.3.2)

How to Comply:

Provide general compliance and FWA training in accordance with Medicare requirements to your employees or have them take the CMS FWA Training Modules found on the CMS MLN website:

<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/WebBasedTraining>.

Ensure that any of your employees that support My Choice Wisconsin programs take the training within 90 days of hire and annually thereafter.

If you are "deemed" by CMS for FWA training, you do not need to take the CMS Standardized FWA training. However, My Choice Wisconsin must still communicate general compliance information to you and your employees through this Compliance Guide, the My Choice Wisconsin Code of Conduct, the Reporting Flyer, and by providing access to the CMS Standardized General Compliance and FWA Training Module.

You must be able to demonstrate compliance with the training requirements. Examples of proof of training may include copies of sign-in sheets, employee attestations and electronic certifications from the employees taking and completing the training.

Section IV. FDR Compliance Requirements and How to Meet Them

3. Reporting Mechanism for FWA and Compliance Issues

Requirement:

Plan sponsors must have a system in place to receive, respond to and track compliance questions or reports of suspected or detected noncompliance or potential FWA from employees, members of the Board of Directors, enrollees and FDRs and their employees. Reporting systems must maintain confidentiality (to the greatest extent possible), allow anonymity if desired, and emphasize the plan sponsor's /FDR's policy of non-intimidation and non-retaliation for good faith reporting of compliance concerns and participation in the compliance program.

The methods available for reporting compliance or FWA concerns and the non-retaliation policy must be publicized throughout the sponsor's or FDR's facilities. It is best practice for plan sponsors to establish more than one type of reporting mechanism to account for the different ways in which people prefer to communicate or feel comfortable communicating.

(Medicare Managed Care Manual Ch. 21§50.4.2)

How to Comply:

Distribute the My Choice Wisconsin FDR Reporting Poster to your employees or post it in your facility. The My Choice Wisconsin FDR Reporting Poster will provide the required notifications regarding the availability of an anonymous reporting method and the My Choice Wisconsin policy prohibiting retaliation or retribution against anyone who reports suspected violations in good faith.

Notify your employees that they are **protected from retaliation** for False Claims Act complaints, as well as any other applicable anti-retaliation protections your organization has.

Reports can be made to My Choice Wisconsin by doing any of the following:

- Call the toll free, 24-hour Compliance Hotline at 1-833-253-3465
- Email us at
- Write to the My Choice Wisconsin Compliance Officer at
My Choice Wisconsin
Attn: Compliance Officer
10201 W. Innovation Drive
Suite 100
Wauwatosa, WI 53226

The My Choice Wisconsin FDR Reporting Poster is available for your use. See Appendix B of this Compliance Guide.

Section IV. FDR Compliance Requirements and How to Meet Them

4. OIG and SAM Exclusion Screening

Requirement:

Plan sponsors must review the DHHS OIG List of Excluded Individuals and Entities (LEIE list) and the SAM Excluded Parties List System (EPLS) prior to the hiring or contracting of any new employee, temporary employee, volunteer, consultant, governing body member, or FDR and monthly thereafter, to ensure that none of these persons or entities are excluded or become excluded from participation in federal programs. Monthly screening is essential to prevent inappropriate payment to providers, pharmacies, and other entities that have been added to exclusions list since the last time the list was checked.

(Note: The General Service Administration (GSA) has incorporated the EPLS within the System for Award Management (SAM))

(Medicare Managed Care Manual Ch. 21§50.6.8)

How to Comply:

Review the Department of Health and Human Services (DHHS) Office of the Inspector General (OIG) List of Excluded Individuals and Entities (LEIE) and the General Service Administration System of Award Management (SAM) at the time of hiring or contracting and monthly thereafter.

Be prepared to produce evidence that your employees and any entities with whom you contract to conduct My Choice Wisconsin business have been checked against the exclusions lists.

Section IV. FDR Compliance Requirements and How to Meet Them

5. Downstream Entities

Requirement:

Plan sponsors are responsible for the lawful and compliant administration of the Medicare Parts C and D benefits under their contracts with CMS, regardless of whether the plan sponsor has delegated some of that responsibility to FDRs. The plan sponsor must develop a strategy to monitor and audit its First Tier Entities to ensure that they are in compliance with all applicable laws and regulations, and to ensure that the First Tier Entities are monitoring the compliance of the entities with which they contract (the plan sponsors' "Downstream" entities).

Monitoring of First Tier Entities for compliance program requirements must include an evaluation to confirm that the First Tier Entities are applying appropriate compliance program requirements to Downstream entities with which the first-tier contracts.

(Medicare Managed Care Manual Ch. 21§50.6.6)

How to Comply:

If your organization subcontracts with other entities (external vendors to your organization and downstream entities to My Choice Wisconsin) to perform any of the services contractually delegated to your organization to perform on behalf of My Choice Wisconsin that relate to My Choice Wisconsin Medicare Advantage and/or Part D program, your organization must distribute materials and information to those downstream entities and monitor and audit them to ensure they also comply with all applicable CMS requirements and the requirements discussed in this Compliance Guide.

You must notify My Choice Wisconsin if you have any downstream entities conducting My Choice Wisconsin business.

My Choice Wisconsin may request evidence that you have complied with this requirement.

Section IV. FDR Compliance Requirements and How to Meet Them

6. Offshore Subcontractors

Requirement:

Medicare Advantage Organizations that work with offshore subcontractors (First Tier, Downstream and Related Entities) to perform Medicare-related work that uses beneficiary protected health information (PHI) are required to provide CMS with specific offshore subcontractor information and complete an attestation regarding protection of beneficiary PHI.

*(CMS Memo dated August 28, 2008:
Offshore Subcontractor Data Module
in HPMS)*

How to Comply:

Notify My Choice Wisconsin if your organization or if any of your organization's subcontractors or delegates perform contractually delegated services offshore that require the sharing of member protected health information (PHI) as defined in §160.103 of the HIPAA Privacy Rule. My Choice Wisconsin will request the information necessary to complete the Offshore Subcontractor Data Module in HPMS. Please see Appendix D.

Verify that any contractual agreements with those entities include all required Medicare Part C and D language.

Conduct annual audits of offshore subcontractors and make audit results available upon request.



Section IV. FDR Compliance Requirements and How to Meet Them

7. Record Retention and Record Availability

Requirement:

First Tier and Downstream Entities must comply with Medicare laws, regulations, and CMS instructions (422.504(i)(4)(v)) and agree to audits and inspection by CMS and/or its designees and to cooperate, assist, and provide information as requested, and maintain records a minimum of 10 years.

(Medicare Managed Care Manual Ch. 11§100.4)

Plan sponsors are accountable for maintaining records for a period of 10 years of the time, attendance, topic, certificates of completion (if applicable), and test scores of any tests administered to their employees and must require FDRs to maintain records of the training of the FDR's employees.

(Medicare Managed Care Manual Ch. 21§50.3.2)

(Continued on next page)

How to Comply:

Maintain all records, reports, and supporting documentation that relate to the functions your organization is performing or providing for My Choice Wisconsin for 10 years.

Maintain records of any Medicare general compliance and fraud, waste, and abuse training and education taken by your employees for 10 years. The records must demonstrate the date of the training, the topic, attendance, and certificates of completion and/or test scores, if applicable. Examples of proof of training may include copies of sign-in sheets, employee attestations and electronic certifications from the employees taking and completing the training.

Be prepared to make your records available to My Choice Wisconsin as part of My Choice Wisconsin audit or monitoring activity and to CMS or a CMS designee in the event of a program audit.

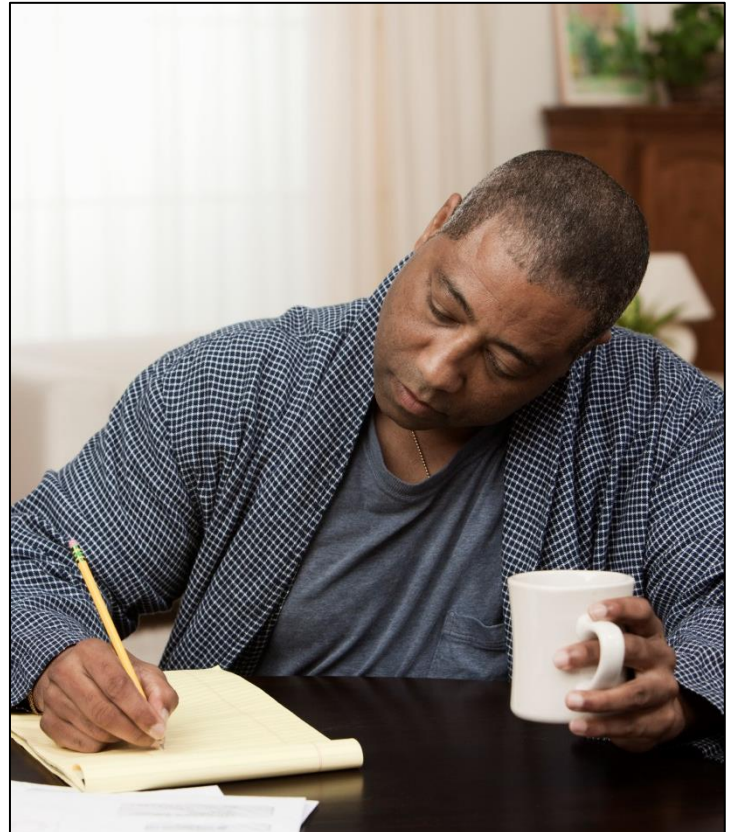
Section IV. FDR Compliance Requirements and How to Meet Them

7. Record Retention and Record Availability, continued

Requirement:

CMS has the discretionary authority to perform audits under 42 C.F.R. 44 422.504(e)(2) and 423.505(e)(2), which specify the right to audit, evaluate, collect or inspect any books, contracts, medical records, patient care documentation, and other records of plan sponsors or FDRs that pertain to any aspect of services performed, reconciliation of benefits liabilities, and determination of amounts payable under the contract or as the Secretary of Health and Human Services may deem necessary to enforce the contract. Plan sponsors and FDRs must provide records to CMS or its designee. Plan sponsors should cooperate in allowing access as requested. Failure to do so may result in a referral of the plan sponsor and/or FDR to law enforcement and/or implementation of other corrective actions, including intermediate sanctioning in line with 42 C.F.R Subpart O.

(Medicare Managed Care Manual Ch. 21§50.6.11)



Section V. What is Fraud, Waste, and Abuse?



Fraud: is knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.

It includes any act that constitutes fraud under applicable federal or state law.

Waste: is the overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.

Abuse: includes actions that may directly, or indirectly, result in an unnecessary cost or in reimbursement for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud, because the distinction between “fraud” and “abuse” depends on specific facts and circumstances, intent and prior knowledge, and available evidence, among other factors.

Section V. What is Fraud, Waste, and Abuse?

Below are suggested criteria for referring reported issues to My Choice Wisconsin. The list is not intended to be all inclusive. Any concerns about program noncompliance or suspected FWA should always be reported.

- Generally, any complaints or allegations that reference My Choice Wisconsin
- Complaints from My Choice Wisconsin member about quality of care received from My Choice Wisconsin contracted provider or any entity involved with My Choice Wisconsin programs
- Complaints from My Choice Wisconsin members regarding access to care or services.
- Complaints wishing to appeal My Choice Wisconsin coverage decision (medical or pharmacy) or file a grievance about My Choice Wisconsin.
- HIPAA violations that impact My Choice Wisconsin members.
- Allegations that the complaint has been contacted by “someone” from My Choice Wisconsin requesting personal or medical information.
- Instances where Medicare Advantage requirements (e.g., timeframes, appropriate enrollee notifications, marketing guidelines, etc.) are not being met.
- Instances of alleged FWA
- Instances where you or your organization becomes aware that an individual or entity involved with the My Choice Wisconsin Medicare Advantage program has become excluded from participation in federal programs.

Section VI. CMS Medicare Advantage Program Audits

The CMS Medicare Parts C and D Oversight and Enforcement Group (MOEG) conducts Part C and Part D program audits to ensure Medicare Advantage plans sponsors are appropriately delivering benefits to Medicare beneficiaries and are safeguarding beneficiaries' access to medically necessary services and prescription drugs. Program audits evaluate compliance with a number of requirements including a Medicare Advantage plan's oversight of activities delegated to FDRs.

During a CMS Program Audit, Medicare Advantage plans may be requested to produce the following documentation related to FDRs:

- Evidence of FDR compliance and FWA training
- Evidence of OIG/Exclusion list checks
- Documents related to monitoring and auditing of FDRs
- Copies of detailed corrective actions taken with FDRs in response to identified issues
- Timeliness demonstration implementation of corrective actions
- Other documentation CMS may request to demonstrate effective oversight of FDR activities

Part of our continuous process improvement efforts is to be "audit ready" at any time. Included in audit readiness is working with our FDRs to ensure we coordinate efforts so that all parties are evaluating their performance for compliance on an ongoing basis and are prepared to produce the necessary audit documentation within the CMS required timeframes and formats.

Section VII. Privacy and Confidentiality

Protecting privacy is the right thing to do.

My Choice Wisconsin respects the privacy of its members. My Choice Wisconsin places a high priority on protecting and securing its member's protected health information (PHI) and its business confidential information (e.g. tax and financial information, etc.) according to laws, regulations, agreements and its professional and ethical standards.

Many State and Federal privacy laws, such as the requirements of the Health Insurance Portability and Accountability Act (HIPAA) require My Choice Wisconsin and our vendors to maintain the privacy and security of member protected health information (PHI). If a vendor will have access to My Choice Wisconsin member PHI, the vendor is responsible for ensuring that all employees who provide services to My Choice Wisconsin members are trained on HIPAA Privacy and Security Rules, and is expected to provide an annual attestation that such training has been completed. In addition, if vendor uses or discloses PHI on behalf of My Choice Wisconsin, the vendor will be expected to enter into a Business Associate Agreement.

PHI must be used and disclosed only to the extent necessary to conduct treatment, payment and health care operations, as permitted by law, or to comply with legal, regulatory or accreditation requirements.

All First Tier and Downstream Entities must safeguard PHI and business confidential information in accordance with My Choice Wisconsin's Privacy and Security Policies and as outlined in their agreements with My Choice Wisconsin.

FDR's may have access to business confidential information owned by My Choice Wisconsin. You have an obligation to protect and maintain the confidentiality and security of such proprietary information whether in physical or electronic form.

Information resources (e.g. data, reports, email, communications, memos, etc.) must be protected against all forms of unauthorized access, use, disclosure, modification or destruction, whether accidental or intentional.

My Choice Wisconsin protects the PHI of applicants and former members just as it protects the PHI of current My Choice Wisconsin members.

Section VII. Privacy and Confidentiality

What is expected of you:

- Except as otherwise allowed by law or agreement, you may use and disclose only the minimum amount of PHI or business confidential information necessary to perform the required activity.
- Unless expressly permitted by My Choice Wisconsin, you may not release: (1) PHI to another vendor and, if permitted, you may do so only with a signed business associate agreement; or (2) business confidential information to any third party.
- You must transfer data securely when releasing PHI or business confidential information by using company encryption, Virtual Private Network or other secure transmission.



First-Tier, Downstream, and Related (FDR) Entity Code of Conduct

My Choice Wisconsin is committed to full compliance with all applicable laws, regulations, and contract requirements. In addition, we hold ourselves to the highest ethical standards on behalf of our stakeholders and members. Our FDR's and business partners are important to our success and play a critical role in providing services to our member. This FDR Code of Conduct (Code) is an easy way to communicate our expectations as your company fulfills the terms of the contract. FDR's must share with your employees and contact us if you have a question about an activity not included in this Code.

As a My Choice FDR, you must provide our Code of Conduct to your employees and Downstream entities. FDRs must be able to show proof that they provided the code of conduct. FDRs must provide these documents:

- Within 90 days of hire or the effective date of contracting
- When there are updates to the code of conduct
- Annually thereafter

Conflicts of Interest

Conflicts of interest between a vendor and My Choice Wisconsin staff (or the appearance of a conflict) should be avoided. When an actual, potential, or perceived conflict of interest occurs, that conflict must be disclosed, in writing to the My Choice Wisconsin employee who has the relationship with the FDR.

Compliance with Laws

FDRs are expected to conduct their business activities in compliance with all applicable laws and regulations, including Medicare and Medicaid. FDRs are also expected to take appropriate action against any of its employees or subcontractors that have violated such laws.

Privacy and Security

Many State and Federal privacy laws, such as the requirements of the Health Insurance Portability and Accountability Act (HIPAA) require My Choice Wisconsin and our FDRs to maintain the privacy and security of patient information (PHI). If a FDR will have access to My Choice Wisconsin members PHI, the FDR is responsible for ensuring that all employees who provide services to My Choice Wisconsin are trained on HIPAA Privacy and Security Rules.

**Ineligible Persons and Vendors**

My Choice Wisconsin will not do business with any FDRs if it is, or any of its officers, directors or employees are excluded, debarred or ineligible to participate in any Federal health care program. To ensure no exclusion exists, My Choice Wisconsin FDRs are expected to screen all employees, officers, and directors against two Federal exclusion lists before hire or engagement and on a monthly basis thereafter.

Fraud, Waste and Abuse (FWA)

My Choice Wisconsin will investigate all allegations of FWA and, where appropriate, will take corrective action, including civil or criminal action. FDRs are expected to report any suspected or actual acts of FWA regardless of the source or possible participants. My Choice Wisconsin has several methods for reporting including via confidential, tollfree hotline, email, or mail. All good-faith reporting is confidential and protected by the My Choice Wisconsin Non-Retaliation Policy.

FDR Compliance Training

My Choice Wisconsin requires all FDR's, including vendor employees, to participate in and complete general compliance and FWA training. The FDR must document and provide an annual attestation that training has been completed. Training can be located on the My Choice Wisconsin web page under the providers tab. <https://mychoicewi.org/providers/provider-compliance-privacy/>

Record Retention

My Choice Wisconsin requires FDRs to retain all records related to services provided to My Choice Wisconsin for ten (10) years. These records must be made available to My Choice Wisconsin or a government auditor in accordance with applicable laws, regulations, and contract terms.

Monitoring

It is the responsibility and obligation of the FDRs to ensure its employees, agents, representatives, and subcontractors understand and comply with this Code. FDRs are obligated to self-monitor their compliance with the provisions of this Code.

Ethics

Compete fairly for our business, without making or offering bribes or kickbacks, or giving anything of value to exert undue influence or secure an improper advantage. Deliver products and services meeting applicable quality and safety standards. Carry out the mission and values of My Choice Wisconsin.

Consequences for Violating This Code

In the event of a violation of any of the above expectations, My Choice Wisconsin may pursue corrective action to remedy the situation. In the case of a violation of law or regulation, My Choice Wisconsin may be required to report these violations to proper authorities.

Compliance is Important

Be a part of the solution.

You can Speak Up in the following ways:

- **24-Hour Compliance Hotline**
(Anonymity and interpretation services are available)
- **E-mail**
- **Regular mail**

All reports are treated confidentially. My Choice Wisconsin policy prohibits retaliation against anyone who reports suspected violations in good faith.



COMPLIANCE HOTLINE

1-833-253-3465

E-MAIL

compliance@mychoicewi.org

WRITE

**Attn.: Compliance Officer
10201 W. Innovation Dr. Suite 100
Wauwatosa, WI 53226**



First Tier, Downstream and Related Entities (FDR) Annual Compliance Attestation

My Choice Wisconsin is committed to operating a health plan that meets the requirements of all applicable laws and regulations of the Medicare Advantage and Part D programs. As part of an effective compliance program, the Centers for Medicare and Medicaid Services (CMS) requires Medicare Advantage plans to ensure that any FDRs to which the provision of administrative or health care services are delegated are also in compliance with applicable laws and regulations. This attestation confirms your commitment to comply with the Centers for Medicare and Medicaid Services (CMS) requirements. These requirements are listed below and apply to all services your organization, as My Choice Wisconsin's FDR, provide for My Choice Wisconsin's Medicare products. The requirements also apply to any of the Downstream entities you use for My Choice Wisconsin's products.

1. Code of Conduct (COC) and/or Compliance Policies

- ☐ Our organization has adopted My Choice Wisconsin's Code of Ethics and Compliance Policies.
- ☐ Our organization has established and publicized compliance policies, Standards of Conduct/COC, and compliance reference material that meet the requirements set forth by CMS in 42 CFR § 422.503 (b)(4)(vi)(A) and 42 CFR § 423.504 (b)(4)(vi)(A). This information is distributed to applicable employees within 90 days of hire, upon revision, and annually thereafter.

2. CMS's Fraud, Waste and Abuse (FWA) Training

- ☐ Our organization's applicable employees and contractors completed CMS' *Combating Medicare Parts C & D Fraud, Waste, and Abuse Training* module within 90 days of hire and annually thereafter.
IMPORTANT NOTE: CMS has developed training to meet the annual general compliance and FWA training requirements. This training can be found on the CMS MLS training page at <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/WebBasedTraining>
- ☐ Our organization has fulfilled the FWA training requirement via another FWA training that incorporates the CMS Standardized training, unmodified, into our existing training materials/systems as outlined by CMS requirements.
- ☐ Our organization is "deemed" to have met the FWA training requirement through enrollment into parts A or B of the Medicare program or through accreditation as a supplier of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS).

3. OIG/SAM List of Individuals & Excluded Entities

- ☐ Our organization screens our employees (including temporary workers and volunteers), consultants and governing body members against the Office of Inspector General (OIG) and General Services Administration (GSA) exclusions list prior to initial hire or contracting and monthly thereafter and have ensured that no persons or entities were found to be on such lists.

4. Reporting Mechanisms

- ☐ Our organization communicated to applicable employees how to report suspected or detected non-compliance or potential FWA, and that it is their obligation to report without fear of retaliation or intimidation against anyone who reports in good faith.
- ☐ Our organization requests applicable employees report concerns directly to My Choice Wisconsin's Compliance Officer.
- ☐ Our organization maintains confidential and anonymous mechanisms for applicable employees to report suspected and detected non-compliance internally. In turn, we report these concerns to My Choice Wisconsin when, applicable.

5. Offshore Operations

For any work my organization performs that involves the receipt, processing, transferring, handling, storing or sharing of Protected Health Information (PHI),

- ☐ Our organization does not conduct offshore operations and does not have Downstream Entities that work offshore. OR
- ☐ Our organization conducts offshore operations (ourselves or through a Downstream Entity) and has submitted My Choice Wisconsin's Offshore Subcontractor Information form (see Appendix D).

6. Downstream Entity Oversight

- ☐ Our organization does not use Downstream Entities. OR
- ☐ Our organization uses Downstream Entities for My Choice Wisconsin products and conducts robust oversight to ensure that they comply with all the requirements described in this attestation (e.g. FWA training, OIG or GSA's SAM exclusion screening, etc.) and any applicable laws, rules, and regulations.

Appendix C: FDR Annual Compliance Attestation

7. Operational Oversight

- ☐ Our organization will remain in compliance with all applicable CMS guidance during the term of the agreement with My Choice Wisconsin. We immediately report all suspected or known instances of noncompliance and/or FWA activity to My Choice Wisconsin. Our organization includes in its policies and procedures an outline of the process
- ☐ Our organization will, upon request, furnish such information that My Choice Wisconsin deems is necessary to validate that the representations made in this attestation are accurate.

8. Record Retention and Availability

- ☐ Our Organization understands and agrees to maintain supporting documentation for a period of ten years and will, upon request, furnish evidence of the above to My Choice Wisconsin, CMS, and/or agent of CMS upon request.

Signature

Job Title

Date

Appendix D: FDR Annual Compliance Attestation

Add Offshore Subcontractor Data

A: OFFSHORE SUBCONTRACTOR INFORMATION

Offshore Subcontractor Name

Offshore Subcontractor Country

Offshore Subcontractor Address

Describe Offshore Subcontractor Functions

State Proposed or Actual Effective Date for Offshore Subcontractor

B: PRECAUTIONS FOR PROTECTED HEALTH INFORMATION (PHI)

Describe the PHI that will be provided to the Offshore Subcontractor

Discuss why providing PHI is necessary to accomplish the Offshore Subcontractor objectives

Describe alternatives considered to avoid providing PHI, and why each alternative was rejected

C: ATTESTATION OF SAFEGUARDS TO PROTECT BENEFICIARY INFORMATION IN THE OFFSHORE SUBCONTRACT

For additional information or questions:

- Contact the My Choice Wisconsin Compliance Hotline 24 hours a day, 7 days a week at 608-245-3576 / 833-253-3465 (Toll Free)
- Email the Compliance Officer or Compliance Specialist at Compliance@mychoicewi.org
- Email Privacy Officer at dlfamcprivacyofficer@mychoicewi.org

Additional References:

My Choice Wisconsin:

<https://www.mychoicewi.org/>

OIG Exclusion Database and Information:

<http://oig.hhs.gov/exclusions/index.asp>

Government Services Administration (GA) System for Award Management (SAM):

<https://www.sam.gov/portal/SAM/#1#1>

U.S. Dept. of Health & Human Services:

www.hhs.gov/

Wisconsin Department of Health Services Office of the Inspector General:

<https://www.dhs.wisconsin.gov/oig/index.htm>

Centers for Medicare & Medicaid Services:

<https://www.cms.gov/>

Medicare Managed Care Manual:

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS019326.html>



10201 West Innovation Drive Suite 100

Wauwatosa, WI 53226

www.mychoicewi.org

1-800-963-0035