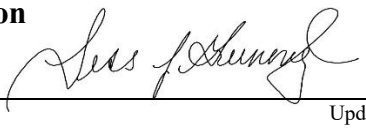
COMMUNITY MENTAL HEALTH AUTHORITY

ADMINISTRATIVE POLICY AND PROCEDURES MANUAL				
Chapter **Program Quality**	**Section** **Compliance**	**Chapter** **05**	**Section** **04**	**Subject** **05**
Subject **Reporting/Investigating Improper/Illegal Conduct**	**Authorization** 		**Approved: 12/27/05** **Replaces: None**	

Updated: October 2024; October 2025

I. PURPOSE: To establish a process for reporting and investigating improper/illegal conduct. The purpose of an investigation is to identify those situations in which the laws, rules and/or standards of federal programs, state programs, and/or Gogebic Community Mental Health Authority (GCMHA) policy may not have been followed, and/or issues related to fraud, waste, abuse and/or other wrongdoings. This includes, but not limited to:

1) Identifying processes or individuals who may have knowingly or inadvertently caused services to be provided or coded and/or claims to be submitted or processed in a manner which violated federal, state, and/or local laws, rules, or standards.

2) Facilitating the correction of any practices not in compliance with federal, state, and/or local laws, rules, or standards.

3) Ensuring necessary procedures are implemented for future compliance.

4) Protecting GCMHA in the event of civil or criminal enforcement actions.

5) Preserving and protecting GCMHA's assets.

II. APPLICATION: All programs of GCMHA regardless of funding source.

III. POLICY: Every employee has the responsibility to report any suspected or known fraud, waste, abuse, other wrongdoings or violations of laws, rules, regulations, or organizational policies.

IV. DEFINITIONS:

A. *Compliance Investigation*: The observation or study of suspected fraud, waste, abuse, or reported violations of applicable laws and regulations for all Medicaid covered services by close examination and systematic inquiry.

B. *Abuse (CMS)*: Means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program (42 CFR § 455.2).

C. *Fraud (CMS)*: Means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act (42 CFR § 455.2).

D. *Waste (CMS)*: Means overutilization of services, or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.

E. Other Wrongdoings: Means an act which is not necessarily a violation of a Federal or State regulation but is something that is a departure from what is ethically/morally acceptable.

V. PROCEDURE: In addition to following procedures in the Compliance Plan (Exhibit to policy 05-04-01), the following procedures will be followed:

A. An employee may contact their supervisor, the Compliance Liaison, or the Chief Executive Officer with any questions they have regarding compliance issues.

B. If an employee, in good faith, suspects or knows that fraud, waste, abuse, and/or laws, rules, regulations, or organizational policies have been violated, they should report the violation to their supervisor, the Compliance Liaison, a Program Director, the Chief Executive Officer, the Recipient Rights Officer/Privacy Officer, or the Security Officer. Additionally, as GCMHA is a member of the NorthCare Network, reports of violations or suspected violations may be made to the NorthCare Compliance Officer and/or anonymously to NorthCare's confidential Compliance Hotline; contact information for both NorthCare and the Compliance Hotline is listed on the Reporting Illegal or Unethical Conduct poster (see exhibit).

1) Reports may be made in person, via phone, mail, e-mail, or anonymously (i.e., via suggestion box, internal mail, etc.) to the employee's supervisor, the Compliance Liaison, a Program Director, the Chief Executive Officer, the Recipient Rights Officer/Privacy Officer, the Security Officer or as noted above, NorthCare's Compliance Officer. If any one of the prior staff as listed above are unable to be contacted, reports can be made to any supervisor.

2) Copies of written reports made directly to a supervisor must be forwarded to the Compliance Liaison or to the CEO.

3) Written reports can be made using the Compliance – Suspected Violation Report form (see exhibit).

4) Employee should furnish as much information as possible, including:

a) Date suspected violations occurred.
b) Individuals involved (i.e., employees, recipients, contract providers, etc.).
c) Location where suspected violation occurred.
d) Description of suspected violation.
e) Whether or not this is an initial report of the suspected violation; if not initial report, indicate when and to whom the suspected violation was previously reported.
f) How the suspected violation violates laws, rules, regulations, or policies.
g) Any additional important information the employee feels is important.
h) Any and all supporting documentation should be attached to the report.

5) Individuals will not be subjected to retaliation, retribution, harassment, etc., for making a good faith report; reporting individuals are protected by the Whistleblowers' Protection Act 469 of 1980.

C. Upon receipt of a complaint or other information which suggests potential fraud, waste, abuse, and/or a violation of compliance policies, laws, rules, or regulations occurred, the Compliance Liaison will forward the information to NorthCare's Compliance Officer to determine if further action is warranted and to conduct an investigation into the matter. GCMHA's Compliance Officer and CEO will cooperate and assist with any part of the investigation as requested by NorthCare's Compliance Officer.

1) The investigators will have unimpeded access to employees and documents necessary to complete the investigation. The investigation may include but is not limited to:

- **a)** Identifying documents for review/creating document request.
- **b)** Identifying appropriate individuals to be interviewed.
- **c)** Identifying questions to be asked during interviews.
- **d)** Reviewing documents (i.e., ELMER, billing/claims, training records, state and federal laws, rules, regulations, etc.).
- **e)** Reviewing policies and procedures.
- **f)** Defining sampling methodology, if applicable.
- **g)** Collaborating with an internal oversight authority.
- **h)** Contracting with an external authority and documenting recommendations of legal counsel, if appropriate.
- **i)** In instances where the suspected violation was previously reported/investigated, the investigation will include a review of the details of the previous investigation and actions taken, if any.

2) Per GCMHA's retention schedule, documentation and records of the entire investigation and the outcome of such will be permanently retained in hard copy; documentation will be maintained by the Compliance Liaison.

D. Enforcement of corrective and/or disciplinary action for employees will be conducted in accordance with GCMHA personnel policies, as applicable.

E. GCMHA will report suspected and known violations consistent with the definitions of fraud, waste and abuse as stated in this policy and/or those in which one of more of the reporting thresholds noted below are met. Reports are to be made within three (3) business days to NorthCare's Compliance Officer when one or more of the criteria are met:

1) If, during an inquiry by the NorthCare Network's Compliance Officer, there is determined to be fraud, waste, or abuse as defined by the federal statute, CMS, HHS, OIG, and applicable Michigan statute, regulation, or PIHP contract definition.

2) Prior to any self-disclosure to any federal or state of Michigan authority (in no way is this intended to, nor should it be interpreted as a requirement or request to violate the letter or spirit of federal or Michigan reporting and whistleblower statutes or related regulations).

3) When as a result of fraud, waste, abuse, or other wrongdoings GCMHA makes a material revision to prior reported financial statements to NorthCare Network.

4) When GCMHA knows or should have known, that an action or failure to take action could result in improper application or improper retention of Medicaid funds.

5) When there is suspected or actual privacy breach of Protected Health Information (PHI).

6) When there is a suspected or actual security breach or threat to GCMHA's information system where PHI is stored.

7) When there is a suspected or actual security breach or threat to NorthCare's information system where PHI is stored.

8) When there is a suspected or actual violation of NorthCare policy as it relates to fraud, waste, abuse, or other wrongdoings; contract requirements; or state or federal law.

GCMHA's CEO has the ultimate responsibility and authority for determining whether the thresholds above have been reached; although, the CEO has the authority to delegate the determination.

GCMHA may request technical assistance from NorthCare's Compliance Officer on any compliance issue at any time. Such contacts will not automatically be considered a "report of compliance issue" by NorthCare.

VI. REFERENCES AND LEGAL AUTHORITY: Medicaid False Claim Act - Act 72 of 1977; State of Michigan Enacted Medicaid False Claim Act 272 of 1977; Whistleblowers' Protection Act - Act 469 of 1980; Balanced Budget Act Section 438.608; NorthCare Network's Compliance Policies and Compliance Plan; CARF Behavioral Health Standards

VII. EXHIBITS: Reporting Illegal or Unethical Conduct poster; Compliance – Suspected Violation Report; NorthCare Network Provider Fraud Referral