

	Policy / Procedure
Policy Name: Program Integrity – Prevention, Detection and Investigation of Fraud/Waste/Abuse	Policy Number: UHC-CO-08
Next Annual Review Date: 1/10/2021	Original Date: 5/3/2016
Approved By: Tracy Bertram	Title: Director, Compliance
Signature: Electronic Signature on File	Approved Date: 1/11/2020
Line of Business	(Check All That Apply)
Passport Advantage (HMO-SNP)	<input checked="" type="checkbox"/>
Passport Health Plan (Medicaid)	<input checked="" type="checkbox"/>

PURPOSE

This Policy establishes a process for the prevention, detection and investigation of fraud, waste and abuse in accordance with 42 CFR 438.608 and 42 CFR 422.310 (4)(f)(vii), and all other applicable federal and state law and regulations.

DEFINITION(S)

Benefit – The receipt of money, goods or anything of pecuniary value from the Medical Assistance Program.

Department – The Kentucky Department for Medicaid Services

Fraud – Any act that constitutes fraud under state or federal law.

Knowingly – With respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware that his conduct is of that nature or that the circumstance exists.

Medical Assistance Program – The program of medical assistance as administered by the Cabinet for Health and Family Services in compliance with Title XIX of the Federal Social Security Act and any administrative regulations related thereto.

Member – A recipient currently or formerly enrolled in Passport and receiving or has received benefits.

Member Abuse – With reference to a Medical Assistance Recipient, practices that result in unnecessary cost to the Medical Assistance Program, or the obtaining of goods, equipment, medicines, or services that are not medically necessary, or that are excessive, or constitute flagrant overuse or misuse of Medical Assistance Program benefits for which the member is covered.

Office of the Inspector General (OIG) – Kentucky’s regulatory agency responsible for the prevention, detection and investigation of fraud, waste and abuse.

Office of the Attorney General (OAG) – Kentucky’s enforcement agency responsible for the protection of rights, freedoms and safety for citizens of the Commonwealth.

Program Integrity Unit (PIU) – Refers to the group of individuals responsible for the day-to-day Program Integrity activities of Passport.

Provider – An individual, company, corporation, association, facility, or institution, which is providing, or has been approved to provide medical services, goods, or assistance to recipients.

Provider Abuse – With reference to a health care provider, practices that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary cost to the Medicare and Medicaid Programs, or the result in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care.

Subcontractor - An individual, company or organization, other than a Provider, that Passport has entered into a written agreement for the purpose of delegating one or more of its obligations under its contract with the Center for Medicare and Medicaid Services and the Commonwealth of Kentucky, Department for Medicaid Services (DMS). Examples of subcontractors are third party administrators, pharmacy benefit managers, Fraud/Waste/abuse administrators, dental benefit administrators and vision benefit administrators.

POLICY

Passport is committed to devoting adequate resources toward the detection and prevention of fraud, waste and abuse. Passport is therefore committed to establishing, controlling, evaluating, and revising fraud, waste and abuse detection, deterrent and prevention procedures; and complying with all applicable state and federal rules, laws, regulations, standards, and other requirements.

Passport cooperates with federal, state, and local authorities in the investigation of potential fraud, waste and abuse when indicated. Passport supports Centers for Medicare and Medicaid Services (CMS) and Department of Medicaid Services (DMS), and local authorities' efforts in the execution of any resulting corrective action plan that is taken as a result of the fraud, waste and abuse investigation.

Passport has established a Program Integrity Unit (PIU), which may be staffed by Subcontractor.

Members of Passport's Compliance Department, including the Chief Compliance Officer, Director, and Managing Attorney, Regulatory Affairs (Program Integrity Team) shall work in cooperation with the PIU to ensure an effective Program Integrity Program. The Program Integrity Team shall have separate authority to direct PIU activities and functions on a continuous and ongoing basis.

PROCEDURE

1. Program Integrity Unit (PIU)

Passport will maintain an active and operational PIU for the assurance of Program Integrity through the prevention, detection, investigation and referral of suspected fraud, waste and abuse. The PIU shall have access to any and all Passport data and other data for purposes of carrying out its functions and responsibilities. The PIU shall be located on-site at the Louisville, Kentucky offices of Passport.

a. Staffing

The PIU shall include at least two (2) full-time investigators from the PIU with a minimum of three (3) years of Medicaid fraud, waste, and abuse investigatory experience. Two full-time investigators shall be located in Kentucky and dedicated exclusively to Passport's Kentucky Medicaid Program. Passport has a Program Integrity Coordinator that is located in Kentucky.

Passport will notify the Department of any absence or vacancy in a required investigator position that is longer than thirty (30) days and include a contingency plan to remain compliant with the DMS Program Integrity requirements.

Members of Passport's Compliance Department, including the Chief Compliance Officer, Director, and Managing Attorney, Regulatory Affairs (Program Integrity Team) will work in cooperation with the PIU to ensure an effective Program Integrity Program. The Program Integrity Team functions on a continuous and ongoing basis and has separate authority to direct PIU activities.

b. Confidentiality and Maintenance of Investigation Files

All information received or discovered by the PIU is treated as confidential. Any results of investigations are only discussed with persons having a legitimate reason to receive the information (e.g., state and federal authorities, legal counsel, or Passport's senior management). Individuals providing information to or receiving information from the PIU may be instructed to refrain from discussing facts, suspicions, and allegations with anyone outside the PIU, unless directed to do so by the PIU, or as required pursuant to government action or court order.

All information and records discovered and created by the PIU in the course of its investigations, are maintained at the Louisville, Kentucky offices of Passport. The files or case listings will be provided to the Department and OIG upon demand.

c. Responsibilities - Overview

Passport's PIU is responsible for the ongoing prevention, detection, investigation and referral of suspected fraud, waste and abuse through the identification of vulnerabilities in Passport's operations. The PIU and Program Integrity Team will recommend process improvement and changes to policies and procedures to the appropriate business area to address identified vulnerabilities.

Dedicated staff of Passport and its subcontractors will conduct routine internal monitoring and auditing of member, provider and compliance risks.

Upon identification of fraud, waste or abuse, the PIU, working in conjunction with the Program Integrity Team and/or other appropriate business areas, will initiate appropriate administrative actions including, but not limited to, the recoupment of overpayments, changes to policy, dispute resolution and appeals. In addition, when appropriate, the PIU will work with law enforcement agencies when dealing with suspected cases of fraud, waste and abuse by providers, contracted entities, associates, and members.

d. Specific Responsibilities

The PIU proactively detects incidents of fraud, waste and abuse through the use of algorithms, investigations and record reviews.

Algorithms – The PIU initiates and oversees the running of algorithms on billed claims data over time spans sufficient to identify potential fraudulent billing patterns. Passport reports all algorithms, issues identified, actions taken to address those issues and the overpayments collected.

Investigations – The PIU conducts investigations of fraud, waste and abuse allegations made by members, providers, or other sources to determine the factual basis of the allegations.

Outreach - The PIU initiates and maintains network and outreach activities to ensure effective interaction and exchange of information with all internal components of Passport as well as outside groups.

Recommendations - The PIU makes and receives recommendations to enhance Passport's ability to prevent, detect and deter fraud/waste/abuse.

Response to Detected Offenses/Corrective Action - The PIU and Program Integrity Team ensures that prompt responses are made to detected offenses and corrective action is taken where warranted.

e. Prioritization

The PIU will prioritize work coming into the unit to ensure that cases with the greatest potential program impact are given the highest priority. Allegations or cases having the greatest program impact include cases involving:

- Multi-State fraud or problems of national scope, or Fraud or Abuse.
- High dollar amount of potential overpayment, or
- Likelihood for an increase in the amount of Fraud or Abuse or enlargement of a pattern.

f. Referrals – The PIU will refer potential fraud, waste and abuse cases to the DMS after an initial investigation for possible referral for civil and criminal prosecution and administrative sanctions, permission to collect overpayments in excess of \$500, for investigation, or for case closure. The Manager, Program Integrity will be the contact person for the investigators and attorneys from DMS and the OIG.

PIU referrals to the Department shall not be subject to the approval of Passport management.

g. Complaint System - The PIU will maintain a system to receive, investigate and track the status of Fraud, Waste and Abuse Complaints from Members, Providers and all other sources which may be made against Passport, Providers or Members. The system will operate as follows:

- Preliminary Inquiry:
Upon receipt of a complaint or other indication of potential Fraud or Abuse, the PIU will conduct a preliminary inquiry to determine the validity of the complaint. The preliminary inquiry will include reviewing background information and MIS data; however, the subject of the allegation shall not be interviewed.
- Finding of No Fraud or Abuse:
If the preliminary inquiry results in a reasonable belief that the complaint does not constitute Fraud or Abuse, the PIU will not refer the case to the Department; however, the PIU will initiate whatever remedial actions are necessary, up to and including administrative recovery of any identified overpayments.
- Finding of Fraud or Abuse:
If the preliminary inquiry results in a reasonable belief that Fraud or Abuse has occurred, the PIU shall refer the case and all supporting documentation to the Department.
- Violations of Criminal Medicaid Fraud Statutes/Federal False Claims Act:
If in the process of conducting a preliminary review, the PIU suspects a violation of either criminal Medicaid Fraud statutes or the Federal False Claims Act, the PIU shall immediately notify the Department of the findings and proceed only in accordance with instructions received from the Department.
- If Passport receives notice that a case has been referred to Medicaid Fraud Control Unit or the U.S. Attorney, Passport will not take action regarding that case except in coordination with the law enforcement agency that received the referral.

- **Suspension of Provider Payments:**
Passport will initiate the suspension of provider payments in accordance with Section 6402 (h)(2) of the Affordable Care Act and 42 CFR 455.23 pending investigation of credible allegations of fraud as directed by and in coordination with the Department.
- **Submission of Investigative Report to Department:**
Upon completion of the PIU's preliminary review, the PIU shall provide the Department a copy of their investigative report, which shall contain the following elements:
 - (1) Name and address of subject
 - (2) Medicaid identification number
 - (3) Source of Complaint
 - (4) A statement of the complaint/allegation
 - (5) Date assigned to investigator
 - (6) Name of investigator
 - (7) Date of completion
 - (8) Detail of timeframe reviewed
 - (9) Number of member records reviewed and the total number of claims during the timeframe reviewed
 - (10) Issues identified
 - (11) Methodology used during investigation
 - (12) Facts discovered by the investigation and the initial case report and supporting documentation
 - (13) All exhibits or supporting documentation attached
 - (14) Recommendations as considered necessary, for administrative action or policy revision
Amount of any overpayment identified and recommendations concerning collection
 - (15) Reason for closure of the report, if applicable
 - (16) Request to send a referral for preliminary investigation for a credible allegation of fraud, if applicable
 - (17) Any other elements identified by CMS for fraud referrals

h. Reporting

- **Quarterly Reporting to the OIG/Department**
The PIU shall provide the OIG and the Department a quarterly Member and Provider status report of all cases including actions taken in adherence with state requirements. Case information shall be made available to the Department upon request. The quarterly report will include a narrative format and include all activities and processes for each investigative case (from opening to closure) to the Department. The following data elements shall be included in the quarterly report in an excel format:
 - (1) PIU Case Number;
 - (2) OIG Case Number (if one has been assigned);
 - (3) Provider/Member name;
 - (4) Provider/Member Medicaid number;
 - (5) Date complaint was received;
 - (6) Provider NPI for provider cases;
 - (7) Source of complaint unless the complainant prefers to remain anonymous;
 - (8) Date opened and name of PIU investigator assigned;
 - (9) MAT related (Y or N);
 - (10) Summary of Complaint with timeframe reviewed;
 - (11) Initial investigation (Y or N);
 - (12) Actions taken with dates;
 - (13) Referred to DMS (with appropriate code);

- (14) Date referred to DMS if applicable;
- (15) Provider on prepayment review (Y or N);
- (16) Overpayment identified; and
- (17) Date Case closed.

- The PIU will report provider internal referrals (tips) on a monthly basis. The report will include the disposition of the prior month's referrals.
- Passport will comply with all requests from the Department for ad hoc reports.
- Passport will report identified overpayments as prescribed by the Department.
- Passport will report collection of provider overpayment and prepayment cost avoidance in relation to the quarterly total of monthly benefit payments.
- Passport will report escrowed or suspended provider payments in accordance with state requirements on a quarterly basis.
- Passport will report site visits in accordance with state requirements.
- Passport will notify the Department when it receives information about a change in a Member's circumstances that may affect the Member's eligibility, including changes in residence or death of a member.
- Passport will notify the Department when it receives information about a change in a network provider's circumstances that may affect the provider's eligibility to participate in the managed care program, including termination of Passport's provider contract.
- Upon request, Passport will report all aspects of a member or provider investigation file, including any overpayments identified, adjusted, or recouped.
- **Associate/Subcontractor Reporting**
If any associate or subcontractor or employee of a subcontractor discovers or is made aware of an incident of possible Member or Provider Fraud, Waste or Abuse, the incident shall be immediately reported to the PIU Coordinator and Passport's Chief Compliance Officer. Any suspected cases of Fraud, Waste, Abuse, or inappropriate practices by Subcontractors, Members, Providers or associates will be reported to the Department immediately in adherence with state requirements.
- **Follow-Up Reporting**
The PIU shall maintain access to a follow-up system, which will report the status of a particular complaint or grievance process or the status of a specific recoupment.
- **Grievance and Appeal Process**
The PIU shall assure a Grievance and Appeal process for Members and Providers in accordance with 907 KAR 1:671.

2. Case Tracking and Case Management

- a. The PIU has a case tracking and case management system for member and provider cases with an ability to query for ad hoc reporting or case status. The case tracking and case management system allows reporting on all elements required by the Department for both member and provider cases.

3. Additional Passport Program Integrity Activities

a. Department Requests and Cooperation with OIG and United States Attorney’s Office

Passport is subject to on-site review by the Department. The Compliance Department shall ensure that Passport fully and timely complies with all regulatory requests for on-site reviews and/or records. The Compliance Department shall ensure that Passport fully cooperates with the Department, the OIG, the United States Attorney’s Office and other law enforcement agencies in the investigation of Fraud or Abuse cases. The Compliance Department will coordinate the provision of identity and cover documents and information for undercover law enforcement investigations.

The Chief Compliance Officer and Compliance Department will oversee the correction of weaknesses, deficiencies or noncompliance items identified as a result of a review or audit conducted by the Department, CMS or by any other State or Federal Agency or agents thereof that has oversight of the Medicaid program. Corrective action shall be completed the earlier of thirty (30) calendar days or the timeframes established by Federal and state laws and regulations.

b. Compliance with Affordable Care Act – The Compliance Department shall ensure that Passport complies with the Patient Protection and Affordable Care Act as directed by the Department.

c. Training

Associate Fraud/Waste/Abuse Training - The Compliance Department will provide ongoing education to Passport associates on fraud, waste and abuse trends including CMS initiatives. Every Passport associate is required to complete an annual compliance training focused on fraud, waste and abuse. The compliance training includes information on the various types of health care fraud, waste and abuse. The training provides detailed information about the False Claims Act, rights of employees to be protected as whistleblowers, and other applicable federal and state laws. Records maintained by the Compliance Department will reflect all associate training upon completion. More in-depth fraud, waste and abuse training will be provided ad hoc to associates by Compliance Department staff.

Commonwealth/Fiscal Agent Training – Passport will attend any training given by the Commonwealth/Fiscal Agent or its designees.

d. Hotline

The Compliance Department will maintain confidential and anonymous hotline and E-mail address for the referral of potential fraudulent cases to the PIU.

e. Reporting of Patient Abuse

Passport shall immediately report to the Department for Community Based Services in accordance with state law (with a copy to the Department and OIG), any incidents or allegations concerning physical or mental abuse of Members. Any member safety issues identified during investigations shall be reported in accordance with state law with a copy to the Department’s Program Integrity Division Director and Program Quality & Outcomes Division Director.

f. Review of MIS Data

Passport will conduct continuous and on-going reviews of all MIS data including, Member and Provider Grievances and appeals, for the purpose of identifying potentially fraudulent acts. Such reviews will also be utilized to identify providers for pre-payment review as the result of the provider activities.

g. Verification of Member Receipt of Services

Passport complies with 42 CFR 455.20 through the activities of the Member Services Department in verifying with members that the services as billed by providers were received. Member Services randomly selects a minimum sample of 550 claims on a monthly basis for verification with members.

h. Provider Audits

PIU will conduct on-site and desk audits of Providers, including, but not limited to regular post-payment audits of Provider billings, investigate payment errors, produce printouts and queries of data and report the results to the Department, including identified overpayments and recommendations. Passport shall ensure that at least three (3) on-site visits related to fraud, waste, and abuse investigations are conducted each quarter and reported to the Department.

i. Accounts Receivable Process

Passport will maintain an accounts receivable process for the collection of outstanding debts from members and providers. Monthly reports of accounts receivable activity and collections will be reported to the Department. In the event Passport has not taken appropriate action to collect an identified overpayment, after one hundred and eighty (180) days, the Department will be permitted to collect and retain any overpayments.

j. Member Program Violations (MPV)

Passport will maintain a process for the collection of overpayments to Members that were declined prosecution for Medicaid Program Violations.

k. Department Notification of Enrollment Denial

Passport will report to the Department any provider denied enrollment in Passport's network, for any reason, including those contained in 42 CFR 455.106, within 5 days of the enrollment denial.

l. Internal Monitoring – Passport performs internal monitoring and auditing of Passport operations and the operations of Subcontractors. Passport supplies the Department with reports on a quarterly or as-requested basis on its activity or ad hoc as necessary.

m. Access and Availability of Data

Passport shall:

- (1) Gather, produce, and maintain records including, but not limited to, ownership disclosure, for all Providers and subcontractors, submissions, applications, evaluations, qualifications, member information, enrollment lists, grievances, Encounter data, desk reviews, investigations, investigative supporting documentation, finding letters and subcontracts for a period of at least 5 years after the Medicaid contract end date;
- (2) Regularly report enrollment, Provider and Encounter data in a format that is useable by the Department, the OIG, and any other agent or contractor of the Department;
- (3) Backup, store and be able to recreate reported data upon demand for the Department, the OIG, and any other agent or contractor of the Department;
- (4) Permit reviews, investigations or audits of all books, records or other data, at the discretion of the Department, the OIG, any agent or contractor of the Department, or other authorized federal or state agency; and, provide access to Passport records and other data on the same basis and at least to the same extent that the Department would have access to those same records;

- (5) Produce records in electronic format for review and manipulation by the Department, the OIG, and any other agent or contractor of the Department;
- (6) Allow designated Department staff, the OIG, and any other designated agent or contractor of the Department read access to ALL data in the Passport's MIS systems;
- (7) Fully cooperate with the Department and its agents or contractors, the OIG, the United States Attorney's Office, and other law enforcement agencies in the investigation of Fraud or Abuse cases; and
- (8) Provide identity and cover documents and information for law enforcement investigators under cover.

n. Prepayment Review

Passport will have prepayment review processes in accordance with the requirements of its contract with the Department. Passport will place providers on prepayment review when there is a high or sustained level of payment error or a problem area identified by data analysis. Passport will review the documentation submitted within a reasonable amount of time to determine if the claim will be paid. Claims under prepayment review are not subject to prompt payment or timely filing requirements.

Passport will send a notice to the provider on or before the date the prepayment review takes effect. The notice will include the information required by Passport's contract with the Department. Passport will allow the provider forty-five (45) days to submit supporting documentation for the claims. If the documentation is not received, Passport will deny the claims on the forty-sixth day. Passport will also deny any claim for which the submitted documentation does not support the service or code. Appeals related to the prepayment process will be in accordance with Passport's provider appeals policies and comply with the requirements of Passport's contract with the Department.

o. False Claims Act Protection

Passport will immediately notify the Department's Program Quality & Outcomes Division Director and Program Integrity Division Director if any associate of Passport, its Subcontractors, or agents seek protection under the False Claims Act.

4. Overpayments

Pursuant to 1128J(d) of the Social Security Act, providers are required to identify overpayments and return those overpayments within 60 days of identification. Upon receipt of a refund check from a Provider, the potential overpayment will be reviewed. If the overpayment is confirmed, the claim will be properly adjusted and the funds posted appropriately. If the refund is insufficient to cover the overpayment, the balance will be recovered from the provider through the appropriate recovery procedure. If the provider has paid in excess of any overpayment, the claim will be adjusted, funds posted, and the excess balance will be refunded to the provider. If no overpayment is identified or Passport is unable to confirm the overpayment, the provider will be refunded.

5. Collection for the Department:

If directed to do so by the Department, Passport will recover funds owed to the Department by a provider. Passport will use the procedure set forth in UHC-GEN-53 Provider Levy, Garnishment, Escrow and Payment Suspension Policy and Desktop Procedure to collect the funds and make payment to the Department and/or the provider. Passport will report on this activity and collections on a monthly basis or as otherwise directed by the Department.

CROSS REFERENCE/REFERENCE MATERIALS

31 U.S.C. 3729-3733 Federal False Claims Act (FCA)
 31 (U.S.C.) 3730(h) Whistleblower Protection
 42 C.F.R. § 1001.952 Anti-Kickback Statute
 Section 1877 of the Social Security Act (the Act) (42 U.S.C. 1395nn) – Physician Self-Referral Statute
 42 U.S.C. § 1320a-7a Civil Monetary Penalties Law
 42 USC §1320a-7 et seq The Exclusion Statute
 KRS 205.8451 Definitions for KRS 205.8451 to 205.8483
 KRS 304.47-050 Reports of possible fraudulent insurance acts – Investigation – Notification of prosecutor – Immunity from civil liability
 UHC-GEN-33 Subcontractor Oversight
 42 CFR 422.310 (4)(f)(vii)

Formerly Policy #CO 08

REVIEW / REVISION HISTORY (Annually at minimum)

Date	Review / Revision	Description
June 2017		No changes were made.
January 2018		
January 2019	Reviewed	No changes were made.
January 2020	Reviewed	No changes.