

## Chapter 13

## Section 1

### General

Revision:

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#### **1.0 CONTRACTOR'S PROGRAM INTEGRITY (PI) RESPONSIBILITY**

**1.1** The contractor shall incorporate into its organizational management philosophy a published corporate strategy that underlines commitment to health care fraud detection and prevention. The strategy, developed and endorsed by corporate management, shall include maintaining a focus on increased health care fraud awareness, developing processes which identify fraud, referring health care fraud cases, assisting in the prosecution of the cases, and developing deterrents to health care fraud. Internal procedures shall be in place for all offices to provide potential fraud and abuse cases to the contractor's PI function. The corresponding Contract Data Requirements List (CDRL) DD Form 1423 provides details on the contents and submission of the strategy and internal procedures to include the published corporate strategy.

**1.2** PI is a contractor responsibility to ensure that necessary medical, pharmacy, and dental services are provided only to eligible beneficiaries by authorized providers or reimbursement made to eligible beneficiaries or providers under existing law, Regulation and Defense Health Agency (DHA) instructions. Further, the PI responsibility extends to applying the expertise of the contractor staff to the evaluation of the quality of care, and to ensure that payment is made for care which is in keeping with generally accepted standards of medical, pharmacy, or dental practice. In carrying out this function, the contractor is required to apply all the standards and requirements addressed in this and all other chapters of this manual. The contractor shall have a dedicated PI function, solely for the Government line of business, which shall perform the PI activities listed below and shall respond to requests and direction from DHA Program Integrity Office (PI).

#### **1.3 Use of Anti-Fraud Analytics**

Contractor shall perform analyses of professional and institutional health care data associated with type, frequency, duration and extent of services, to identify patterns of fraudulent or abusive practices by providers and/or beneficiaries. Anti-fraud software program(s) must include both expert (rules-based) and predictive analytics/modeling components. Software must have fraud detection rules-based logic, fraud detection analytics, predictive modeling, and statistical algorithm capabilities, along with the ability to produce comprehensive fraud detection reports and metrics. In order to be considered predictive, the software must not be limited to only expert or rules based logic, and must include more advanced analytical techniques such as artificial intelligence, machine learning, and regression techniques. Predictive analytical/modeling software must be used both pre-pay (before claims are paid) and post-pay (after claims are paid) for the purposes of fraud detection. The application must be on-line and accessible by the contractor's Program Integrity Unit fraud specialists. This paragraph is not applicable to the TRICARE Dual Eligibility Fiscal Intermediary Contract (TDEFIC).

## **1.4 Anti-Fraud Support**

**1.4.1** Technical and professional consultation and information shall be provided by the contractor (to include documentation) as directed by DHA PI concerning:

- Delivery of health care services in the Continental United States (CONUS) (or outside of the Continental United States (OCONUS) when applicable).
- Submission, adjudication and reimbursement of claims for health care services, pharmacy or dental services.
- TRICARE operations and benefits.
- Anti-fraud activities.

**1.4.2** Investigating and prosecuting support shall be provided by the contractor to include documents, reports, correspondence, and other applicable data or items.

**1.4.3** Documents, reports, correspondence, and other applicable data or items shall be provided by the contractor in support of compliance monitoring, oversight activities, or other PI related issues.

**1.4.4** Case specific data required during development and investigative process shall be provided by the contractor (i.e., initiated by contractor, law enforcement, Department of Justice (DOJ), or DHA PI).

**1.4.5** At DHA PI's request, the contractor must identify and provide expert(s) or program witness(es) at Grand Jury hearings, criminal trials, civil hearings/depositions and administrative hearings. An expert witness is an individual having acquired a special skill or knowledge through training or experience on a particular subject being discussed. In addition, the types of expert witnesses that are covered by this section are either individuals including PI specialists who worked on the case or an expert in PI functions who could testify as to the PI issues involved in the case. This also includes medical experts if medical experts were used in the case development. A prosecutor or defense attorney may request that a witness be declared an "expert witness" based on their knowledge, such as someone from the policy department or the contractor's claims processing section. Travel and per diem costs of witnesses subpoenaed by DOJ will be paid by DOJ in accordance with Federal guidelines.

**1.4.6** Claims data shall be provided by the contractor in customary electronic format/media compliant with the Health Insurance Portability and Accountability Act (HIPAA). Other documentation or data to be provided may include, but is not limited to, the original or copies of claims, explanations of benefits, original or copies of checks (front and back), provider certification forms, correspondence, medical records, audit records/findings, or any other relevant information as requested (such as documents from other offices/units). The contractor shall have dedicated personnel and resources available to meet the timeliness requirement as directed by DHA PI for retrieval, transmission, and/or mailing of the information.

**1.4.7** The contractor shall have the ability to electronically transfer all files, imaged documents, data, and supporting documents, to include case referrals in a manner that conforms with Government

security protocols (e.g., protecting Protected Health Information (PHI)/Personally Identifiable Information (PII)).

**1.4.8** The contractor shall ensure compliance with the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) Reorganization Act, Public Law 102-321 (July 10, 1992) and implementing regulations including 42 CFR Part 2, when data requested includes services related to substance abuse or mental health.

**1.5** The contractor shall develop and maintain standard operating procedures related to requirements/activities within this chapter (e.g., desk procedures). A copy, in electronic read-only format, shall be provided to DHA PI at the start of the contract with updates provided as changes occur. The corresponding CDRL, DD Form 1423, provides details of the contents and submission of this report.

## **2.0 ROLES AND RESPONSIBILITIES OF COOPERATING COMPONENTS**

### **2.1 DHA**

The Director, DHA, and designees administer the TRICARE program in accordance with Title 10, Chapter 55, United States Code (USC), "Medical and Dental Care," 32 CFR 199, and other applicable laws, regulations, directives and instructions.

### **2.2 DHA PI**

DHA PI is responsible for anti-fraud and abuse activities to protect benefit dollars and safeguard eligible beneficiaries. DHA PI is the central coordinating office for allegations of fraud and abuse against the TRICARE program and is responsible for developing and executing anti-fraud and abuse policies and procedures, provides oversight of contractor PI activities, supports investigative activities, develops cases for criminal prosecution and civil litigation, and initiates administrative measures. DHA PI also exchanges information with DOJ, law enforcement agencies, and federal/state agencies.

### **2.3 DHA Office of General Counsel (OGC)**

DHA OGC is responsible for providing legal counsel and legal services to DHA. It is the principal point of contact on all legal matters involving the DOJ and its Federal Bureau of Investigation (FBI). This office serves as DOJ's primary contact point in civil litigation involving benefit funds. DHA OGC is also responsible for actions pursued under the Program Fraud Civil Remedies Act (PFCRA), overseeing contractor PI activities, supporting investigations, developing cases for civil prosecution and civil litigation, and initiating administrative measures. Settlements that affect the agency (e.g., civil settlement, a provider's or pharmacy's TRICARE status, sanctions, etc.) shall be coordinated with and approved by a DHA representative.

### **2.4 Department Of Defense Inspector General (DoDIG)**

DoDIG has the responsibility to conduct, supervise, monitor, and initiate investigations relating to fraud within the DoD. This authority specifically includes DHA, its employees, contractors and subcontractors. This authority is not limited by the type of contract which has been entered into by the Director, DHA. All contractor, managed care, consultant, service, and other types of contracts are subject to the audit, investigation and evaluation authority of the DoDIG.

## **2.5 Defense Criminal Investigative Service (DCIS) Of The DoDIG**

DCIS is responsible for all fraud and/or abuse investigations involving the Secretary of Defense, the Office of the Joint Chiefs of Staff (JCOS), the Defense Agencies (including the DHA), and any other fraud investigation deemed appropriate by the DoDIG or designated representative. DCIS has primary investigative jurisdiction for cases concerning alleged TRICARE fraud/abuse. This includes cases that may involve the use of facilities by medical providers on military installations and managed care cases (to include network providers or network pharmacies).

## **2.6 Military Criminal Investigation Organizations (MCIOs)**

The MCIOs include the United States Army Criminal Investigative Division (USACID), Naval Criminal Investigative Service (NCIS), United States (U.S.) Air Force Office of Special Investigations (AFOSI), U.S. Coast Guard (USCG) Investigations and Health and Human Services (HHS) Inspector General's Office (for the United States Public Health Service (USPHS)). The MCIOs have jurisdiction to investigate cases concerning alleged fraud by active duty military Service members and their family members who have received health care services, and retired services members and their family members.

## **2.7 Defense Contract Audit Agency (DCAA)**

Upon request, the DCAA provides audit assistance to DHA DCIS and MCIOs.

## **2.8 DOJ And U.S. Attorneys' Offices (USAO)**

The DOJ, acting through its Civil and Criminal Divisions, and the USAO have responsibility for litigation and prosecution of cases involving violation of the civil and criminal laws of the U.S. DOJ has jurisdiction for federal criminal and civil action.

## **2.9 FBI**

The FBI is the principal investigative arm of the DOJ. It has primary responsibility for investigating federal employee bribery and conflict of interest cases and other violations of Federal law except those that have been assigned by law or otherwise to another Federal agency. In addition, it has the authority to investigate Federal agencies, Federal contractors, and Federal program fraud such as the submission of fraudulent TRICARE claims.

## **3.0 COORDINATION AND SUPPORT: OTHER CONTRACTORS AND EXTERNAL AGENCIES**

### **3.1 Contractor Coordination With Other TRICARE Contractors**

**3.1.1** Contractors shall coordinate their activities and case data with other TRICARE contractors since potential fraud or abuse involving a provider, pharmacy, or beneficiary could have a direct effect on payments made by another contractor. This shall occur during the initial stages of case development. The contractor PI unit who initiates the case shall contact the other contractor PI unit for exposure. The initiating contractor PI unit shall provide the other contractor PI unit with the fraud/abuse scheme, name of provider (s) to include practice name, Tax Identification Numbers (TINs), National Provider Identifier (NPI), or National Council of Prescription Drug Program (NCPDP) provider Identification and date range so research may be conducted. DHA PI shall be informed in the case

report of these contacts and findings if suspected practice is a pattern among national or regional chains. Findings of potential fraud or abuse by another contractor shall be reported to DHA PI by the contractor who initiated the investigation.

**3.1.2** In any situation which could lead to duplicate investigative efforts, the contractors involved must notify DHA PI for the proper coordination. Joint case referrals shall be submitted by the contractor that initiated the case first. Each contractor with exposure will conduct an independent audit; however, all findings shall be submitted by the initiating contractor PI unit.

**3.1.3** Those issues that cannot be resolved at the operational level between the contractors shall be elevated to DHA PI for resolution.

## **3.2 Contractor Coordination And Support With DOJ, USAO, And Investigative Agencies**

**3.2.1** Requests for health care fraud and abuse information by DOJ and DCIS must be referred to DHA PI. Contractor contact by any investigative agency, e.g., FBI, MCIOs, etc., shall also be reported immediately to DHA PI. The contractor may not release any documents or copies of documents, conduct audits, etc., at the request of any individual or agency without direction from DHA PI. (This includes requests from all other entities, including anti-fraud associations). If the contractor responds directly to a request for documentation from an investigative agency or other entity, the costs of responding shall not be charged to the contract.

**3.2.2** It is DoD policy that all employees, contractors and subcontractors shall cooperate fully with investigative agencies of the U.S. upon the direction of DHA PI. All requests for claims histories, medical and other records, regulatory/manual provisions, correspondence, audits and other documentation (e.g., newsletters, claims, checks, etc.) shall be provided by the contractor. Requests for witnesses and technical support will be completed by the contractor regardless of the time frames or dates of service identified in the request should this cross contractor jurisdiction or involve legacy contracts.

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