

COMP 3: Fraud, Waste, & Abuse	
LINES OF BUSINESS: MEDICARE, MEDI-CAL, COMMERCIAL, ALL	
Original Effective Date: 01.01.2018	Written By: Deanna McQuillan
Revised Date: 03.28.2023	Revised By: Linette Hughes
Review Date: 03.29.2023	Reviewed By: Compliance Committee
Approved Date: 03.29.2023	Approved By: Compliance Committee
☒ Compliance ☒ Utilization Management ☒ Quality ☐ Credentialing ☒ Provider Network ☒ Claims and Finance ☒ Eligibility and Benefits ☒ IT ☐ Administration	

I APPLIES TO

This policy applies to all Nivano Physicians, Inc. (Nivano) Employees, Providers, First Tier Entities, Downstream Entities, and Contractors.

- A. First Tier Entity: Any party that enters into a written arrangement with an organization or contract applicant to provide administrative or health care services for an eligible individual.
- B. Downstream Entity: Any party that enters into an acceptable written arrangement below the level of the arrangement between an organization (and contract applicant) and a First Tier Entity. These written arrangements continue down to the level of the ultimate provider of health and/or administrative services.
- C. Contractors: Includes all contracted providers and suppliers, first tier entities, downstream entities and any other entities involved in the delivery of payment for or monitoring of benefits.

II POLICY

- A. Nivano believes that Compliance with fraud prevention and reporting is everyone's responsibility.
- B. Nivano has developed a Fraud, Waste and Abuse (FWA) Program to comply with the Centers for Medicare and Medicaid Services (CMS) Medicare Advantage requirements in preventing and detecting fraud in federal and state funded programs.
- C. The objective of Nivano's FWA is to identify and reduce costs caused by fraudulent activities and to protect consumers, members, health care providers and others in the delivery of health care services.

- D. Providers, First Tier Entities, Downstream Entities, and Contractors are educated regarding the federal and state false claims statutes and the role of such laws in preventing and detecting fraud, waste, and abuse in federal health care programs.
- E. Nivano has created a Compliance Committee (CC) to oversee its FWA and to manage all instances of suspected fraud.
- F. All activities of the CC are confidential to the extent permitted by law.
- G. Providers, First Tier Entities, Downstream Entities, and Contractors must adhere to Federal and California State laws, including but not limited to False Claims laws.
- H. Providers, First Tier Entities, Downstream Entities, and Contractors with Nivano will comply with Federal and California State laws in regards to the detection, reporting, and investigation of suspected fraud and abuse.

III DEFINITIONS

- A. A complaint of fraud, waste and/or abuse is a statement, oral or written, alleging that a practitioner, supplier, or beneficiary received a benefit to which they are not otherwise entitled. Included are allegations of misrepresentations and violations of Medicare, Medicaid, or other health care program requirements applicable to persons applying for covered services, as well as the lack thereof of such covered services.
- B. Fraud and abuse differ in that:
 - 1. Abuse applies to practices that are inconsistent with sound fiscal, business, medical or recipient practices and result in an unnecessary cost to a health care program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. Mistakes that are repeated after discovery or represent an on-going pattern could constitute abuse.
 - 2. Fraud is an intentional or knowing misrepresentation made by a person with the knowledge (or knowingly) that the deception could result in some unauthorized benefit to him/herself or another person. It includes any portion that constitutes fraud under applicable federal or state law. Mistakes that are not committed knowingly or that are a result of negligence are not fraud but could constitute abuse.
- C. Waste Overutilization:
 - 1. The extravagant careless or needless expenditure of healthcare benefits / services

IV REFERENCES

- A. Code of Federal Regulations, Title 42, Part 422 and 423

- B. Code of Federal Regulations, Title 42, §438.608 and §455.2
- C. Federal False Claims Act, US Code, Title 31
- D. Health & Safety Code §1348
- E. Welfare & Institutions Code, §14043.1
- F. CMS 2007 MA-PDP Contract H5640, Attachment A

V PROCEDURE

- A. Nivano's FWA Program is designed to deter, identify, investigate and resolve potentially fraudulent activities that may occur in Nivano's daily operations, both internally and externally.
- B. The Chief Compliance and Privacy Officer is responsible for ensuring that the objectives of Nivano's Fraud, Waste, and Abuse Program are carried out, and for preventing, detecting and investigating fraud-related issues in a timely manner. To accomplish this, the Chief Compliance and Privacy Officer designates and oversees the Compliance Team to perform the following responsibilities:
 - 1. Developing fraud training programs to educate staff, Providers, practitioners, Members, First Tier Entities, Downstream Entities, and Contractors on prevention, deterrence and detection of fraud, waste, and abuse. Employees and contractors are expected to take a compliance course for Fraud, Waste, and Abuse within 10 days of hire or contract start, and annually thereafter.
 - 2. Identifying, detecting, thoroughly investigating, managing, and resolving all suspected instances of fraud, waste, and abuse internally and externally. This process includes, but is not limited to, reviewing edits from Virtual Examiner on all new claims, paid claims with the appropriate history, and authorization utilization.
 - 3. Cooperating with, reporting, and referring suspected fraud, waste and abuse to the appropriate governmental agencies, law enforcement agencies, and health plans, as applicable, including exchange of information as appropriate.
 - i. Any health plans potentially impacted would be notified of the potential/suspected violated immediately, but no later than 48 hours after identification.
- C. Both Nivano and Providers have responsibilities for fraud prevention.
- D. Nivano's responsibilities include, but are not limited to the following:
 - 1. Training Nivano staff, Providers, practitioners, First Tier Entities, Downstream Entities, and Contractors on fraud; Nivano Physicians Fraud, Waste and Abuse Program, and fraud prevention activities within the first ten (10) days of initial employment and at least annually thereafter.

2. Continuous monitoring and oversight, both internally and externally, of daily operational activities to detect and/or deter fraudulent behavior. Such activities include, but are not limited to:
 - i. Monitoring of Member grievances.
 - ii. Monitoring of Provider and physician grievances
 - iii. Claims Audits and monitoring activities, including audits of the P4P Program and other direct reimbursement programs to physicians
 - iv. Review of Providers' financial statements
 - v. Medical Management Audits
 - vi. Utilization Management monitoring activities
 - vii. Quality Management monitoring activities
 - viii. Case Management Oversight activities
 - ix. Pharmacy Audits
 - x. Encounter Data Reporting Edits
 - xi. Chart Audits
3. Investigating and resolving all reported and/or detected suspected instances of fraud and taking action against confirmed suspected fraud, waste, and abuse including but not limited to reporting to law enforcement agencies, termination of the Nivano contract (if a Provider, direct contracting practitioner, First Tier Entities, Downstream Entities, and Contractors), and/or removal of a participating practitioner from the Nivano network. Nivano reports suspected fraud to the following entities, as deemed appropriate and required by law:
 - i. The Centers for Medicare and Medicaid Services (CMS) through the Medicare Drug Integrity Contractor (MEDIC).
 - ii. The State and/or Federal Offices of the Inspector General (Medicaid/Medicare Fraud)
 - iii. California Department of Health Care Services (DHCS). Local law enforcement agencies
4. Submitting periodic reports to CMS as required by law.
5. Encouraging and supporting Provider activities related to fraud prevention/detection.
6. Nivano is responsible for maintaining records for a period of ten (10) years for 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 FDRs employees.

E. The Providers', First Tier Entities, Downstream Entities, and Contractors' responsibilities for fraud prevention and detection include, but are not limited to, the following:

1. Training staff, on Nivano and Provider's Fraud, Waste and Abuse Program and fraud, waste, and abuse prevention activities and false claims laws upon initial employment and at least annually thereafter.
2. Verifying and documenting the presence/absence of office staff and contracted individuals and/or entities by accessing the LEIE, GSA and California Medi-Cal exclusion list sites prior to hire/contracting and monthly thereafter: Terminating the Nivano network participation of individuals and entities who appear on the Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE), the General Services Administration Excluded Parties List (GSA), the Medicare Preclusion list; and/or the California Medi-Cal exclusion list.
3. Developing a FWA Program, implementing fraud, waste, and abuse prevention activities and communicating such program and activities to staff, contractors, and subcontractors.
4. Communicating awareness, including:
 - i. Identification of fraud, waste, and abuse schemes.
 - ii. Detection methods and monitoring activities to contracted and subcontracted entities and Nivano.
5. Notifying Nivano of suspected fraudulent behavior and asking for assistance in completing investigations.
6. Taking action against suspected or confirmed fraud, waste, and abuse including referring such instances to MEDIC, DHCS and /or law enforcement and reporting activity to Nivano.
7. Policing and/or monitoring own activities and operations to detect and/or deter or prevent fraudulent behavior.
8. Cooperating with Nivano in fraud, waste, and abuse detection and awareness activities, including monitoring, reporting, etc., as well as cooperating with Nivano in fraud, waste, and abuse investigations to the extent permitted by law.
9. Return of identified overpayments of state and/or federal claims within federal timelines.

F. Reporting Concerns Regarding Fraud, Waste Abuse and False Alarms

1. Nivano takes issues regarding false claims and fraud, waste, and abuse seriously. Nivano's providers, and their contractors or agents of Nivano's

providers are to be aware of the laws regarding fraud, waste, and abuse and false claims and to identify and resolve any issues immediately. Affiliated providers' employees, managers, and contractors are to report concerns to their immediate supervisor when appropriate.

2. Nivano provides the following ways in which to report alleged and/or suspected fraud, waste and/or abuse directly:
 - i. In writing to: Compliance
Nivano Physicians, Inc.
P.O. Box 869140 Plano, TX 75086
 - ii. By E-mail to: Compliance@nivanophysicians.com
 - iii. By Fax to: (916) 471-0332
 - iv. By Phone to: (916) 407-2000, press 9-2509 for Compliance (Extension 2509).
 - v. Microsoft Form (can be submitted anonymously):
<https://forms.office.com/Pages/ResponsePage.aspx?id=O3EKX0RtUkO5pvyfd5n3BpvorCWa8hlNoOK67LoU6pNUQUIOSTJXTFFFMzNDTFRKT DVVSkU0NjNMWS4u>
3. Nivano will notify the health plans impacted immediately, but no later than 48 hours, after a claim is received by following the health plan's Compliance notification process, and/or reaching out to our representative from the health plan for reporting as needed.
3. The Suspected Noncompliance/Fraud Report Form is to be completed when reporting concerns regarding fraud, waste, abuse, and false claims.
4. The following information is needed in order for Nivano to investigate suspected fraud, waste, and/or abuse:
 - i. Your name. Although you may choose to report anonymously, it is very helpful for the Nivano Compliance Department to hear the allegations directly from you. If you choose to give your name, please provide a contact number and a date and time for a return call at a time and place confidential for you.
 - ii. The name(s) of the party/parties/departments involved in the suspected fraud.
 - iii. Where the suspected fraud may have occurred.
 - iv. Details on the suspected criminal activity.
 - v. When the suspected fraud took place, for example over what period of time.
 - vi. A description of any documentation in your possession that may support the allegation of fraud, waste, and/or abuse.

5. Nivano will initiate an investigation as quickly as possible, but not later than two (2) weeks after the potential noncompliance or FWA was identified.
6. Nivano will conclude investigations and undertake corrective actions with the purpose of correcting the problem that resulted in the potential noncompliance or potential FWA within a reasonable time after the activity was discovered.
 - i. The corrective action will address the noncompliance or FWA committed by the employee, provider, or subcontractor with ramifications based on the problem or unsatisfactory corrective action implementation including, but not limited to, write ups, monitoring of work performance, and termination of employment or contract.
7. Information reported to the Nivano Fraud Prevention Program will remain confidential to the extent possible by law
8. Nivano expressly prohibits retaliation against those who, in good faith, report potential fraud, waste and abuse to the Fraud, Waste, and Abuse Program. Information of Whistleblower Protections and the False Claims Act is included in the annual Compliance Training Program available to Providers, First Tier Entities, Downstream Entities, and Contractors.
 - i. This is documented in the employee handbook and this policy is also located on Nivano's company website (<https://www.nivanophysicians.com/compliance>).
 - ii. Nivano also posts "Whistleblowers are Protected" information in the designated common area break room as well as reporting instructions for internal staff.
 - iii. A Microsoft form that can be submitted through email, with an option to submit anonymously, to report any claims.
 - iv. The suggestion box in the breakroom also allows for reporting of claims. This can be done anonymously, if preferred.

VI DISCIPLINARY STANDARDS

- A. All employees are required to report compliance issues to the Compliance Department when the issue is identified. Failure to do so will result in the following for minor violations:
 - a. Coaching #1
 - b. Coaching #2
 - c. Documented verbal warning
 - d. Coaching #3
 - e. Coaching #4

- f. Documented written warning
 - g. Termination
 - B. For serious violations, the following will occur
 - a. Documented verbal warning
 - b. Documented written warning
 - c. Termination
 - C. All violations will be reviewed, and the severity of the occurrence will be evaluated.

RECORD OF CHANGES:

Complete the table below when making any changes to the Policy and Procedure. All columns are mandatory. The record of changes went into effect on 11/1/2022.

Version Number	Date	Revised Section	Revised/Reviewed By	Description of Change
V1	01.01.2018	All	Deanna McQuillan	Document creation
V2	11.23.2022	All & V(F)(2)(iii) & V(F)(2)(v) & V(F)(8)(i) & V(F)(8)(iii) & VI	Linette Hughes	All: Moved the document over to the new P&P template. V(F)(2)(iii): Updated the fax number to the correct Compliance fax. V(F)(2)(v): Added the Microsoft Form as an option V(F)(8)(i): Updated the website URL V(F)(8)(iii): Updated from Google Form to Microsoft Form VI: Added the section
V2	12.14.2022		Compliance Committee	Compliance committee reviewed and approved
V3	03.28.2023	V(B)2	Linette Hughes	V(B)2: Added a section to include the type of reports that are reviewed for FWA
V3	03.29.2023		Compliance Committee	Compliance committee reviewed and approved