

## Attachment 1

### FEHB Fraud and Abuse Definitions

All definitions apply to FEHB Fraud, Waste, and Abuse cases, not the Carrier's entire commercial book of business<sup>1</sup>. Data must be reported by Carrier Code – data cannot be shared among Carrier Codes even if a central SIU handles FWA for more than one Carrier Code.

#### **I. Overarching Definitions**

**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. Fraud can be committed by a contractor, a subcontractor, a provider, and/or a FEHB beneficiary/enrollee. It includes any act that constitutes fraud under applicable Federal and/or state law.

Examples include but are not limited to the following schemes:

- billing for services that were never rendered,
- misrepresenting who provided the services, altering claim forms, electronic claim records or medical documentation, and
- falsifying a patient's diagnosis to justify tests, surgeries or other procedures that aren't medically necessary.

**Waste** is the expenditure, consumption, mismanagement, use of resources, practice of inefficient or ineffective procedures, systems, and/or controls to the detriment or potential detriment of entities. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources. Waste can be committed by a contractor, a subcontractor, a provider, and/or a FEHB beneficiary/enrollee.

Examples include but are not limited to the following schemes:

- performing large number of laboratory tests on patients when the standard of care indicates that only a few tests should have been performed on each of them,
- medication and prescription refill errors, and
- failure to implement standard industry waste prevention measures.

**Abuse** includes actions that may, directly or indirectly, result in: unnecessary costs to the FEHB Program, improper payment, payment 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. Abuse can be committed by a contractor, a subcontractor, a provider, and/or a FEHB beneficiary/enrollee.

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<sup>1</sup> With the exception of 'Number of Cases Opened'.

Examples include but are not limited to the following schemes:

- misusing codes on the claim (i.e., the way the service is coded on the claim does not comply with national or local coding guidelines or is not billed as rendered),
- waiving patient co-pays or deductibles and over-billing the FEHB plan, and
- billing for items or services that should not be paid for by the FEHB Program such as never events.

## **II. Fraud, Waste and Abuses Cases**

Number of Cases Opened - Only include cases opened or investigations initiated within the calendar year, for the entire book of business. Cases opened must be reported in the plans FWA database(s) or case tracking system.

Number of Cases where there is FEHBP Exposure – Provide the number of cases opened or investigations where the FEHBP is one of two or more lines of business affected.

Number of Cases where FEHBP is Primary/FEHBP Only - Provide the number of cases opened or investigations where the FEHBP is the only line of business affected, either because the investigation was designed to address only FEHBP or because the provider specifically targeted the FEHBP.

Number of Cases Developed through Proactive Fraud Prevention/Detection Software - Report only cases that were opened/initiated/developed as a result of using proactive fraud software programs, such as Stars, StarSentinel, FICO, or others (please note program(s) used), investigated by the plan SIU and resulted in a referral to OPM-OIG, or other local, state or federal law enforcement agency or resulted in the plan SIU obtaining a negotiated settlement with a provider, member or pharmacy.

Number of Cases Referred to Local, State, or Federal Law Enforcement/Oversight Agencies - Include the number of cases referred and list the law enforcement agencies where you referred cases during the calendar year. Copies of all referrals and accompanying material provided must be contained and maintained in the plan SIU case files.

Number of Case Notifications Sent to OPM-OIG - Report only cases sent to OPM-OIG per OPM-OIG's case notification guidelines. Report only the first or initial case notifications for any specific case, not status updates or case referrals here.

Number of Case Referrals Provided to OPM-OIG by your Plan SIU - Report only case referrals either provided to the OPM-OIG or requested by the OPM-OIG and provided during the reporting period. Copies of all referrals, the dispositions, OPM-OIG Responses/Requests and all other required accompanying material provided shall be contained and maintained in the plan SIU case files.

Number of Cases Resolved Administratively - Provide the number of cases resolved through negotiated settlements or other administrative means (the number of cases resolved non-criminally or outside of law enforcement). Only recoveries related to the direct actions of an SIU related investigation should be reported.

### **III. Fraud, Waste and Abuse Losses, Recoveries, and Savings**

Dollars Identified as Loss – All actual financial losses identified as a part of the SIU case/project, whether or not those losses were pursued by the SIU as recoveries. Evidence exists to support this figure; it is not an estimate.

Estimated Financial Losses – All estimated financial losses not included in “Dollars Identified as Loss,” limited to no more than the most recent three-year period in which the fraud was determined to have occurred. Future losses are not to be included as identified losses.

Non-Recoverable Loss - Only recoveries that were pursued by the plan SIU that were ultimately not recovered as a result of circumstances outside the SIU's control.

Dollars Recovered by SIU and/or Vendor Activities- Only dollars recovered and received that were FWA related and as a direct result of an SIU established investigation, other action or activity performed by SIU staff or its contractor, vendor, or third party administrator during the calendar year time period. The recovery must be documented in the SIU case tracking system. Recoveries can be actual dollars received, future claim withholding, or if a plan returns the money itself. No recoveries reported to the plan by OPM-OIG shall be included in this section. All related FWA recovery cases must be appropriately documented, tracked, and case files retained.

OPM-OIG Reported Recoveries - Substantial Support: Only report OPM-OIG related recoveries where you provided substantial resources (such as an intensive data analysis, case presentations to prosecutors, investigative efforts, etc.) in support of the OPM-OIG related recovery. You must maintain all claimed cases and documentation which concludes substantial support was provided.

All Related OPM-OIG Recoveries Reported to the Plan - Report all OPM-OIG related recoveries credited to your trust fund/contingency reserve reported to you by OPM-OIG.

Actual Savings - Only actual savings that were FWA related and as a direct result of an SIU established investigation, other action or activity performed by SIU staff or its contractor, vendor or third party administrator during the calendar year time period. Only savings should be included in these sections that are related to FWA activities established in your FWA Detection Plan. The claims must have received their final determination, denial must have been a direct result of actions or activities taken by the Plan's SIU and be reported during the same time period the claim received its final adjudication. The “Actual Savings” shall be the amount the plan would have paid had the claim not been denied and not the total billed amount. Claims system edits not created to prevent FWA shall not be reported as “Actual Savings”. All reported FWA actual savings and the related case(s) must be appropriately documented and tracked to support the reported dollar amount, and written reports and the case files per retained.

Prevented Loss - Amounts associated (dollars) with losses prevented on a pre-payment basis where an actual claim was not submitted as a result of SIU activity. A quantifiable financial impact resulting from the direct actions or activity initiated by and completed by the SIU. The financial impact should

be as a result of a change in behavior by a provider or an internal process improvement. The amount should be measured for a 12 month period only. a. A change in the billing pattern resulting from SIU actions, and recorded for the lesser of the length of the scheme or 12 months from the resolution of the issue with the provider. b. A change resulting from the modification of internal policy, edit, or process because of actions taken or recommendations made by the SIU. Measured results limited to 12 months. Example: first, identify flagged providers/members, then obtain paid claims for these providers/members for the reported year and 12 months prior. Finally, to obtain the prevented loss, subtract the amount paid for the reported year from the amount paid for the previous 12 months.

#### **IV. Law and Order**

Number of Arrests - Only Arrests that were reported to you whereby your plan SIU performed an investigation, and subsequently referred the case to OPM-OIG or another law enforcement agency which resulted in an arrest.

Number of Criminal Convictions - Only report criminal convictions reported to you as a result of either a SIU investigation which was subsequently referred to OPM-OIG or another law enforcement agency and resulted in an arrest and conviction, or your plan SIU provided support to a law enforcement agency other than OPM-OIG whereby your plan was granted a restitution order.

#### **V. Fraud Identification**

Prepayment Review - List the providers who are on prepayment review with the following contact information: National Provider Identifier (NPI)/Tax Identification Number (TIN) and the reason why they are on Prepayment Review (coded as 1= Billing for Services Not Rendered (BSNR); 2= Upcoding; 3= Unbundling; 4= Medical Necessity; 5= Other).

Fraudulent Schemes - In what area (ex: Billing for services that were never rendered, upcoding, medically unnecessary services, misrepresenting non-covered treatments as medically necessary covered treatments, falsifying diagnosis, unbundling, waiving patient co-pays or deductibles and over-billing the insurance carrier or benefit plan, etc.) have you found the most fraudulent behavior during the reporting period?

Pharmacy examples: (doctor Shopping, pill mills, prescription splitting, forged prescriptions, member related cases, ineligible member issues, etc.).

Fraudulent Geographic Areas - In what geographic area/region have you found the most fraudulent behavior during the reporting period?

#### **VI. Program Cost Evaluation**

Fraud, Waste and Abuse Program Costs - Include all related SIU Costs, including salaries, benefits for staffing, travel, and training, which are only related to your FEHB FWA program costs. If you contract any, all, or part of your SIU/ FWA FEHB program function, you must provide the cost of the contracted

program under “Vendor,” and provide a separate summary listing all vendors and/or contractors and specific costs.

Carrier Fraud, Waste and Abuse Program Costs  
Vendors/Contractors

Other Associated Costs of the FWA Program - Report all other related or associated costs, such as space rent and related costs, proactive fraud detection software programs and/or costs of providing studies of potential fraud, waste and abuse issues, costs associated with the carrier PBM FWA component programs, other related subcontract provider FWA component, and any other funding provided for or in support of a FWA function.

Return on Investment: (Dollars Recovered + Actual Savings via Claims Denied + Investigative Expenses Recovered) / Actual Fraud Expenses Incurred

## **VII. Communication**

Best Practices: Describe with detail programs, processes, strategies, etc., that highlight your ability to prevent, limit, and capture instances of fraud, waste, and abuse.

Would you like to participate in the OPM-OIG FEHBP Carrier Task Force? If so, please send an email to Drew Grimm at [Drew.Grimm@opm.gov](mailto:Drew.Grimm@opm.gov) and list the contact (name, title, email, and phone number). We will alert you of the next meeting.