TITLE: POLICY ON VOLUNTARY REPORTING OF OVERPAYMENTS & DISCLOSURE OF MATERIAL DEFICIENCIES

I. PURPOSE:

To define the policy for reporting and repayment of overpayments received from Federal health care programs and other funding sources.

II. REFERENCES:

(DHCS)/(MMHP) Contract
DHCS/BHRS DMC-ODS Intergovernmental Agreement
Office of Inspector General, Department of Health & Human Services, Updated Provider Self-Disclosure Protocol, April 17, 2013
Public Law 111-148 The Patient Protection & Affordable Care Act
42 CFR, section 438.608(d).
42 CFR, section 438.606
42 CFR section 438.606(e)(3)
MHSUDS Info Notice 19-034

III. POLICY STATEMENT

Behavioral Health and Recovery Services (BHRS) is committed to ensuring financial integrity for all of its services. It is the policy of BHRS to report and repay overpayments in an appropriate and timely manner. BHRS will report and repay overpayments from Federal health care programs (Medicare & Medicaid) as required by the Patient Protection and Affordable Care Act (PPACA), Department of Health Care Services/ Marin Mental Health Plan (DHCS/MMHP) Contract and DHCS/BHRS Drug Medi-Cal Organized Delivery System (DMC-ODS) Intergovernmental Agreement, and will notify the Office of Inspector General (OIG) in accordance with the Updated OIG’s Provider Self-Disclosure Protocol, April 17, 2013, whenever BHRS determines that there is a material deficiency. BHRS shall report and repay any overpayments received from non-Federal healthcare programs consistent with funding source requirements and associated procedures.
BHRS contracted providers will be required to notify BHRS in writing within 5 calendar days of any identified overpayments, including the reason for the overpayment. BHRS requires contracted providers to return any overpayments to BHRS within 60 calendar days after the date on which the overpayment was identified, or the date any corresponding cost report is due, if applicable. BHRS will report to the State (DHCS) on an annual basis of any overpayments recovered.

IV. AUTHORITY/RESPONSIBILITY:

BHRS Director
HHS Compliance Office
Quality Management
HHS Office of Finance, Billing Unit

V. DEFINITIONS:

Material Deficiency — A matter that, in BHRS’ reasonable assessment, potentially violates federal criminal, civil or administrative laws (this may include, but is not limited to, matters resulting in a substantial overpayment).

Overpayment — The amount of money BHRS or contracted providers have received in excess of the amount due and payable under the Federal health care program’s statues, regulations or guidelines, including carrier and fiscal intermediary instructions. Simple overpayments, such as errors that do not suggest violations of the law are distinguished from Substantial Overpayments or Material Deficiencies.

Substantial Overpayment — In determining if an overpayment is “substantial” the following factors shall be considered: 1) the dollar amount of the overpayment; 2) the period of time over which the overpayment occurred; 3) the overpayment as a percentage of the total reimbursement received from the funding source(s) over the relevant period of time; 4) the overpayment as a percentage of the total reimbursement annually received from the funding source(s); and 5) the specific facts and circumstances resulting in the overpayment.

VI. POLICY:

A. Discovery
1. Overpayments may be discovered through a variety of processes, including but not limited to:
   (a) Internal Audits: Audits conducted by Quality Management
   (b) External Audits: Audits conducted by entities other than BHRS
   (c) BHRS preparation for an internal or external audit
   (d) BHRS review of client charts or files during the normal course of business

2. BHRS shall report and repay simple overpayments that it discovers to Federal health care programs by “...the later of – (A) the date which is 60 days after the date on which the overpayment was identified; or (B) the date any corresponding cost report is due, if applicable.” (PPACA, sect. 6402).

3. Individuals who suspect and/or have questions about possible overpayments are to report this occurrence to BHRS Quality Management, or to the HHS Compliance Officer using the Confidential Compliance Hotline (415-473-6948), for services funded by Federal health care programs. The Compliance Office (C.O.) will review and if necessary investigate the report to determine if an overpayment(s) exists.

B. Material Deficiencies

1. Any issue that may result in a determination that a material deficiency exists, must be brought to the immediate attention of the C.O.

2. The determination of whether or not a material deficiency exists shall be made by the C.O., BHRS Director, County Executive Officer and County Counsel.

3. If a determination is made that a material deficiency exists, the C.O. is responsible for making a written disclosure to the OIG in accordance with the Updated OIG’s Provider Self-Disclosure Protocol and Section III of this Policy.

C. Voluntary Disclosure Submission

1. BHRS shall disclose material deficiencies to the OIG in accordance with the Updated OIG’s Provider Self-Disclosure Protocol. BHRS will act in good faith and cooperate with the OIG in providing documents and information that relate to the disclosed matter. BHRS will make available to the OIG all relevant audit work papers and other supporting documents.
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<th>County of Marin</th>
<th>POLICY NO. BHRS-51</th>
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<tr>
<td>Behavioral Health and Recovery Services (BHRS)</td>
<td>Review Date: July 2022</td>
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<td>POLICY:</td>
<td>DateReviewed/Revised: July 15, 2019</td>
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2. BHRS will conduct a review and submit a report to the OIG estimating the improper amount paid by the Federal health care program.

3. If BHRS identifies conduct involving the Anti-Kickback Statue (AKS) or Physician Self-Referral Law (Stark Law), it will estimate damages as described in the Updated OIG Self-Disclosure Protocol.