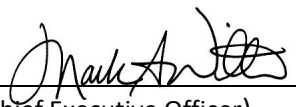


Policy & Procedure



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|---|---|---------|
| POLICY/PROCEDURE TITLE: Compliance Inquiries and Investigation POLICY/PROCEDURE #: 903 Section: Corporate Compliance and HIPAA | Approved By: <u></u> (Chief Executive Officer) | |
| | Approved By: _____ (Medical Director; <i>as applicable</i>) | |
| Developed and maintained by: Corporate Compliance Officer | DATES | |
| | First Effective | 11/2018 |
| Scope: <input checked="" type="checkbox"/> OnPoint Staff <input checked="" type="checkbox"/> MH/IDD <input checked="" type="checkbox"/> Housing <input checked="" type="checkbox"/> SUD <input checked="" type="checkbox"/> Integrated Health <input checked="" type="checkbox"/> OnPoint Contract Providers <input checked="" type="checkbox"/> Other _____ | Revised | 03/2025 |
| | Reviewed | 03/2025 |

PURPOSE

To establish a process for review and investigation of compliance inquiries, reports, and complaints.

DEFINITIONS

Refer to Policy 901.5 *Compliance Related Definitions and Terms*

- Access via OnPoint Intranet at: [Policies & Procedures- Compliance](#)
- Access via OnPoint Website at: [Providers – OnPoint](#)

POLICY

It is the responsibility of OnPoint’s Compliance Officer to ensure an objective, uniform, and consistent process for review and investigation of inquiries and reports related to suspected or know fraud, waste, or abuse, violations of applicable laws, regulations, policy, or contract language. The extent of review or investigation will vary depending upon the nature of the issue. All suspected Medicaid fraud and abuse will be reported to the LRE Compliance Officer in accordance with standards established in the LRE Compliance Plan.

PROCEDURES:

A. Initial Review

1. OnPoint’s Compliance Officer (CO) will review all inquiries/complaints/reports and categorized as either an “inquiry” or “complaint” within five (5) business days of receipt and ensure they are logged.
2. In instances where the concern was previously investigated, the CO and/or assigned investigator will review the details of the previous investigation and any actions taken.
3. If the CO concludes, based on the initial review of the issues, that a formal Compliance investigation is not necessary, the CO will:
 - a. respond to the inquiry or question,
 - b. document the results,
 - c. close the compliance review, and
 - d. inform OnPoint’s Chief Executive Officer (CEO) of the decision as applicable and appropriate, and report to the OnPoint Compliance Committee.
4. If the CO concludes, based on the initial review that the allegations or conduct reported may constitute a violation of applicable federal or State regulations, contract(s), or policy, the matter

Policy & Procedure

shall be considered an open compliance investigation.

5. If the issue/inquiry filed concerns the conduct or actions of the CEO or any Board Member, the Compliance Officer will consult and work with the Board Chair, Executive Committee, and/or Legal Counsel.
6. Fraud Referral – If the initial review, or any time during an investigation, there is indication of possible fraud with an estimated overpayment over \$5,000 a fraud referral must be made to the LRE. LRE will review with the OIG who will determine the entity responsible for conducting further investigation.

B. Inquiry

OnPoint recognizes that not all reported compliance related concerns meet the threshold of a complaint warranting a full investigation or other mandatory compliance reporting. Such concerns shall be classified as an *inquiry*. Inquiries shall be informally managed, resolved, and documented by the OnPoint Compliance Officer and shall not become part of the official public record of the Compliance Office. Upon review of an inquiry, the issue may be moved to a complaint warranting a preliminary and/or full investigation. Concerns classified as an inquiry shall not become part of the official reports to the LRE.

C. Complaint

A complaint is any report of suspected or known violation of applicable federal or State regulations, contract(s), regional, or local policies, suspected wrongdoing, or known or suspected fraud, waste, or abuse of public programs. All complaints will undergo an initial review to determine if it can be immediately addressed or if it warrants a full investigation. Complaints may be filed as outlined in OnPoint's [Policy # 911 Responsibilities for Reporting Compliance Violations and Wrongdoing](#).

D. Investigation

The purpose of an investigation is to identify situations where applicable federal or State regulations, contract(s), or policy may not have been followed and/or issues related to suspected fraud, waste, or abuse. Investigations may be initiated from a reported violation, complaint, or through internal or external auditing and monitoring activities such as billing/claims/encounter audits, quality record reviews, or utilization management activities to name a few.

1. OnPoint's CO/assigned investigator(s) is given full authority to review all necessary documents, data, and other pertinent information relevant to the investigation which may include, but is not limited to:
 - a. interviews of people involved and/or affected by the violation
 - b. policy and procedures
 - c. clinical records
 - d. claims/encounters
 - e. training records
 - f. reports
 - g. communication including emails, electronic messaging, etc.
2. Investigative outcomes may result in:
 - a. recommendations to Leadership.
 - b. recommendations for corrective action and monitoring of corrective action for any practices found not in compliance.
 - c. implementation of necessary procedures to mitigate risk, to preserve and protect OnPoint's assets, and deploy corrective action, and ensure compliance.
 - d. ongoing monitoring to ensure procedures and corrective action eliminates or minimizes, within the constraints of the law, any civil or criminal enforcement actions.

Policy & Procedure

3. OnPoint Personnel and Contract Providers are protected under the Whistleblower's Protection Act for any good faith inquiry, report, or participation in investigative proceedings.

E. Investigative Process

1. When a credible report of violation or wrongdoing is determined, OnPoint's CO/Investigator will:
 - a. immediately protect any relevant information that may be needed to perform a thorough investigation.
 - b. ensure that all document disposal practices are stopped, if reasonable suspicion exists that an employee(s) might destroy, alter, or remove documents, the employee(s) may be suspended or removed from accessing the information.
 - c. assess the severity of the incident and take appropriate steps to mitigate any further harmful effects of the incident.
 - d. apply policy 908 Breach Notification and Oversight if an incident was subject to a breach of Protected Health Information (PHI).
 - e. work in collaboration with the Office of Recipient Rights, Privacy and/or Security Officers on HIPAA Privacy and/or Security issues.
2. OnPoint CO will notify and brief OnPoint's CEO of suspected compliance issues and of the commencement of a formal compliance investigation.
3. If the investigation involves a Contract Provider, and unless contraindicated or upon advice of OnPoint's legal counsel, the Contract Provider's CEO (or designee) will also be informed and briefed, unless party to the suspected complaint.
4. The OnPoint Compliance Officer shall commence or ensure that an investigation will begin as soon as reasonably possible, but in no event more than 10 business days following the receipt of the report/inquiry/complaint regarding the potential violation or wrongdoing.
5. Throughout the duration of the investigation, updates may be provided to the appropriate parties as deemed appropriate until the investigation's conclusion.
6. The CO may establish an Investigative Team who will conduct the investigation. The CO in conjunction with investigative team, as applicable, will develop a plan of investigation prior to the start of the formal compliance investigation. The plan may be revised as the investigation proceeds. The investigation may include, but is not limited to:
 - a. identification of documents for review/create document request,
 - b. identification of appropriate individuals to be interviewed,
 - c. identification of questions to be asked during interviews,
 - d. review of documentation (e.g., EHR, billing/claims, training records, contracts, applicable rules, and regulations, etc.)
 - e. defining sampling methodology, as applicable,
 - f. collaborating with internal or external oversight authority,
 - g. contracting with an external authority and documenting recommendations of legal counsel, as appropriate.
7. Documentation and Reporting
 - a. 903.5 – Compliance Compliant Investigation Form - OnPoint's CO/Investigator will complete the Compliance Complaint Investigation Form denoting detailed investigation procedures, findings, and recommendations. This investigation form is intended for the CO/Investigator's use only and will remain confidential. This report will include:
 - i. Description of the complaint/report
 - ii. All known facts
 - iii. Summary of interviews, documentation reviews, etc.
 - iv. Identification of any person(s) or process(es) which the investigator believes to have contributed deliberately or with reckless disregard or intentional indifference or

- otherwise toward the suspected violation.
 - v. Finding(s), recommendation(s), action(s) taken
 - vi. Estimated overpayment if any.
 - b. 903.2 Compliance Complaint Investigation Summary – OnPoint’s CO/Investigator will complete a summary report that briefly describes the issue(s), whether it was substantiated, and recommended corrective action. This Summary report may be shared with the Chief Executive Officer (CEO) and others as deemed appropriate.
 - c. Credible Fraud Incidents – For credible fraud incidents and other required reporting to the LRE, the original records will be maintained by OnPoint CO. Records included in submission to the LRE will be sent to the LRE Compliance Office within 14 days of completion and closure of the investigation.
 - d. Documentation relating to a compliance inquiry or investigation will be filed with the CO and preserved for a minimum of six (6) years.
 - 8. The CO may solicit the support of internal and external resources with knowledge of the applicable laws and regulations that relate to the specific concern in question. External resources may include legal counsel, consultants, statisticians, and auditors. These internal and/or external resources may function under the direction of legal counsel and under attorney-client privilege.
 - 9. The CO shall review investigative findings with OnPoint’s CEO and as necessary the Compliance Committee, legal counsel, contract Provider CEO (or designee), unless contraindicated or upon contrary advice of counsel, prior to developing a recoupment plan and closing the case.
 - 10. In conducting investigations, the CO, Compliance Committee, and/or Investigative Team shall respect the confidentiality of privileged records and information and shall comply with applicable confidentiality and privacy laws and ethical standards. Investigative files will be maintained by the CO and shall not be disclosed except when there is a need to know:
 - a. To members of the Compliance Committee
 - b. To legal counsel retained by OnPoint
 - c. To individuals who need to know and are authorized by the Compliance Committee or CEO to receive such information
 - d. As required by law or order of a court of competent jurisdiction.
 - 11. Legal Counsel will be available to the CO, CEO, and/or the Compliance Committee to consult on compliance efforts, prior to the external notification to regulatory bodies, and/or when notified of a compliance related federal, State, or regional (LRE) audit.
 - 12. Investigative Outcome
 - a. If the formal compliance investigative results show that the act did not occur as alleged, or that no violation of applicable laws/regulations/contract/policies occurred, the investigation shall be closed, and the CEO and Compliance Committee informed. If the investigation involved a Contract Provider, they will also be informed. A written report will be filed.
 - b. If the compliance investigation results show that a violation or wrongdoing exists, all documentation related to the investigation is kept as an “open” case until remedial actions are complete and a corrective action plan has been successfully implemented and any related monitoring is completed and certified.
 - 13. Follow-up After Investigation
 - a. OnPoint will provide general feedback to the source regarding the investigation, provided the issue was not anonymously reported. Responses will be general in nature and not reveal information of a confidential nature such as an individual’s name or corrective action taken.
 - b. Unless contraindicated or upon advice of OnPoint legal counsel, the Contract Provider’s CEO, or designee, will be similarly and timely informed and briefed.
- F. Appeal
- 1. An OnPoint employee may file a complaint or grievance regarding actions taken as a result of a

Policy & Procedure



compliance investigation in accordance with Policy #615 Employee Complaint/Grievance depending on the nature and severity of the incident.

2. The Contract Provider's CEO, or designee may appeal the investigative findings and/or determination consistent with OnPoint Policy #704 Provider Dispute Resolution.

G. No Retaliation/Reprisal

Under no circumstances is retaliation for submitting a compliance issue or inquiry acceptable. This includes but is not limited to questions and concerns an employee may discuss with an immediate supervisor, the OnPoint CO, a member of the OnPoint Compliance Committee, the OnPoint CEO, or the LRE CO. Any individual reporting, in good faith, suspected FWA is protected under the Whistleblowers' Protection Act 469 of 1980. <https://www.legislature.mi.gov/documents/mcl/pdf/mcl-Act-469-of-1980.pdf>

H. Organizational Response/Corrective Action

1. Possible Criminal Activity – In the event the formal compliance investigation uncovers what appears to be criminal activity on the part of any OnPoint Personnel or Contract Provider, OnPoint shall undertake the following steps:
 - a. Violations found to be related to the Medicaid, Medicare, or other public program shall be reported to the appropriate authority as required by law and LRE, by the CO or CEO, only after consultation with OnPoint's CEO and/or legal counsel.
 - b. If findings relate to OnPoint Personnel or a Contract Provider, appropriate disciplinary action up to and including termination of employment/appointment/contract will be taken.
 - c. If findings relate to a Contract Provider's employee, it is expected that appropriate disciplinary action up to and including termination be taken.
2. Improper Payment/Encounter reporting – In the event the problem results in any improper or over payments or reporting of encounters, OnPoint shall take any or all of the following actions (this is not an all-inclusive list of potential remediations):
 - a. Define, summarize, and mitigate the defective practice or procedures as soon as possible.
 - b. Identify and initiate corrective action to mitigate the problem from happening going forward.
 - c. Calculate and make recommendations regarding repayment to the appropriate authority. Calculations must be reconciled between OnPoint and LRE or OnPoint and Contract Provider.
 - d. Take appropriate steps to adjust the claims payment as necessary.
 - e. Reallocate payment to the proper fund source, as necessary.
 - f. Initiate training and/or disciplinary action as appropriate given the facts and circumstances.
 - g. Update policies and procedures, as necessary.
 - h. Analyze and remedy business process(es), functional or information system deficits.
 - i. When improper payments are a result of Contract Provider practices, a documented corrective action will be developed and monitored until completion and sustained.
3. No Improper Payment/Encounter Reporting – In the event the problem does not result in improper or overpayments or reporting of encounters, OnPoint shall take any or all of the following actions (this is not an all-inclusive list of potential actions):
 - a. Define, summarize, and mitigate the defective practice or procedures as soon as possible.
 - b. Identify and initiate corrective action to mitigate the problem from happening going forward, which may include any of the actions noted in 2. Above.
4. Where internal investigation substantiates a reported violation, corrective action plans will be initiated by OnPoint or the Contract Provider.
5. Corrective Action Plans developed by a Contract Provider shall be submitted to the OnPoint Compliance Officer and/or Provider Network Manager within thirty (30) days of the approved plan.

Policy & Procedure

6. OnPoint Compliance officer shall review corrective action plans and ensure, as appropriate, prompt restitution of any overpayment amounts, notifying the appropriate governmental agency(ies), coordinating with the Contract Provider designee for follow-up monitoring and oversight, and implementing system changes to prevent a similar violation from recurring in the future.

REFERENCES

Links to all OnPoint Policies are under definitions on first page.

- Policy #615 Disciplinary Action
- Policy #616 Employee Complaint/Grievance
- Policy#704 Provider Dispute Resolution
- Policy #707 Provider Network Management
- Policy #708 Provider Contract Compliance
- OnPoint Corporate Compliance Plan and Policies, as applicable