CBH Compliance

Independent Practitioner Guidelines

November 5, 2020

City of Philadelphia

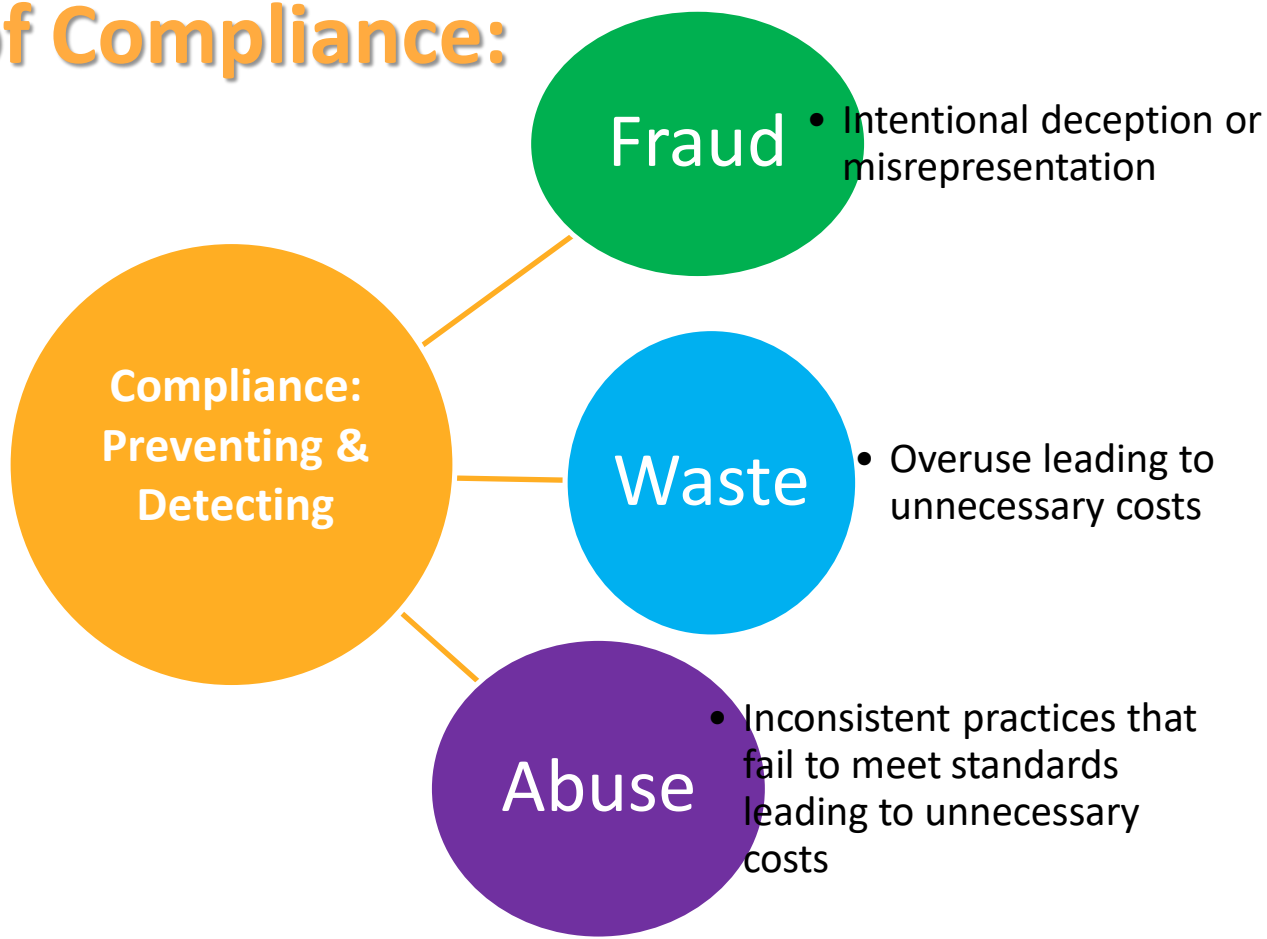
Why are we here?

CBH requires its provider network to act in a legal manner consistent with all applicable governmental standards and requirements and CBH contractual obligations and policies.

CBH established a Compliance Department to facilitate adherence to these standards and policies and to prevent, detect, and mitigate incidences of fraud, waste and abuse within the provider network.

The Compliance Department is also responsible for credentialing independent and group practitioners, Federally Qualified Health Centers (FQHC), and their Behavioral Health Consultants (BHC).

The Role of Compliance:



(Definitions from the Code of Federal Regulations Title 42, Chapter IV, Subchapter C §455.2 and PS&R Appendix F)

The Guidelines

Federal Guidelines

- United States Code (USC)
  - Federal False Claims Act
  - Stark Law
  - Anti-Kickback Statute
  - Patient Protection & Affordable Care Act
  - Eliminating Kickbacks in Recovery Act (EKRA)
- Code of Federal Regulations (CFR)
  - Fraud & Abuse
  - Excluded Individuals

Commonwealth Guidelines

- Pennsylvania Code
- Medical Assistance (MA) & Office of Mental and Substance Abuse Services (OMHSAS) Bulletins
- Program Standards & Requirements
- Policy Clarifications
- Whistleblower Statute
- HealthChoices Contract - Appendix F

CBH Guidelines

- Provider Agreement
- Provider Manual
- Provider Bulletins & Notices
- Manual for Review of Provider Personnel Files

Federal False Claims Act

- False Claims date back to civil war.
- Instead of the supplies they paid for, the Union army received spoiled food, ill horses, and cannon balls filled with saw dust; leading to the development of the False Claims Act.
- Today the False Claims Act is applied to any false or fraudulent claim made to the Federal government.

Billing for services that didn't happen

Billing for a more expensive service than given

Billing service for a different date than rendered

Billing more time than actual session time

(31 USC §§ 3729-3733)

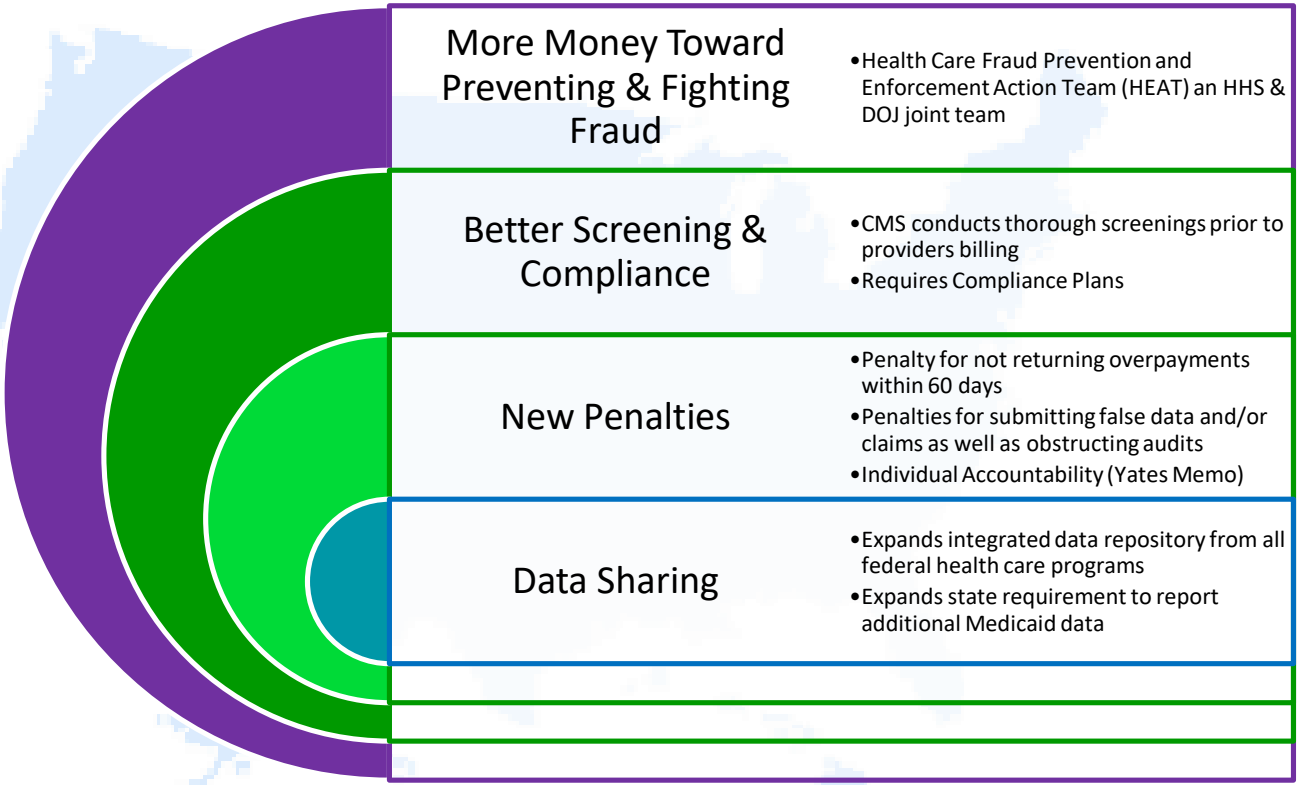
Anti-Kickback Statute & Stark Law

- Both address a person or business, including their immediate family, from receiving compensation in exchange for referrals.
- Compensation or reward does not have to be monetary; it could also be goods or services.
- There are slight differences between the two regulations. For example:
  - Anti-Kickback Statute addresses referrals from anyone
  - Stark Law addresses referrals from a physician
  - Anti-Kickback Statute has criminal & civil consequences
  - Stark Law only has civil consequences.
- A comparison chart of these two regulations is available on the OIG Provider Training Materials website. A link to the OIG Resource Portal is listed on the Resources slide.

(42USC§ 1320a-7b(b)) & (42 USC §1395nn)

Patient Protection & Affordable Care Act

Prevention Vs. Pay & Chase



(42USC§ 18001)

Commonwealth Guidelines

Pennsylvania Code

- All laws within PA; from agriculture, transportation, education, to healthcare.
- Title 55 applies to Human Service including mental health and drug & alcohol services
- Title 28 applies to drug & alcohol services staff requirements

Bulletins

- MA, DHS, OMHSAS, OMAP, DDAP
- Notification of changes to the Medical Assistance regulations as the PA Code is not revised frequently.
- Checking for Excluded Individuals MA Bulletin 99-11-05

Program Standards & Requirements

- HealthChoices's guide for CBH for the delivery of behavioral health services under Medicaid

Policy Clarifications

- Resolve questions or uncertainties that arise among other state guidelines

Whistleblower Statute

- Protection for good faith reporting of potential fraud, waste, and abuse
- Qui tam

HealthChoices Contract - Appendix F

- Definition of Waste
- Fraud & Abuse Requirements of CBH including:
  - Maintaining a Compliance Program
  - Maintaining a Compliance Hotline
  - Submitting Quarterly reports of Compliance activities

Checking for Excluded Individuals

- People who are in arrears to the federal government cannot be employed by a federally funded health care program.
- Applies to anyone employed at an agency not just direct care staff.
- MA Bulletin 99-11-05 recommends & CBH's Provider Agreement requires monthly checks.
- Consequences of employing a known excluded person include repayment of their services rendered as well as their salary and benefits.
- CBH screens all staff, vendors, contractors, and providers

(42 CFR 1001.101 Subpart B)

Checking for Excluded Individuals

Databases:

List of Excluded Individuals and Entities (LEIE)
https://oig.hhs.gov/exclusions/index.asp

System for Award Management (SAM)
(formerly Excluded Parties List System (EPLS))
https://www.sam.gov

Department of Human Services' Medicheck List
https://www.humanservices.state.pa.us/Medchk/MedchkSearch/Index

National Plan and Provider Enumeration System (NPPES):
https://nppes.cms.hhs.gov/#/

MA Bulletin 99-11-05:

https://www.dhs.pa.gov/docs/For-Providers/Pages/Bulletin-Search.aspx

Notify Compliance Hotlines:

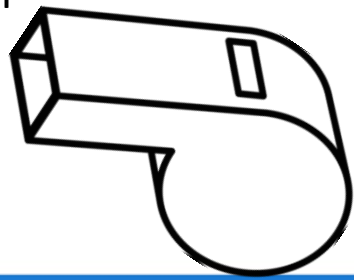
CBH:
1-800-229-3050
cbh.compliancehotline@phila.gov

BPI:
https://expressforms.pa.gov/apps/pa/DHS/MA-Provider-Compliance-Hotline

(42 CFR 1001.101 Subpart B)

Pennsylvania Whistleblower Protection

- Reports of fraud, waste, and abuse often come from an employee within an agency; known as a whistleblower
- When internal actions do not remedy concerns the whistleblower may file a report of wrongdoing with enforcement agencies, in addition to filing suit on behalf of the Commonwealth
- Protection for the whistleblower include: cannot be fired, cannot be threatened, cannot be subjected to discrimination and/or retaliation



(43 P.S. §1421-1428)

What happens to those who get caught?

Civil Penalties

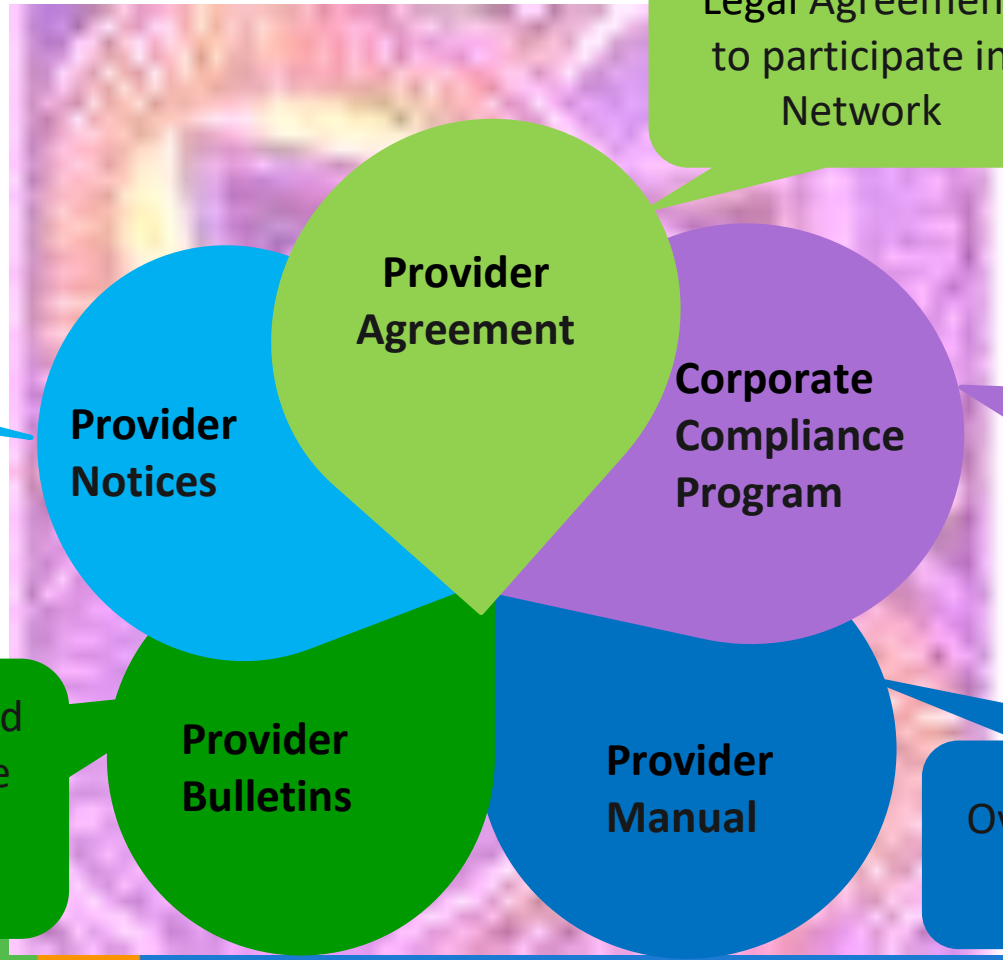
- $11,000 - $22,000 per claim
- Treble damages
- Added to Federal & Commonwealth exclusion lists

Criminal Penalties

- False Claims violations are a felony
- Up to $250,000 fine
- Up to 5 years imprisonment

(31 U.S.C. § 3729; 42 U.S. Code § 1320a–7a; Social Security Act § 1128(a)(1); 18 U.S.C. § 3571; 18 U.S.C. § 287)

CBH Provider Expectations



Legal Agreement to participate in Network

Provider Agreement

Reminders, Reinforcements, or Updates

Provider Notices

Corporate Compliance Program

Required by CMS, CFR, ACA, and CBH

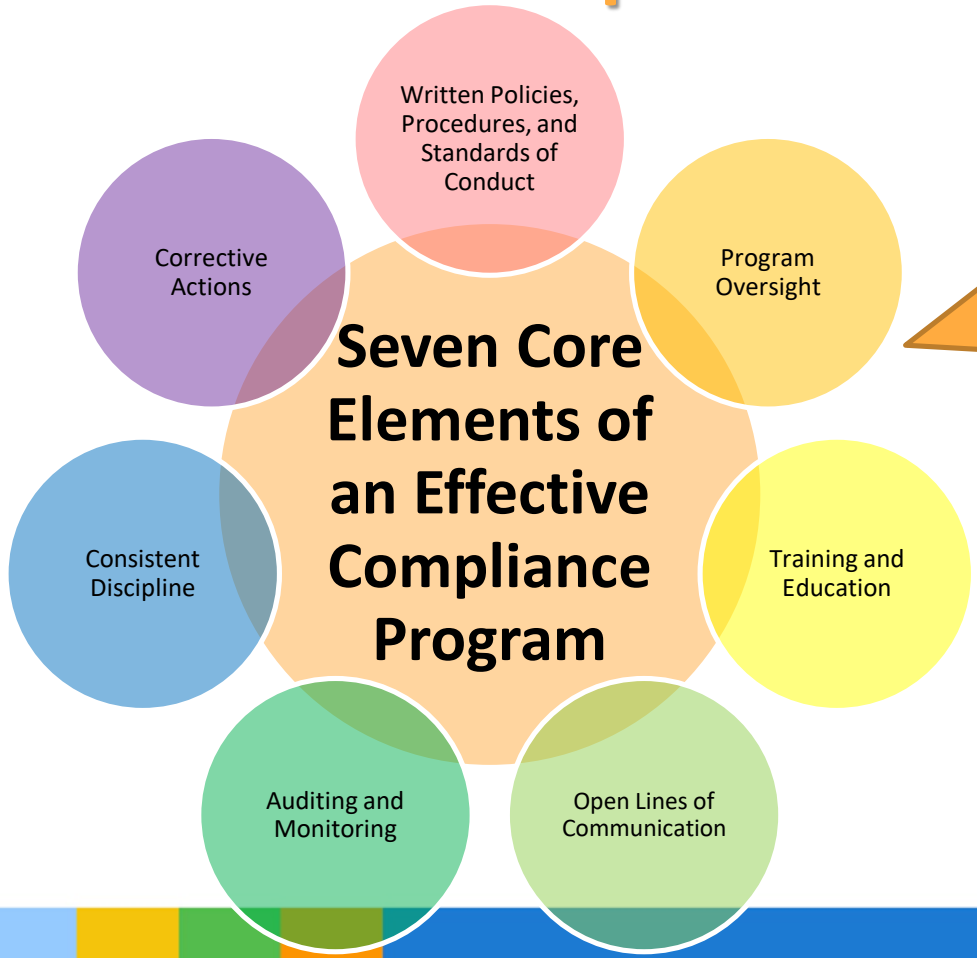
Change in program standard that has a specific effective date & potential financial impact

Provider Bulletins

Provider Manual

Overview of CBH and guide of how to be a CBH provider

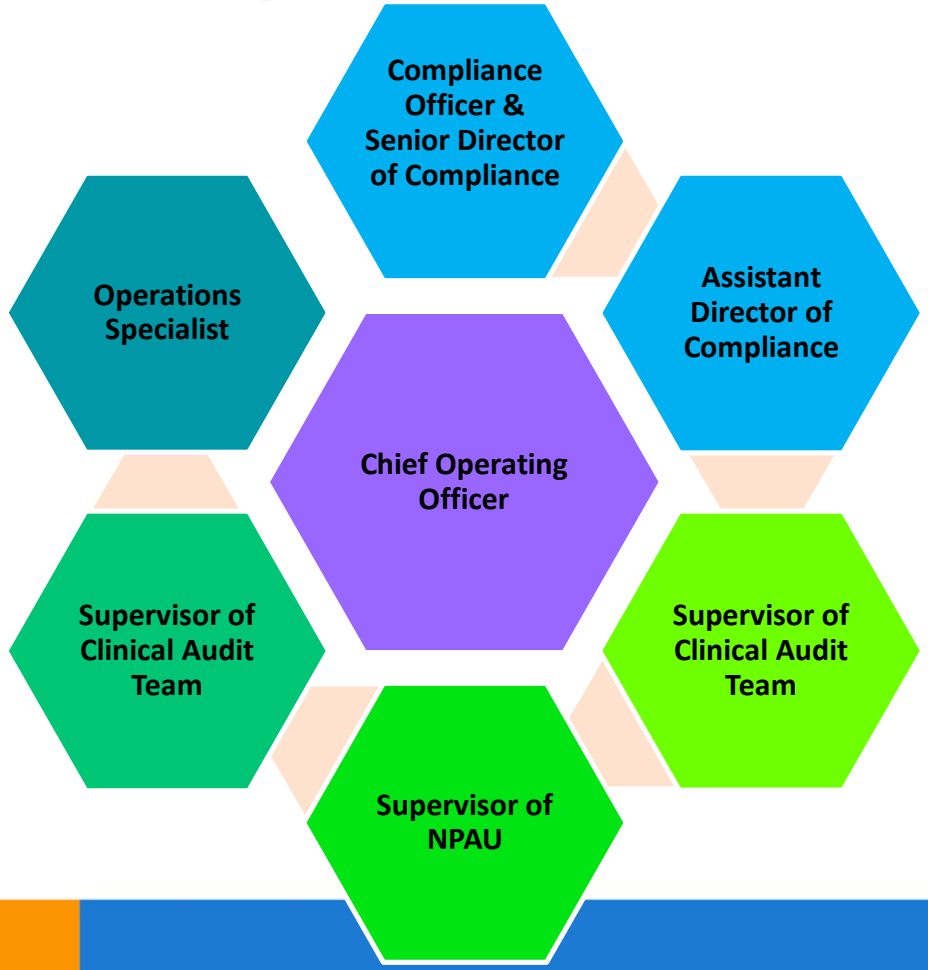
7 Elements of a Compliance Program



Outlined by provisions in the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 (2010)

- Section 6401 of the Patient Protection and Affordable Care Act states that all providers "of medical or other items or services" shall establish a compliance program as a condition of enrollment in Medicare, Medicaid, of the Children's Health Insurance Program (CHIP).
- Part of CBH Provider Agreement

CBH Compliance Department



Two Team Model

Network Personnel Analysis Unit (NPAU)

- Staff Rosters
- Credentialing {Independent Practitioners, Group Practices, and FQHCs}
- Routine & Targeted Audits of staff qualifications
- Manual for Review of Provider Personnel Files
- Special Projects {Reviewing training requirements, staffing needs, and level of care specific}

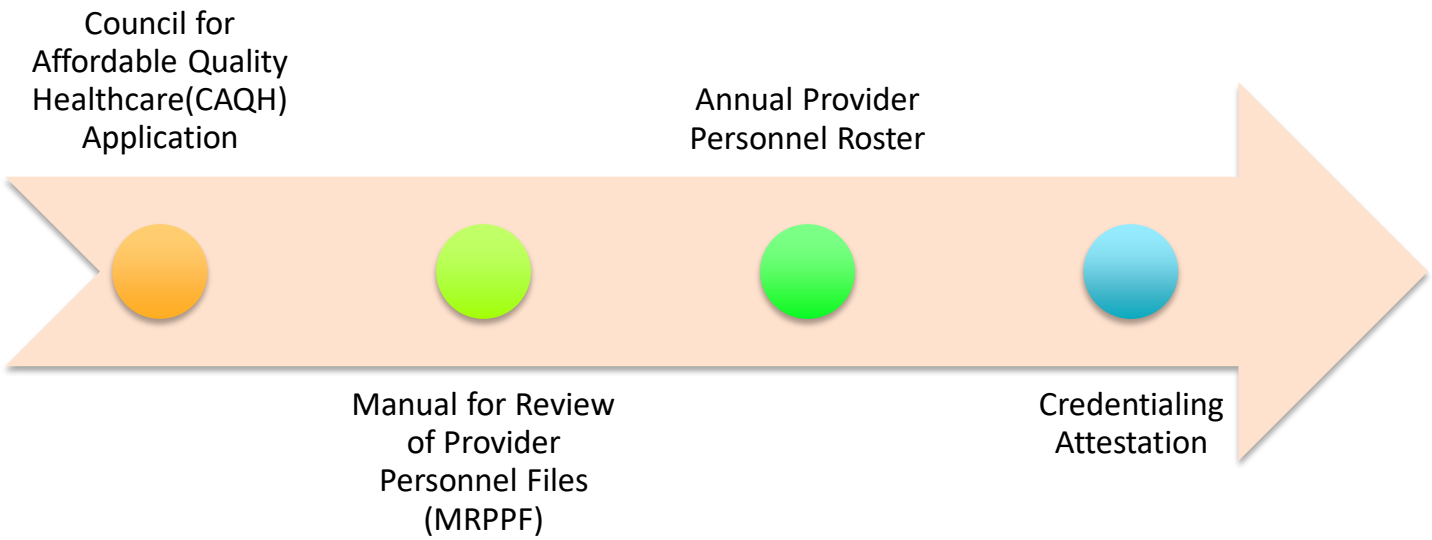
Clinical Audit Team

- Audits {Educational, Extrapolation, Probe, and Targeted}
- Referrals to oversight entities such as Bureau of Program Integrity and Office of Attorney General
- Provider and Internal CBH Employee Compliance Training

Both Teams participate in hotline coverage, review of Providers' self audits, review of Providers' audit response, and procurements process

Compliance Committee

Personnel Expectations



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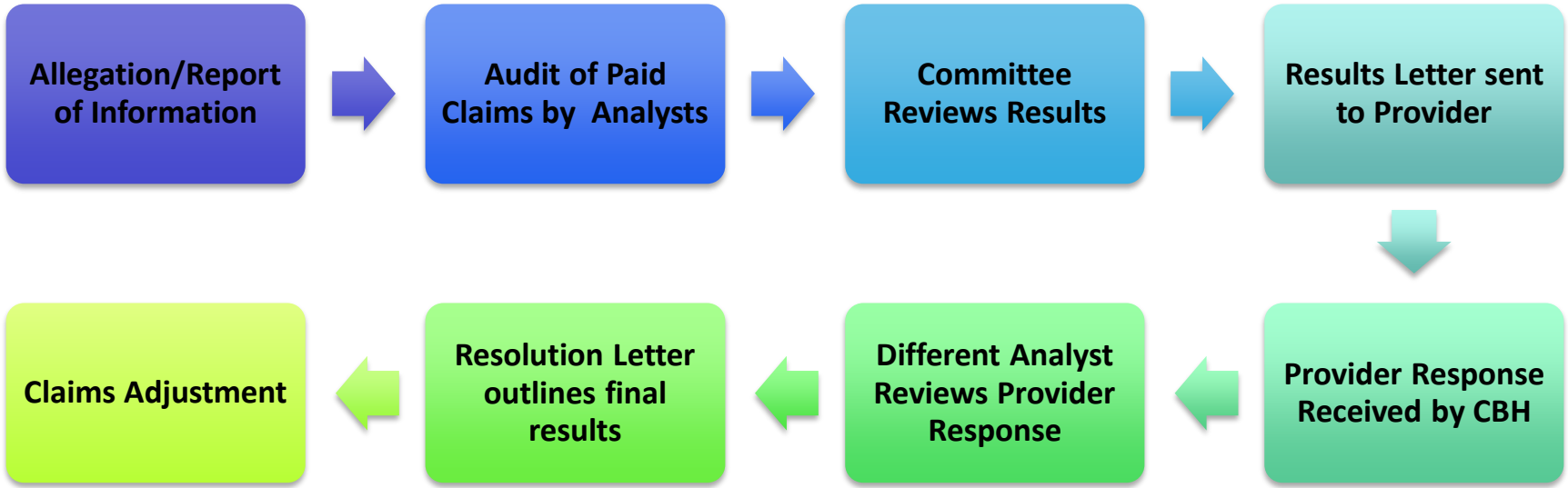
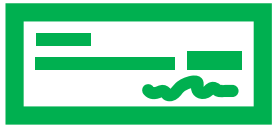
Provider Audit Referral Sources

- Annual work plan identifies priority areas
- Hotline referrals from external sources such as members or providers
- Referrals from internal departments such as Clinical, Quality Management, NIAC, Member Services, or Claims
- Data Mining
- Errors or concerns observed during another audit

Audit Process



Audit Development



- Audits compare claims paid by CBH to the documentation at the provider in the medical or staff record
- Claims are randomly selected when possible via RAT-STATS
- At the time a claim is paid, the expectation is the medical record is complete and accurate. Preparation isn't needed for an audit
- Most audits are unannounced
- Documentation must be in record at time of audit- Providers will now be required to locate the documentation during the audit in the event CBH Compliance Analysts are unable to locate documentation related to a paid claim.
- Provider Bulletin 18-02 https://dbhids.org/wp-content/uploads/2018/05/Provider-Bulletin-on-Compliance-Policies-and-Procedures-JM-final-edits.pdf

Codes for Compliance Audits

B→ Billed to Incorrect Service Location or Service Type (Differs from Upcoding)

C→ Date Error

D→ Discrepant Information

E→ Services Provided by an Excluded Individual or Entity

G→ Group Size Not Noted or Exceeds Allowable Number of Participants

H→ Upcoding

IC→ Insufficient Clinical

ID→ Insufficient Documentation

M→ Missing Documentation

N→ Non-Billable Activity

O→ Clock Times Not Documented

P→ Services exceed MA allowable contacts per period

Q→ Services Provided by an Unqualified Individual

R→ Re-Use of Content

S→ Services Not Rendered

T→ Treatment Plan Concerns

U→ Unit Error

Y→ Unbundling Codes

Examples of Documentation Errors

B-Billed Incorrect Service Type or Incorrect Service Location

- Billing Collateral services when your client is present for services
- Billing Collateral services when reviewing a case with CUA
  - This is case management not collateral

D- Discrepant

- Progress note uses different first name throughout
- Overlapping session times
- Progress note describes different time of day or season than documented date or time.

IC- Insufficient Clinical

- Progress note for a 2-hour session only states "Met with Mary. She is doing well. We talked about her goals."
- General Interventions: "provided suggestions" "used Cognitive Behavioral Therapy"

ID- Insufficient Documentation

- Documentation signed in excess of 7 days
- Documentation without client's identification on each page
- Illegibility: content & signatures
- Improper Corrections: anything other than a single line with initials

M – Missing Documentation

- Required document is not in the record.

Examples of Documentation Errors

N – Non-Billable Activity

- Billing for traveling to meet a client
- Emailing a client's case manager or psychiatrist
- Writing documentation & record keeping
- Client completing intake paperwork or applications

O – Clock Times not Documented

- No clock times on progress note
- Lacks both start and end times

R – Re-Use of Content

Identical phrases or sentences used across a client's progress notes or across clients' records

- 1/3 "Mary is doing well. She seems to be making progress and engaging in therapy."
- 1/10 "Mary is doing well. She seems to be making progress and engaging in therapy."
- 1/20 "She is making progress and engages in therapy. Mary has been doing well here."

S- Services Not Rendered

- Billing for canceled session
- Billing for a no-show

U – Unit Error

Units on claims do not align with documented clock times

- Billing 4 15-minute units when documented clock times are 1:00pm-1:45pm

Documentation Standards

Content of Records

- Progress notes are to be completed within 7 days of the date of service or prior to the submission of claims; whichever comes first
- Progress notes should be written in a standardized format (e.g., DAP, SOAP, BIRP)
- Missed appointments should be documented

Recovery/Resilience Plans

- Independent practitioners are not responsible for completing separate recovery/resilience plans with each person receiving service.
- Elements of recovery/resilience plans should be contained within the progress notes
- Goals, interventions, and the plan for next session should be evident in each progress note
- There needs to be a documented rationale for treatments, including medications

Storage

- Important to have clear policies and procedures (available upon request) to address storage/access/ retention of records
- Providers are required to protect against loss, defacement, tampering or use of unauthorized person
- Clinical records should be "double locked" for storage
- Electronic records should be stored in a password protected computer located within a locked room

Retention/ Destruction

- Full records should be retained for 7 years after the last date of services
- Records should be retained beyond 7 years if an audit involving records is pending
- Records should be destroyed in a manner to preserve and assure confidentiality

Documentation Standards for Independent Practitioners

- https://cbhphilly.org/wp-content/uploads/2020/11/notice_2020-11-3_IP_guidelines.pdf

Audit Findings

3 Types of Results

Overpayments → Take back money for improperly paid claims

Non-Variance → No monetary impact this audit but could be in future audits

Additional Information → Clinical / Quality / Billing Concerns

Audit Follow Up

Self-Audit Requests

Next Steps

Compliance Committee approves audit findings:

A Results letter, signed by Compliance Officer, is sent via secure email to provider's CEO/President:

Specifying a total overpayment to be recouped along with:

- an attached Compliance Report
- an Excel spreadsheet listing all claim lines with an explanation of each error (referred to as the Attachments)

Includes the statement: "*All information pertaining to the compliance audit identified in this letter, including the total financial impact has been reviewed and agreed upon by the CBH Compliance Committee.*"

Provider is given a deadline to dispute audit findings

Results Letter

Self Audits

- Included in Compliance Plan & Policies
- Conducted Regularly
- Identify Scope & Impact of Identified Problem

Self Audit Links

Self Audit Plans must be submitted for approval by the payment source:

For CBH paid claims →CBH Compliance

For State fee-for-service claims→ BPI

CBH Provider Self-Auditing Form
CBH Claims Overpayment Spreadsheet

https://cbhphilly.org/cbh-providers/oversight-and-monitoring/audit-tools/

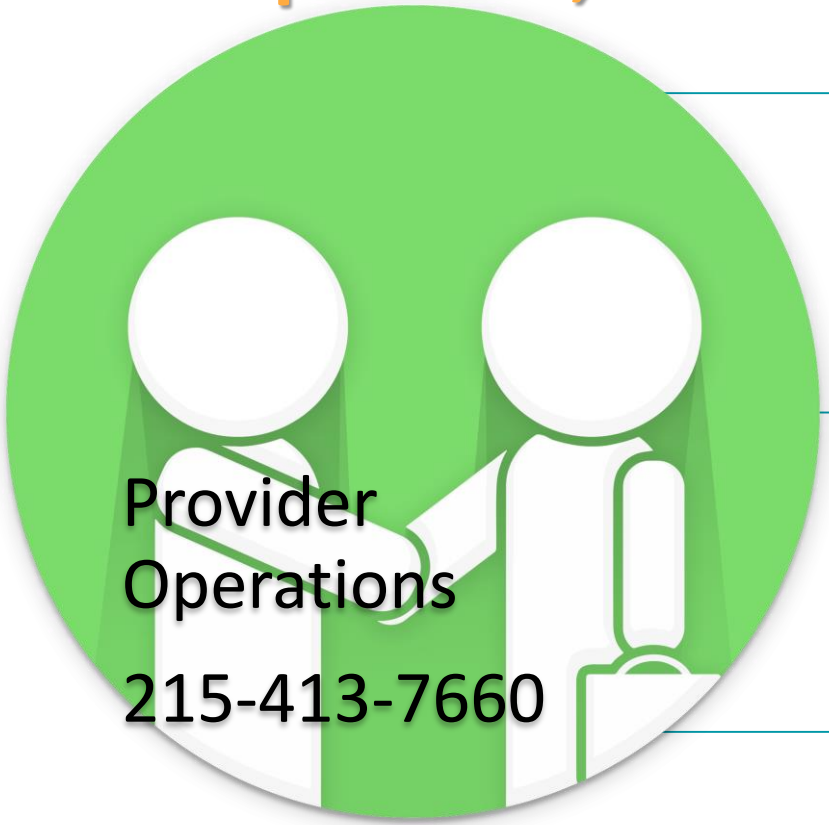
Pennsylvania Self-Audit Protocol:

https://www.dhs.pa.gov/about/Fraud-And-Abuse/Pages/MA-Provider-Self-Audit-Protocol.aspx

CMS Self-Audit Toolkit:

http://wayback.archive-it.org/2744/20170308141411/https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/audit-toolkit.html

Have a question, who do you call?



Claims

215-413-7125

Compliance Questions

CBH.ComplianceContact@phila.gov

Member Services

888-545-2600

Reporting Suspected Fraud, Waste, and Abuse

CBH Compliance Hotline:

- 1-800-229-3050
  - **Standard Hours: Monday thru Friday 9am – 11am & 2pm – 4pm**
- E-mail: cbh.compliancehotline@phila.gov

PA DHS's Fraud and Abuse Hotline for Recipient Fraud :

- (Someone else is using member's ID; not living at given address, etc.): 1-800-932-0582

PA DHS's Fraud and Abuse Hotline for MA Fraud:

- 1-866-DPW-TIPS

HHS OIG's Hotline (Federal):

- 1-800-HHS-TIPS

Resources:

CBH Website→ https://cbhphilly.org/

CBH Compliance Audit Tools→ https://cbhphilly.org/cbh-providers/oversight-and-monitoring/audit-tools/

CBH Compliance Matters Newsletter→ https://cbhphilly.org/cbh-providers/compliance-matters/

CBH Provider Manual (Includes: Documentation Guides, MRPPF, and Exclusion List Links) → https://cbhphilly.org/cbh-providers/oversight-and-monitoring/cbh-provider-manual/

CBH Provider Bulletin 20-15: Social Security Death Master File→ https://cbhphilly.org/wp-content/uploads/2020/07/2020-07-28_bulletin_20-15_social_security_death_master_file.pdf

Social Security Death Master File→ https://ladmf.ntis.gov/

PA Code & Bulletin Search→ http://www.pacodeandbulletin.gov/

DHS Bulletins → https://www.dhs.pa.gov/docs/For-Providers/Pages/Bulletin-Search.aspx

OIG Compliance Portal → https://www.oig.hhs.gov/compliance/compliance-resource-portal/

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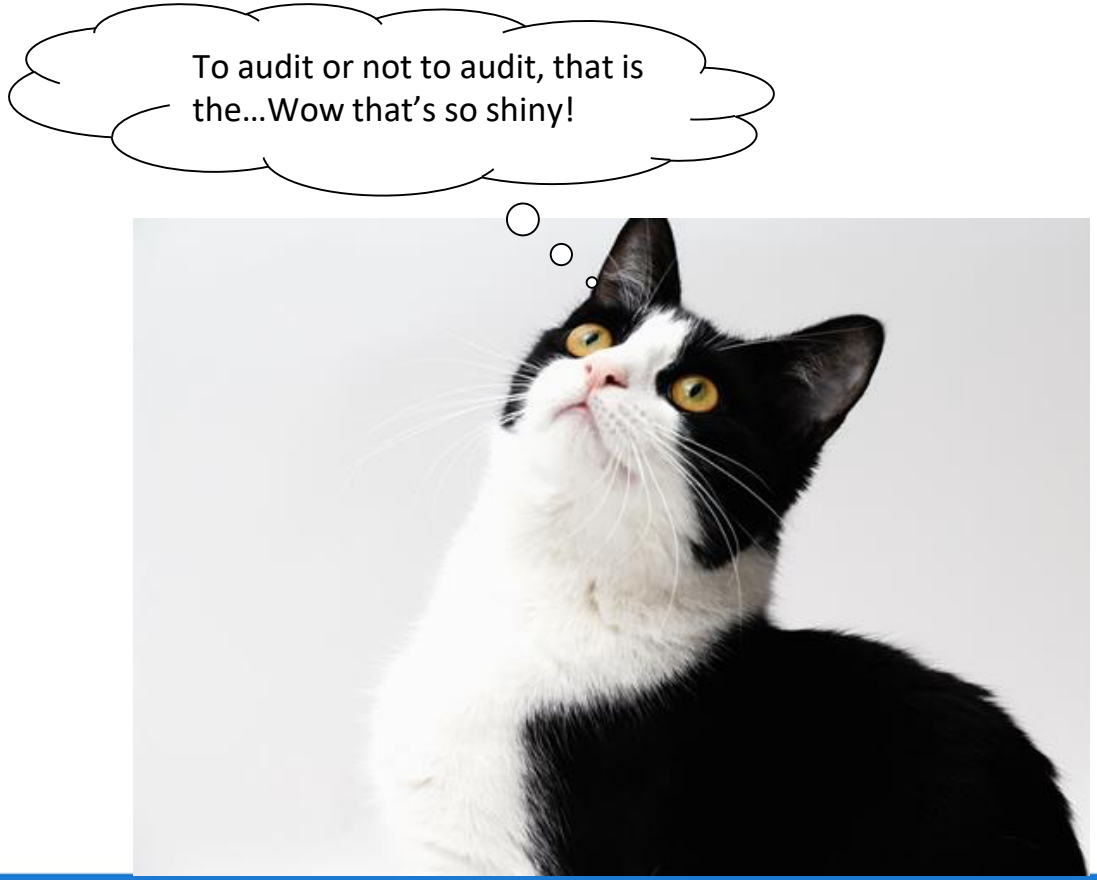
https://cbhphilly.org/cbh-providers/cbh-news-blast-how-to-subscribe//

CBH Compliance Matters Newsletter→
https://cbhphilly.org/cbh-providers/compliance-matters/

Thank you!



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