



FDR Identification and Oversight Program Policy

Medicare Advantage Policy

Policy No. MACP.PP.002	Responsible Area: Medicare Compliance	
Date Approved: 10/29/2015, 1/19/2018, 6/25/2018, 8/19/2019,03/19/2021	Approved by: Megan Grifa	Date Reviewed/Revised: Refer to review and revision notes

REFERENCE:

Chapter 21 of the Medicare Managed Care Manual (MMCM), including, but not limited to Section 40 and 50.6 2016 CMS Readiness Assessment

SCOPE: Legal Department, Corporate Compliance, Medicare Compliance and Medicare Operational Departments

DEFINITIONS:

BOD-Medical Mutual of Ohio's Board of

CMS-Centers for Medicare and Medicaid

Downstream entity- is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the Medicare Advantage benefit or Part D benefit, below the level of the arrangement between a Medicare Advantage Organization or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. (See 42 C.F.R. §§ 422.500 & 423.501).

Employees-for the purpose of this document, employees is defined as all FDR employees including board members, officers, consultants, contractors, volunteers and temporary employees involved in the administration or delivery of Part C and D services on behalf of MMO.

FDR-First Tier, Downstream, or Related

First Tier entity- is any party that enters into a written arrangement, acceptable to CMS, with a Medicare Advantage Organization or Part D plan sponsor or applicant to provide administrative services or healthcare services to a Medicare eligible individual under the Medicare Advantage program or Part D program. (See 42 C.F.R. §§ 422.500 & 423.501).

HPMS-Health Plan Management System; a CMS system with restricted access for Plan

MA- Medicare Advantage

MMCM-Medicare Managed Care Manual

MMO-Medical Mutual of Ohio, the Medicare Advantage Plan Sponsor

Related entity- any entity that is related to a Medicare Advantage Organization or Part D sponsor by common

ownership or control and:

- (1) Performs some of the Medicare Advantage Organization's or Part D plan sponsor's management functions under contract or delegation; or
- (2) Furnishes services to Medicare enrollees under an oral or written agreement; or
- (3) Leases real property or sells materials to the Medicare Advantage Organization or Part D plan sponsor

POLICY:

MMO maintains signed written agreements with all vendors that describe the scope of the business arrangements, financial terms, performance expectations, reporting responsibilities and consequences for failure to meet contractual requirements. Prior to execution, each contract is reviewed by the Legal department to identify if the vendor qualifies as an FDR. This determination is made based on the completion of an MMO FDR Identification and Risk Matrix, using the criteria outlined in Chapter 21, Section 40 of the MMCM. If the entity is determined to be an FDR, MMO ensures that all required language is included in the contract agreement and/or an addendum thereto to verify commitment to compliance requirements related to the delegated function.

Prior to delegating any Medicare function to an FDR, MMO performs a pre-delegation assessment. The pre-delegation assessment includes, at a minimum, a documented review of the FDR's ability to comply with the compliance requirements using the Request for Proposal (RFP)/Request for Quote (RFQ) form. The pre-delegation assessment should also include review of the FDR's Medicare Advantage Parts C and/or D policies and procedures, tools and systems utilized by the FDR, as well as an evaluation of the sufficiency of its operational resources and staff expertise to perform the delegated function(s). During the pre-delegation assessment and annually thereafter, MMO will review the FDR's adherence with applicable compliance requirements.

In an effort to prevent, detect and correct incidents of non-compliance, MMO conducts thorough oversight of FDRs and delegated functions on a routine basis. MMO communicates the FDR's responsibility to fully understand the CMS requirements that govern the delegated function(s) and continually monitor their compliance with those requirements via the contract agreement and the FDR hidden website (www.medmutual.com/fdr) which contains, minimally, the FDR Guide, Code of Conduct, MMO Compliance Plan, and Annual Attestation. MMO oversees the FDR and delegated function(s) by direct monitoring activity as well as review of FDR self-monitoring results reported to MMO. MMO performs audits of FDRs based on the FTE and Medicare Compliance Overall Risk Assessments. MMO has the right to inspect and audit the FDR's records either remotely or at its place of business during normal business hours at a mutually acceptable time.

MMO does not allow FDRs to utilize offshore vendors to perform functions supporting the MA product without approval, by exception. Any offshoring activity is reported in HPMS.

In accordance with internal policies, any incident of noncompliance identified through the FDR oversight procedures has an investigation initiated within two (2) weeks from the date the issue was identified. All substantiated incidents of noncompliance will be addressed via the corrective action plan (CAP) process and in accordance with disciplinary standards outlined in the FDR Medicare Compliance Program Guide, Standards of Conduct and/or terms outlined in the contractual agreement with the FDR.

PROCEDURES:

A. Pre-Delegation Assessment

Once a potential MA vendor has been identified by an operational area, before contract execution, the operational area is responsible for executing and documenting execution of a pre-delegation assessment.

1. Medicare Part C and D Pre-Delegation Assessment Form

As part of the Medicare Part C and D Pre-delegation Assessment, the operational owner must ensure the potential MA vendor completes the Medicare Part C and D Pre-Delegation Assessment form. This assessment must be presented to the potential MA vendor with the minimum criteria provided on the approved template; operational owners are permitted to add criteria to the form but cannot remove criteria from the template. The approved Medicare Part C and D Pre-Delegation Assessment form is published by Medicare Compliance and housed on the Medicare Compliance SharePoint page under [FDR Documents](#).

The operational owner obtains the completed Pre-Delegation Assessment form from the potential MA vendor and reviews the information provided to evaluate the vendor's capability to adequately perform the function in compliance with MMO standards and applicable regulation. The operational owners must retain the completed form for ten (10) years and be able to provide it upon request to Compliance or any regulating authority.

The Medicare Part C and D Pre-delegation Assessment is also embedded in the RFP and RFQ process for ease of reference. If the vendor is potentially supporting the MA product, the operational owner is responsible for completing the MA section on the RFP or RFQ form and submitting to the Procurement Department. The completed pre-delegation form is submitted to MA Compliance for review in advance of contract execution. Any and all compliance deficiencies attested to on the pre-delegation form must be resolved in advance of contract execution.

2. On-site audit

Operational areas may choose to conduct on-site audits to obtain or verify information provided during the pre-delegation activity meet FDR employees, and/or ensure secure and organized facilities.

3. System Testing

When necessary, MMO ensures that all systems supporting a function involved in the administration and/or delivery of Medicare services that has been delegated to an FDR are fully tested. MMO will ensure a system implementation schedule is established and if applicable, the implementation timeline will include time during which systems will run in parallel to ensure full and accurate functionality.

4. OIG/GSA exclusion screening

Pursuant to the MMO corporate policy, *OIG GSA Screening 2007.004*, vendors are screened by MMO prior to engagement and monthly thereafter. In accordance with this internal policy, the Procurement Department is responsible for screening all potential MA vendors on the OIG and GSA exclusions lists prior to contract. The Corporate Compliance department is responsible for screening MMO vendors monthly. Additionally, MMO requires FTEs to screen their entity prior to contract and on a monthly basis, and report to MMO immediately if the entity becomes excluded.

B. FDR Identification

The MMO operational owner is responsible for submitting the proposed MA vendor contract agreement and completed FDR Identification and Risk Matrix form to Legal for review and FDR identification prior to contract execution.

The Legal Department evaluates each proposed MA vendor contract to determine if the entity qualifies as an FDR using the information provided by the operational owner on the FDR Identification and Risk Matrix. MMO uses the following criteria, from section 40 of the Medicare Managed Care Manual, Chapter 21, to classify an MA vendor as an MMO FDR:

1. Does the vendor perform one or more of these functions? Highlight the applicable function(s).

Mandatory auditing or monitoring; Facilitate mandatory training; Sales/Marketing; Care Management; Utilization Management; Transportation, Quality Improvement; Applications processing; Enrollment/Disenrollment/Membership functions; Claims admin/processing/adjudication; Appeals/Grievances; Licensing/Credentialing; PBM; Hotline Ops; Customer Service; Bid Preparation; OEV; Provider Network Management; Negotiation with Rx Drug Manufacturers; Admin/Tracking of drug benefits; COB; Generate Claims data/reporting; or Health care services.

2. Does performance of this function impact an enrollee's health, safety, welfare, or access to covered services?

3. Is the vendor providing administrative or healthcare services for enrollees on behalf of MMO that are related to MMO's contracts with CMS or Ohio Department of Medicaid?

4. Is this function something that MMO is required to do or to provide under its contract with CMS or the State of Ohio, the applicable regulations, or CMS/ODM guidance?

5. Is there a risk that performance of this function could violate CMS or ODM program requirements?

If the Legal Department determines that the MA vendor qualifies as an FDR, the Legal Department will, at a minimum:

1. Ensure all necessary contract language is included in the contract and/or applicable addendums attached thereto; and
2. Notify the Medicare Compliance department and Procurement department of newly identified FDRs via an email communication to initiate proper reviews and documentation.
3. Notify the submitted of the FDR status and provide a copy of the FDR Oversight Guide.

C. Compliance Oversight

1. FDR Master List

- a. The master FDR list is maintained by Medicare Compliance in the [FDR Log on SharePoint](#).
- b. Once the Medicare Compliance Department is notified by Legal of a new FDR contract relationship, Medicare Compliance documents the FDR and operational owner of the FDR relationship in the FDR Log. The Medicare Compliance Department schedules FDR owner meet and greets for all new FDR owners to provide an overview of FDR oversight expectations.
- c. The operational owner is responsible for maintaining current and accurate data in this list, for the assigned FDR. The FDR list is accessible on the operational owner's My Compliance Activity page. MA Compliance requires a formal attestation from operational owners at least twice a year to confirm all FDR information is accurate and complete.

2. FDR website

Medicare Compliance maintains a hidden website (www.medmutual.com/FDR) to communicate with FDRs and provide current and accessible resources. This website includes but is not limited to the following: MMO contact information, including the hotline phone number, Compliance policies and procedures, MMO Code of Conduct, FDR Guide, Annual FDR Attestation, and links to CMS resources/guidance.

3. Annual Attestation

On an annual basis, all FTEs, excluding healthcare providers, are required to attest to their level of compliance with the CMS compliance requirements including but not limited to record retention, exclusion screening, and Compliance and FWA training. The Annual FDR Attestation is housed on MMO's FDR website. This form is accessed and submitted electronically by the FDR. On an annual basis, MMO provides, at a minimum, the FDR Guide and compliance policies and procedures with the notification of the FDR's requirement to complete attestation. MMO uses this process to communicate compliance expectations, verify compliance, and identify FDR compliance risks.

5. Medicare Compliance Quarterly Dashboard

The Medicare Compliance Dashboard is one mechanism used by Medicare Compliance to oversee key MA functions. This dashboard includes metrics of some functions that have been delegated to FDRs. The Medicare Compliance Dashboard is reviewed on a quarterly basis by the Medicare Compliance Department, the Compliance Committee, and the Board of Directors (BOD).

6. FDR Audits

As a result of the annual risk assessments (annual FTE Risk Assessment, annual Medicare Compliance Risk Assessment and/or Quarterly Risk and Recommendation reports), MMO drafts an audit work plan. Audits of MMO FDRs and delegated functions are scheduled as part of the annual work plan, prioritized by risk, and performed by the Medicare Advantage Audit and/or Internal Audit departments. The Audit Work Plan also allows time to conduct ad hoc audits, including ad hoc audits of FDRs, if the need is identified throughout the year.

D. FDR Monitoring

FDR operational owners are responsible for conducting monitoring of the delegated function (s) to verify compliance with applicable regulations. The appropriate frequency and level of monitoring is defined based on the delegated functions, by the operational owner and communicated to Medicare Compliance. They are also responsible for ensuring that any identified compliance issues are reported and investigated in accordance with internal policies and procedures. FDR operational owners are responsible for submitting a FDR oversight and training plan for MA Compliance review on an annual basis.

E. Communication and reporting

1. Communication

MMO maintains effective lines of communication with all FDRs to ensure full understanding of expectations, CMS requirements and maintain transparent relationships in order to perform effective oversight. FDRs are provided information to contact the MMO Operational Owners and/or Medicare Compliance via email, phone, or reference resources on the FDR hidden website.

In addition, FDRs are included as part of the updated guidance and HPMS Memos distribution processes. Each MA operational area has established a process to distribute HPMS Memo, sub-regulatory guidance, and updated regulation to staff and FDRs, as needed. FDRs are also encouraged to subscribe to CMS communications for direct receipt.

2. Reporting

Minimum reporting requirements include but are not limited to:

- a. The FDR must report to MMO:
 - i. Assigned metrics demonstrating FDR's operational performance of delegated function(s) on a routine basis to the MMO Operational Owner
 - ii. Potential incidents of non-compliance or FWA to MMO Operational Owner, Medicare Compliance or Compliance Hotline, immediately upon discovery
- b. MMO Operational Owners must report to Medicare Compliance:
 - i. FDR monitoring activity
 - ii. Quarterly Medicare Compliance Dashboard metrics
 - iii. Potential incidents of non-compliance or FWA immediately upon discovery
 - iv. New/updated FDR relationships, or delegated functions
- c. Medicare Compliance is responsible for reporting information related to FDR identification and oversight to the Compliance Committee, BOD and/or CMS when necessary. These reports include, but are not limited to:
 - i. New FDRs that perform key Part C and/or D function(s) are reported to the CMS Account Manager at least sixty (60) days prior to the effective date of a contract
 - ii. Significant incidents of non-compliance deemed reported by the self-reporting sub-committee are reported to CMS
 - iii. Quarterly report to the BOD which includes, at a minimum, significant incidents of non-compliance/FWA related to delegated functions

APPROVED BY


03/19/2021

Megan Grifa, Director, Medicare Compliance

Name, Tit

Rev. Date	Section	Review / Revision Notes
10/29/2015	All	New Policy
1/9/2017	All	Reviewed
1/19/2018	All	Reviewed
6/21/2018	All	Updated links throughout and updated the FDR Identification section to include the FDR Identification and Risk Matrix
8/19/2019	All	Reviewed, no policy or procedural updates needed. Removed Pam Cleveland as approver and replaced with Megan Grifa.
8/24/2020	All	Added language: The completed pre-delegation form is submitted to MA Compliance for review in advance of contract execution. Any and all compliance deficiencies attested to on the pre-delegation form must be resolved in advance of contract execution; Save a copy of the completed FDR Identification and Risk Matrix in the FDR specific folder on SharePoint where this documentation is retained for ten (10) years. Added 5 th criteria from the FDR ID and Risk Matrix Removed language regarding the annual assessment.
03/19/2021	All	<ol style="list-style-type: none"> 1. Added the following language in FDR Identification Section: Notify the submitted of the FDR status and provide a copy of the FDR Oversight Guide. 2. Removed the following language in FDR Identification Section: Save a copy of the completed FDR Identification and Risk Matrix in the FDR specific folder on SharePoint where this documentation is retained for ten (10) years. 3. Added the following language to the FDR Master List section: The Medicare Compliance Department schedules FDR owner meet and greets for all new FDR owners to provide an overview of FDR oversight expectations. MA Compliance requires a formal attestation from operational owners at least twice a year to confirm all FDR information is accurate and complete. 4. Added the following language to the FDR Monitoring section: FDR operational owners are responsible for submitting a FDR oversight and training plan for MA Compliance review on an annual basis. 5. Added the following language in the Medicare Part C and D Pre-Delegation Assessment Form section

