Policy Title: **Program Integrity**

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<td>Kathleen Torella</td>
<td>August 1, 2018</td>
<td>November 10, 2020</td>
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Kathleen Torella, Director Community Services, Housing, and Community Development Department

Signature Date: 1-12-2021

Signing by authority of Res. No. 2007-0038

Applies to: ☒ Internal ☐ External

**References**

- Social Security Act (SSA) Section 1903(i)(2) of the Act – Payment to States
- 42 CFR 455.100 - Purpose
- 42 CFR 455.101 - Definitions
- 42 CFR 455.104 - Disclosure by Medicaid Providers and Fiscal Agents: Information on Ownership and Control
- 42 CFR 455.106 - Disclosure by Providers: Information on Persons Convicted of Crimes
- 42 CFR 1001.1001 - Exclusions of Entities Owned or Controlled by a Sanctioned Person
- 42 CFR 1001.1901(b) - Effect of Exclusion on Excluded Individuals and Entities
- Washington Administrative Codes (WAC), All other applicable Washington Administrative Codes (WAC) and Revised Code of Washington (RCW)

**Scope**

The Spokane County Community Services, Housing, and Community Development Department (CSHCD), the Spokane County Regional Behavioral Health (Administrative Services Organization) Division (SCRBH) and its network providers.

1. **POLICY**

1.1. In accordance with 42 CFR 438.610, all CSHCD SCRBH employees, Contractors, Subcontractors, and Sub-recipients are to be screened to determine whether they have been listed by a federal agency as debarred, excluded, or otherwise ineligible for federal program participation.

1.1.1. Employee means:

1.1.1.1. Any Individual employed by CSHCD; or

1.1.1.2. Any Individual working with CSCHD SCRBH as a volunteer, intern, temporary help; or
1.1.3. Any Individual employed by a CSHCD SCRBH Contractor, Consultant, Subcontractor, or Sub-recipient that is working under a program funded with federal or state dollars; or

1.1.4. Any Individual working with a CSHCD SCRBH Contractor, Subcontractor, or Sub-recipient that is working as a volunteer, intern, temporary help under a program funded with federal or state dollars.

1.2. For the purpose of this policy, Contractor or network provider means any agency currently under contract with CSHCD or the SCRBH to provide services that are funded with federal or state dollars. Contractor can also mean a Subcontractor or Sub-recipient of CSHCD, the SCRBH, or any agency currently under contract with the CSHCD or the SCRBH.

1.2. The CSHCD SCRBH and its network providers shall not employ or contract with providers excluded from participation in Federal health care programs under either section 1128 or 1128A of the Social Security Act, entitled, “Exclusion of Certain Individuals and Entities from Participation in Medicare and State Health Care Programs,” Executive Order 12549 or 45 CFR 92.35.

1.3. The CSHCD SCRBH and its network providers will comply with all aspects of 42 CFR 455.100, 42 CFR 455.101, 42 CFR 455.104, 42 CFR 455.106, 42 CFR 1001.1001, 42 CFR 1001.1901(b), SSA 1903(i)(2), and any other applicable laws and regulations as they relate to an Individual or agency excluded from participation in Medicare and State Health Programs.

1.4. The CSHCD SCRBH and its network providers shall monitor disclosure by Medicaid providers and fiscal agents for information regarding ownership and control.

1.5. The CSHCD SCRBH and its network providers shall perform credentialing and re-credentialing processes on all applicable staff upon hiring and not less than annually thereafter. The process includes, but is not limited to, debarment status verification (as outlined in Section 2), state issued licensing verification, background checks (as outlined in Subsection 5.2), Conflict of Interest forms, and Duty to Warn Affidavits.

2. EXCLUDED PROVIDER PROCEDURES/MECANISMS

2.1. For many years, the Congress of the United States has worked diligently to protect the health and welfare of the nation's elderly and poor by implementing legislation to prevent certain Individuals and businesses from participating in Federally funded health care programs. The Office of Inspector General (OIG), under this Congressional mandate, established a program to exclude Individuals and entities affected by these various legal authorities, contained in sections 1128 and 1156 of the Social Security Act, and maintains a list of all currently excluded parties called the List of Excluded Individuals/Entities.

2.2. Prospective Employees and Contractors listed by a federal agency as debarred, excluded, or otherwise ineligible for federal program participation, are not eligible for employment or contracts with the CSHCD SCRBH.

2.3. At a minimum, all current Employees and Contractors will be screened monthly and annually for exclusion status. Other periodic screens may be completed as necessary.
2.4. All prospective Employees and Contractors will be screened prior to the offer of employment or entering into any contract.

2.5. Verification and Documentation Procedure:

2.5.1. Any Employee or Contractor who is listed by a federal agency as debarred, excluded, or otherwise ineligible for federal program participation will be terminated, have their contract terminated, or if eligible and appropriate, transferred to a non-federally funded healthcare program. The CSHCD SCRBH and its network providers will check the “Excluded Database” at http://www.oig.hhs.gov, the “System for Award Management (SAM)” at https://sam.gov/SAM/pages/public/searchRecords/search.jsf, and the HCA excluded providers lists at https://www.hca.wa.gov/billers-partners/apple-health-medicaid-providers/provider-termination-and-exclusion-list before offering employment or a contract for services. A copy of the search results indicating “no results found” shall be placed in the Debarment file within a local CSHCD drive.

2.5.2. The CSHCD SCRBH will require its network providers to sign a “Certifications” form annually to affirm that they, their Employees and their Contractors are not excluded from participation. All network provider subcontracts shall require that the same conditions regarding “debarment, suspension, and other responsibility matters” are included in the subcontract.

2.5.3. The CSHCD SCRBH and its network providers will run annual debarment verification on all Employees and Contractors through the SAM and OIG websites. A copy of the search results indicating “no results found” shall be placed in the Debarment file.

2.5.4. On a monthly basis, the CSHCD SCRBH and its network providers will pull the list of newly excluded Individuals/Agencies from http://oig.hhs.gov/fraud/exclusions/exclusions_list.asp. This list will be compared with all active Employees and Contractors and shall be kept within a local CSHCD drive.

2.5.5. The following applies to all Employees and Contractors:

2.5.5.1. **Screening:** Prior to employment or contract execution, all Employees and Contractors must be screened by placing their full name, including any other alias previously used, into the following databases or by calling the following contact number:

   2.5.5.1.1. http://exclusions.oig.hhs.gov;
   2.5.5.1.2. (202) 619-1343 (Office of the Inspector General);
   2.5.5.1.3. https://sam.gov/SAM/pages/public/searchRecords/search.jsf; and

2.5.5.2. **Documentation:** The CSHCD SCRBH and its network providers will maintain a historical database and/or files on all Employees and Contractors checked. The historical database and/or files will include, at a minimum:
2.5.5.2.1. The name of the Employee or Contractor;
2.5.5.2.2. The date the Employee or Contractor was initially checked;
2.5.5.2.3. The results; and
2.5.5.2.4. All monthly and annual rechecks thereafter.

2.5.5.3. **Confirmation:** If a match is made based on the Employee or Contractor name, the CSHCD SCRBH and its network providers will confirm the information by completing the following steps:

2.5.5.3.1. Confirmation of Employee:
   2.5.5.3.1.1. Confirm the Employee’s full name, including middle name;
   2.5.5.3.1.2. Obtain the Employee’s Social Security Number;
   2.5.5.3.1.3. Obtain the Employee’s date of birth (for telephone verification); and
   2.5.5.3.1.4. Re-check debarment status on the OIG and SAM websites.

2.5.5.3.1.5. For further information, contact the OIG Service Center at the number listed in section 2.5.5.1.

2.5.5.3.2. Confirmation of a Contractor:
   2.5.5.3.2.1. Confirm the full legal entity name;
   2.5.5.3.2.2. Obtain the Employer Identification Number (EIN) or Tax Identification Number (TIN); and
   2.5.5.3.2.3. Re-check debarment status on the OIG and SAM websites.

2.5.5.3.2.4. For further information, contact the OIG Service Center at the number listed in section 2.5.5.1.

2.6. **Processing an Excluded Individual and/or Contractor**

2.6.1. **The CSHCD SCRBH:**
   2.6.1.1. If an Employee is determined to be on the excluded database(s), a Program Specialist will notify the following staff members immediately or no later than five (5) business days:
   2.6.1.1.1. The CSHCD SCRBH Leadership;
   2.6.1.1.2. The CSHCD SCRBH Fraud and Abuse Compliance Officer; and
   2.6.1.1.3. The Senior Spokane County Human Resource Manager.

2.6.1.2. If a Contractor is determined to be in the excluded database(s), the contract or subcontract must be terminated, and the following Individuals must be alerted immediately or no later than five (5) business days:
   2.6.1.2.1. The CSHCD SCRBH Leadership; and
2.6.1.2. The CSHCD SCRBH Fraud and Abuse Compliance Officer.

2.6.1.3. Any Board of County Commissioners (BoCC) or Spokane County governing Employees found to be excluded, may not participate in the selection, award, or administration of a contract supported by federal, state, or local funds.

2.6.1.4. Final Determination will be made by the Individuals identified in Section 2.6.1.1. and in conjunction with the CSHCD Director, Spokane County Chief Executive Officer (CEO), Spokane County Chief Operations Officer (COO), Spokane Board of County Commissioners (BoCC), and others as applicable.

2.6.1.5. Notification to the Washington State Health Care Authority (HCA). In the event that an Employee or Contractor is discovered to be excluded, the CSHCD SCRBH Division Program Manager or its designee, will work in collaboration with the CSHCD Director, CSHCD Assistant Director, and Program Specialist(s) to notify the state contract program manager within ten (10) business days of discovery.

2.6.1.5.1. CSHCD SCRBH shall submit to HCA on occurrence – a list of terminations report including providers terminated due to sanction, invalid licenses, services, billing, data mining, investigation, and any related Program Integrity termination. CSHCD SCRBH shall send the report electronically to the HCA at hcabhaso@hca.wa.gov with subject “Program Integrity list of Terminations Report.” The report must include all of the following;

- 2.6.1.5.1.1. Individual provider/entities’ name;
- 2.6.1.5.1.2. Individual provider/entities’ National Provider Identifier (NPI) number;
- 2.6.1.5.1.3. Source of termination;
- 2.6.1.5.1.4. Nature of the termination; and
- 2.6.1.5.1.5. Legal action against the Individual/entities.

2.6.1.6. Notification to a Managed Care Organization (MCO). In the event that an Employee or Crisis Services Contractor is discovered to be excluded, the CSHCD SCRBH Division Program Manager or Program Specialist(s), will work in collaboration with the CSHCD Director and CSHCD Assistant Director to notify the MCOs within ten (10) business days of discovery.

2.6.2. Contractors:

2.6.2.1. If an Employee is determined to be on the excluded database(s), alert the following staff members:

- 2.6.2.1.1. Contractor’s Local Compliance Officer;
- 2.6.2.1.2. Contractor’s Personnel Representative;
- 2.6.2.1.3. Contractor’s CEO;
- 2.6.2.1.4. The CSHCD Director or designee;
2.6.2.1.5. The CSHCD SCRBH Fraud and Abuse Compliance Officer; and

2.6.2.1.6. Contractor’s Human Resource Manager.

2.6.2.2. If a Contractor is determined to be in the excluded database(s), the contract must be terminated, and the following Individuals must be alerted:

2.6.2.2.1. Contractor’s Local Compliance Officer;

2.6.2.2.2. Contractor’s Personnel Representative;

2.6.2.2.3. Contractor’s CEO;

2.6.2.2.4. The CSHCD Director or designee;

2.6.2.2.5. The CSHCD SCRBH Fraud and Abuse Compliance Officer; and

2.6.2.2.6. Contractor’s Human Resource Manager.

2.6.2.3. Final Determination will be made by the Individuals identified in Section 2.6.2.1. and in conjunction with the Director or CEO and others as applicable.

2.7. In the event that an excluded provider is discovered after employment has begun, CSHCD may be required to recover all CSHCD funds that were used for the excluded Individuals’ compensation. Compensation is defined as salary, wages, and benefits associated with employment. Repayment to CSHCD for these funds must occur within sixty (60) days of the determination of the amount due. The amount to be repaid to CSHCD is determined by using one (1) of the following options:

2.7.1. If the entity is not able to determine the amount of the Individuals’ compensation that was paid with CSHCD funds, then the entire amount of the Individuals’ compensation shall be returned to the CSHCD within sixty (60) calendar days; or

2.7.2. If the entity can determine the amount of the Individuals’ compensation that was paid with CSHCD funds, then the entity shall provide the CSHCD with supporting documentation verifying the amount. Upon review and approval of the supporting documentation, the portion of the Individuals’ compensation that was paid with CSHCD funds, shall be returned to the CSHCD within sixty (60) calendar days.

3. DISCLOSURE OF OWNERSHIP AND CONTROL INTEREST PROCEDURES

3.1. The CSHCD SCRBH and its network providers are required to, provide ninety (90) calendar days’ prior written notice of any change in legal status, and seven (7) days’ notice of any changes to the Contractor’s executive officers, executive board members, or medical directors.

3.2. The CSHCD SCRBH and its network providers shall investigate and disclose to the CSHCD SCRBH and/or the HCA, immediately upon becoming aware, the identity of any person in their employment who has been convicted of a criminal offense related to that person’s involvement in any program under Medicare, Medicaid, or the Title XIX Services Program since the inception of those programs
3.3. Upon issuance of a subcontract, the CSHCD SCRBH will require its network providers to complete the Contractor Information Update Form. The Contractor Information Update Form requires information such as: (1) The ownership type (i.e. nonprofit, or for-profit); (2) The ownership structure (i.e. corporation or partnership); (3) Chief Executive Officer or Director; (4) Governing Board or Body Membership; (5) Chief Financial Officer; (6) Chief Operating Officer; (7) Owners and their percentage of ownership; and (8) The organization’s Employer Identification Number (EIN), Data Universal Number System (DUNS) Number, National Provider Identifier (NPI) Number, and Unified Business Identifier (UBI) Number. The CSHCD SCRBH forwards this information to the State of Washington when required by contract, or upon request.

3.4.1. CSHCD SCRBH network providers will obtain the same information listed above from all Subcontractors upon execution of any subcontract. This information will be forwarded to the CSHCD SCRBH with a copy of the executed subcontract.

3.4.2. Should any information within the Contractor’s or Subcontractors leadership structure change during the course of the agreement, a new Contractor Information Update Form must be submitted to the Program Specialist(s) within thirty (30) days in order to update all relevant internal systems.

4. VERIFICATION AND REVIEW OF CIVIL MONETARY PENALTIES

4.1. The CSHCD SCRBH and its network providers are required to, not less than monthly, verify whether a Contractor has been issued civil monetary penalties by Office of Inspector General (OIG), the HCA, or any other entity.

4.1.1. All CSHCD SCRBH network providers are required to submit a Monthly Contract Compliance Report, which will ask that each agency certify whether it has been issued Civil Monetary Penalties through any agency, to include OIG, the HCA, the Department of Health (DOH), or any other state or Federal Agency and will require the provider to submit the back-up documentation to any fines levied. These reports will be reviewed monthly by CSHCD SCRBH staff and any concerns or notations of civil fines will be forwarded to CSHCD Leadership. Any fines levied by OIG will be forwarded to the HCA promptly but not less than ten (10) days from the date of discovery.

4.1.2. OIG:

4.1.2.1. Each week, the CSHCD SCRBH Program Specialists (Contracts Team) will receive an email from the OIG which outlines civil fines, OIG updates, and investigations. Each week, the CSHCD SCRBH Program Specialists will review this weekly report, and review for anything related to a CSHCD SCRBH provider.

4.1.3. HCA/DOH:

4.1.3.1. Behavioral Health Agencies: The HCA and the DOH do not post for public review any civil monetary penalties issued by their agency. The CSHCD SCRBH staff will use the Monthly Contract Compliance Report to monitor for civil monetary penalties issued by the HCA or the DOH.

4.1.3.2. Step-Down Facilities: The CSHCD SCRBH Program Specialists will monthly review the contracted facilities listed at
https://fortress.wa.gov/dshs/adshaapps/lookup/BHPubLookup.aspx for civil monetary penalties issued by the Aging and Long-Term Support Administration (ALTSA). Any civil monetary penalties levied will be reviewed by CSHCD SCRBH staff and CSHCD leadership for determination of any required follow-up actions.

5. **Background Checks**

5.1. The CSHCD SCRBH will require a criminal history background check through the Washington State Patrol for Employees and volunteers who may have unsupervised access to children, people with developmental disabilities or vulnerable adults.

5.1.1. The CSHCD SCRBH will perform a Washington State Patrol criminal history background check prior to initial employment and every two (2) years thereafter.

5.1.2. The CSHCD SCRBH will require all Employees and volunteers to sign a criminal disclosure attestation annually if a Washington State Patrol criminal history background check has not been conducted in the last year.

5.2. The CSHCD SCRBH will incorporate the requirement for a criminal history background check through the Washington State Patrol in all subcontracts, in which an Individual or Subcontractor employee and/or volunteer may have unsupervised access to children, people with developmental disabilities or vulnerable adults.

5.2.1. All applicable CSHCD SCRBH Subcontractors will perform a Washington State Patrol criminal history background check prior to initial employment and every two (2) years thereafter.

5.2.2. All applicable CSHCD SCRBH Subcontractors will require all employees and volunteers to sign a Criminal Disclosure Attestation annually if a Washington State Patrol criminal history background check has not been conducted in the last year.

5.2.3. The CSHCD SCRBH will review evidence of these background checks during annual program monitoring and provide appropriate recommendations, findings, and/or corrective actions when necessary.

6. **Credentialing**

6.1. The CSHCD SCRBH will require appropriate staff to maintain any state issued license or certificate required by their job description or job duties. This will be monitored by administrative staff.

6.1.1. As part of the credentialing and re-credentialing process, annually all CSHCD SCRBH staff will be required to sign the Conflict of Interest Attestation form.

6.1.2. As part of the credentialing and re-credentialing process, annually all CSHCD SCRBH applicable staff will be required to sign the Duty to Warn Affidavit form.

6.1.3. As part of the credentialing and re-credentialing process, annually all CSHCD SCRBH applicable staff will have a criminal history background check as outlined in section 5.
6.2. The CSHCD SCRBH will incorporate credentialing and re-credentialing requirements in its subcontracts for Behavioral Health Services based upon the current HCA and/or Managed Care Organization (MCO) contract language.

6.3. The CSHCD SCRBH will conduct an initial organizational credentialing file review of contracted agencies within the contracting term, then at least once every thirty-six (36) months thereafter and provide appropriate recommendations, findings, and/or corrective actions when necessary. CSHCD SCRBH will:

6.3.1. Confirm that the Contractor’s organization is in good standing with federal regulatory bodies as outlined in section 2, as well as conduct ongoing monitoring to ensure the Contractor’s DOH licensure is in good standing;

6.3.2. Confirm that the Contractor’s organization has been reviewed and approved by an accrediting body such as the National Committee for Quality Assurance (NCQA), or other such organization by obtaining the certificate or decision letter; and

6.3.3. Conduct an onsite quality assessment if the Contractor’s organization is not accredited. A copy of the Contractor’s DOH Quality Review may be substituted for onsite assessment if conducted within the last thirty-six (36) months.

6.3.4. Specify in subcontracts that only Individuals with current, valid, and appropriate Department of Health (DOH) licensure are allowed to perform behavioral health, clinical services.

6.3.5. Ensure that the Subcontractor’s credentialing and re-credentialing process requires:

6.3.5.1. Annual signature of a Conflict of Interest Attestation form by applicable staff;

6.3.5.2. Annual signature of a Duty to Warn Affidavit form by applicable staff;

6.3.5.3. Annual criminal history background checks on applicable staff as outlined in section 5;

6.3.5.4. Verification that all staff are in good standing with state and federal regulatory bodies as outlined in section 2;

6.3.6. In addition to the provisions in section 6.3.5. above, subcontractors will ensure the following provisions are met for all contracted and/or employed Behavioral Healthcare Practitioners. Behavioral Healthcare Practitioners are defined as Psychiatrists and other physicians, Addiction medicine specialists, Doctoral or master’s-level psychologists, Masters-level clinical social workers, and Masters-level clinical nurse specialists or psychiatric nurse practitioners;

6.3.6.1. Verification that Behavioral Healthcare Practitioners have a current and valid license/certification to practice;

6.3.6.1.1. The Contractor verifies that the practitioner has a valid and current license to practice at the time of the hiring, contracting, and/or credentialing decision. The Contractor verifies license in all states where the practitioner provides care to members. The organization must verify license directly from state licensing or certification agency (or its website).
6.3.6.2. Verification that Behavioral Healthcare Practitioners have valid DEA or CDS certificates, if required;

6.3.6.2.1. For Behavioral Healthcare Practitioners who are qualified to write prescriptions: The Contractor verifies that the practitioner’s Drug Enforcement Administration (DEA) or Controlled Dangerous Substances (CDS) certificate is valid and current in each state where the practitioner provides care to members. Acceptable verification sources:

6.3.6.2.1.1. DEA or CDS agency.
6.3.6.2.1.2. DEA or CDS certificate, or a photocopy of the certificate.
6.3.6.2.1.3. Documented visual inspection of the original DEA or CDS certificate.
6.3.6.2.1.4. Confirmation from the National Technical Information Service (NTIS) database.
6.3.6.2.1.5. Confirmation from the American Medical Association (AMA) Physician Masterfile (DEA only).
6.3.6.2.1.6. American Osteopathic Association Official Osteopathic Physician Profile Report or Physician Master File (DEA only).
6.3.6.2.1.7. Confirmation from the state pharmaceutical licensing agency, where applicable.

6.3.6.3. Verification of Behavioral Healthcare Practitioner’s highest level of education and training necessary to perform services outlined in their CSHCD SCRBH contract(s) prior to hiring, contracting and/or credentialing decision.

6.3.6.3.1. The Contractor may use any of the following to verify education and training;

6.3.6.3.1.1. The primary source.
6.3.6.3.1.2. The state licensing agency, specialty board or registry, if it performs primary source verification.
6.3.6.3.1.3. Sealed transcripts, if the Contractor provides evidence that it inspected the contents of the envelope and confirmed that the practitioner completed (graduated from) the appropriate training program.

6.3.6.3.2. The Contractor:

6.3.6.3.2.1. Obtains written confirmation of primary source verification from the primary source at least annually, or
6.3.6.3.2.2. Provides a printed, dated screenshot of the state licensing agency, specialty board or registry website displaying the statement that it performs primary
source verification of practitioner education and training information, or

6.3.6.3.2.3. Provides evidence of a state statute requiring the licensing agency, specialty board or registry to obtain verification of education and training directly from the institution.

6.3.6.4. Verification of Behavioral Healthcare Practitioner’s work history; and

6.3.6.4.1. The Contractor may use any of the following to verify work history;

6.3.6.4.1.1. Employment dates. The Contractor obtains a minimum of the most recent five years of work history as a health professional through the practitioner’s application or CV. If the practitioner has fewer than five years of work history, the time frame starts at the initial licensure date.

6.3.6.4.1.2. The application or CV includes the beginning and ending month and year for each position of employment experience, unless the practitioner has had continuous employment for five years or more with no gap. In such a case, providing the year meets the intent of this factor.

6.3.6.4.1.3. Gaps in work history. The Contractor documents its review of the practitioner’s work history and any gaps on the application, CV, checklist or other identified documentation methods (i.e., signature or initials of staff who reviewed the history and the date of review).

6.3.6.4.1.3.1. If a gap in employment exceeds six months, the practitioner clarifies the gap verbally or in writing. The Contractor documents a verbal clarification or includes the written notice in the practitioner’s credentialing file.

6.3.6.4.1.3.2. If the gap in employment exceeds one year, the practitioner clarifies the gap in writing and the Contractor documents review.

6.3.6.5. Verification of Behavioral Healthcare Practitioner’s professional liability claims that resulted in settlement or judgment paid on behalf of the clinician.

6.3.6.5.1. The Contractor obtains confirmation of the past five years of malpractice settlements from the malpractice carrier or queries the National Practitioner Databank (NPDB). The five-year period may include residency or fellowship years. The Contractor is not required to obtain confirmation from the carrier for practitioners who had a group or organizational insurance policy.
7. **Monitoring**

7.1. The CSHCD SCRBH will monitor the provider’s corresponding policy through the annual contracted provider monitoring, with the appropriate recommendations, findings, and/or corrective actions required in performance improvement projects.