

Policy/Procedures	POLICY NO:	UOP ACO-COMP-005
SANCTION PROCESS- CONTRACTORS	SECTION/OWNER:	CCO
	EFFECTIVE DATE:	01/01/2017
	DATE TO QIC:	01/15/2017
	DATE TO BOARD:	01/31/2017

1.0 PURPOSE

This policy is to provide a process to notify and sanction UOP ACO contractors upon determination that they are in violation of Medicare laws, regulations, or guidance, or their contract with UOP ACO.

ACRONYMS

ACRONYM	DESCRIPTION
UOP	Untied Outstanding Physicians
ACO	Accountable Care Organization
CCO	Chief Compliance Officer

DEFINITIONS

TERM	DEFINITION
ACO	A healthcare organization that ties payments to quality metrics and the cost of care. ACOs in the USA are formed from a group of coordinated health care providers.

2.0 ACCOUNTABLE

Chief Compliance Officer, Chief Executive Officer, Executive Director, Chief Operating Officer, Chairman of the Board, Board Members.

3.0 POLICY

UOP ACO contractors are required to comply with all applicable federal laws and regulations, CMS manual requirements and policy guidance, UOP ACO policy requirements, and the provisions of their contract with UOP ACO. If it is determined

that a UOP ACO contractor fails to comply with any of these, or exhibits other misconduct or poor performance, the contractor may be subject to corrective actions and/or sanctions, up to and including termination of the contract with UOP ACO. In addition, the violation of certain laws and/or regulations may require UOP ACO to report the violation to a regulatory agency or their designee and/or may subject the contractor to criminal prosecution as well as civil penalties involving substantial monetary fines.

4.0 PROCEDURE

4.1 Communication of the Sanction Process

UOP ACO contractors are informed of the disciplinary/sanction process in the UOP ACO Compliance training, provided within 60 days of contract signature and annually thereafter. It is the responsibility of the UOP ACO contractor to educate and inform its employees of the possibility of disciplinary action and/or sanctions, up to and including contract termination, for violations of federal laws, regulations, guidance, or UOP ACO contract terms.

4.2 Types of disciplinary/corrective actions

When a situation has been identified in which a UOP ACO contractor has failed to comply with applicable federal laws, regulations, CMS policy, CMS guidance, UOP ACO policy requirements, and/or the provisions of their contract with UOP ACO, corrective actions and/or sanctions include, but are not limited to, the following:

- i. Verbal and/or written counseling;
- ii. Training and/or re-training;
- iii. Written warning;
- iv. Corrective action plan;
- v. Termination of the contract

4.3 Determination of appropriate disciplinary/corrective action

Responsible parties

When it has been determined that a UOP ACO contractor has violated or failed to comply with applicable federal laws, regulations, CMS policy, CMS guidance, UOP ACO policy requirements, and/or the provisions of their contract with UOP ACO, the determination of the appropriate corrective action or sanction for the situation is determined by any or all of the following, depending on the nature of the issue:

- i. The UOP ACO Compliance Officer;
- ii. The UOP ACO Compliance Committee;
- iii. UOP ACO legal counsel

The party(ies) responsible for determining the course of action take the issues listed in 1-10 below into account.

1. Which (if any) law(s), regulation(s), and/or policy guidance has been violated, and the impact of the offense on Medicare beneficiary;
2. The extent to which the conduct places UOP ACO's contract and/or standing with CMS at risk;
3. Whether any confirmed instances of fraud, waste, and/or abuse are involved;
4. Whether the conduct is a conflict of interest;
5. Whether the contractor has had previous instances of misconduct (the same issue or different);
6. Whether the conduct is part of a pattern or practice of violation of laws, regulations, policy, or breach of contract;
7. The contractor's past history of non-compliance;
8. Whether the contractor knew or should have known the law, regulation, or policy;
9. Whether the violation was intentional or negligent;
10. Whether the action was committed for personal gain.

4.4 Implementation of the disciplinary/corrective action

When UOP ACO confirms an instance of non-compliance or fraud, waste or abuse by a first-tier, downstream, or related entity, the corrective action developed by the UOP ACO Compliance Officer and approved by the UOP ACO Compliance Committee will be documented in a written agreement with the entity. The agreement provides details of the required corrective action, timeframes for completion of the correction action, a description of the methods of evaluation to ensure the corrective action plan has been implemented and effective in correcting the violation, and a description of the ramification to the entity, should the entity fail to implement the corrective action according to the plan, or should the corrective action fail to correct the violation.

4.5 Training/re-training

If a determination is made that the contractor requires more extensive information to comply or perform in a compliant manner, a corrective action plan involving subject matter training or retraining is developed by the functional area related to the contractor's work. The corrective action plan includes the type of training required, the content of the training, a description of how the training will

be provided, who will provide it, and a description of that person's credentials to provide the training. The corrective action plan includes timeframes for conducting the training, as well as timeframes and methods of evaluating the effectiveness of the training.

4.6 Written warning

When the Director of Compliance issues a written warning when re-training has not corrected the problem and the offense is repeated, or when the first offense is serious enough to result in termination of the contract upon repeated offenses. In the case of a written warning, the contractor is advised in writing that a repeat offense may result in termination of the contract with UOP ACO.

4.7 Corrective action plan

A corrective action plan (CAP) is generally used for situations that require a multi-step, focused effort to correct the problem. The CAP is usually developed by the Director of Compliance and may include training/re-training, increased monitoring or auditing of the contractor's work, documentation by the Director of Compliance of steps taken and milestones reached, due dates and responsible parties, and re-evaluation of the effectiveness of the CAP to determine whether it can be closed or further corrective actions or sanctions are required.

- i. **CAPs for fraud, waste, and abuse:** due to the different nature of FWA violations, an appropriate CAP may involve specific activities that UOP ACO contractor must undertake to correct the violation, for example repayment to the Medicare program of monies obtained through violation of the federal False Claims Act. The involvement of other committees, such as the Finance Committee, is involved in the development of FWA corrective action plan, as appropriate.

4.8 Contract termination

For the most serious offenses, UOP ACO terminates the contract with the contractor, pursuant to the terms expressed in the contract. Contract termination decisions are made in consultation with senior management, and are made only after a thorough review of all relevant documentation is made by the Legal Affairs Department and other senior UOP ACO management and

the UOP ACO Compliance Officer, when appropriate. UOP ACO may make a contract termination decision at any time for cause; previous steps in the corrective action/sanction spectrum are not required to have been initiated first.

4.9 Reporting the violation to law enforcement/regulatory agencies

The violation of certain laws or regulations may require UOP ACO to report the violation to a regulatory or law enforcement agency and may subject the contractor to criminal and/or civil penalties.

5.0 Documentation

When corrective actions or sanctions are applied to UOP ACO contractors, the contracting staff documents in the contractor file detailed description of the violation/misconduct/poor performance, as well as a detailed description of the corrective actions taken or sanctions imposed, including evaluation of the effectiveness of the CAP/sanction. If the violation involved non-compliance with federal laws or regulations of CMS policy guidance, this information is also documented by the UOP ACO Compliance Department.

REFERENCES

CMS: https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/sharesavingsprogram/Quality_Measures_Standards.html

DOCUMENT HISTORY (examples)

DATE	DESCRIPTION OF CHANGE	Accountable
01/01/2017	Original document	AC Director of Clinical Outcomes & Improvement