

<b>Region 9 AAA</b>	<b>Local Policy #</b>	<b>A-06b</b>
Policy Name:	<b>MI Choice Waiver Provider Compliance and Disenrollment Procedures</b>	
Original Policy Date:	March 2023	
Review Date:		
Revise Date:		

**Policy:**

The Region 9 Area Agency on Aging (AAA) oversees and is held accountable for any functions and responsibilities delegated to MI Choice Waiver Purchase of Service Providers (POS). It is the policy of Region 9 AAA to ensure that contracted MI Choice Waiver POS Providers are compliant with program operating standards and are eligible to serve MI Choice participants.

MI Choice Waiver Purchase of Service Providers must comply with Michigan Department of Health and Human Services (MDHHS), Bureau of Aging, Community Living, and Supports (ACLS Bureau), and applicable AAA local policies, procedures, practices, operating standards, and uphold certifications and/or licensure requirements to remain eligible to serve AAA participants. The AAA conducts periodic monitoring of contracted providers to ensure compliance with established policies/procedures, billing requirements, staffing requirements, and operating standards.

The following procedure is applicable to all MI Choice Waiver Purchase of Service Providers that have had a Purchase of Service Contract terminated for-cause by Region 9 AAA. A for-cause termination includes any termination action taken by Region 9 AAA for reasons other than provider request, failure to return renewal documents or inactivity of contract. Any provider whose contract was previously terminated for-cause is subject to an exclusionary period of one (1) calendar year. After the exclusionary period has concluded, the provider may resubmit an application during the next open enrollment period. Exemptions to this exclusionary period may be granted at the sole discretion of Region 9 AAA.

Suspected fraud, waste and abuse committed or condoned by a MI Choice Waiver Purchase of Service Contract provider will be reported to the Michigan Office of Inspector General (OIG) upon completion of an internal investigation.

**Purpose:**

To ensure MI Choice Waiver Purchase of Service Providers meet all compliance requirements and assists in maintaining the health, safety and welfare of participants receiving services administered and funded by the AAA, and to outline procedures for provider monitoring visits, overpayments and recoupments, termination of provider contracts for cause, and referrals to the Michigan Office of Inspector General (OIG).

## **Procedure:**

1. All MI Choice Waiver POS Providers must fulfill the requirements of 42 CFR §438.230 that are appropriate to the service or activity delegated under the subcontract. Region 9 AAA includes this information in the contract packet.
  - a. Purchase of Service Provider agrees to comply with all applicable Medicaid laws, regulations, including applicable sub-regulatory guidance and contract provisions;
  - b. Purchase of Service Provider agrees that the State, CMS, HHS (Health and Human Services) Inspector General, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, records, contracts, computer or other electronic systems of the subcontractor, or of the subcontractor's contractor, that pertain to any aspect of services and activities performed, or determination of amounts payable under the MI Choice agent's contract with the State. For purposes of this policy, NEMCSA-Region 9 AAA is the Pre-paid Ambulatory Health Plan (PAHP) for MI Choice in twelve counties of northeast Michigan.
  - c. Purchase of Service Provider will make available, for purposes of an audit, evaluation, or inspection under paragraph (c)(3)(i) of this section, its premises, physical facilities, equipment, books, records, contracts, computer, or other electronic systems relating to Medicaid enrollees served under the MI Choice agreement.
  - d. Purchase of Service Provider agrees the right to audit under paragraph (c)(3)(i) of this section will exist through 10 years from the final date of the contract period or from the date of completion of any audit, whichever is later.
  - e. Purchase of Service Provider agrees if the State, CMS, or the HHS Inspector General determines that there is a reasonable possibility of fraud or similar risk, the State, CMS, or the HHS Inspector General may inspect, evaluate, and audit the subcontractor at any time.
2. Region 9 AAA must evaluate the prospective Purchase of Service Provider's ability to perform the activities to be delegated. Refer to procedures outlined in the A-6a Provider Enrollment and Qualifications Policy.
3. Region 9 AAA must have a written agreement between the Region 9 AAA and the Purchase of Service Provider that specifies the activities and report responsibilities delegated to the POS Provider; and provides for revoking delegation or imposing other sanctions if the POS Provider performance is inadequate. Region 9 AAA includes this information in the subcontractor packet.

## **Provider Monitoring Visits**

4. Region 9 AAA must monitor the POS Provider's performance on an ongoing basis. Region 9 AAA conducts ongoing monitoring of all POS Providers and periodic formal provider monitoring visits. Additionally, all Region 9 AAA POS Providers are subject to

formal review according to a periodic schedule established by the State, consistent with industry standards or State laws and regulations.

5. Providers will be notified of the provider monitoring visit in writing at least two weeks before the review date. The notice will include information about the monitoring process and tools used. A list of participants served over the preceding fiscal year will be sent securely to the provider.
6. Providers agree to have the following items prepped and ready for review:
  - a. Participant files – those communicated via the participant list
  - b. Employee files – all employees who served participants on the list; all employees who signed the participant journal during the selected billing review quarter. The billing review quarter will be communicated with the participant list
  - c. Billing documentation – service authorizations, journals, timesheets, case record documentation, payroll records, DCW (Direct Care Worker) payroll records
  - d. Policies and Procedures outlined in the checklist
  - e. Employee training records
  - f. Accident and Incident records (if applicable to the participants being reviewed)
7. Region 9 AAA must follow procedures outlined in MI Choice policy to identify deficiencies or areas for improvement in the POS Provider's performance. In addition to internal tools, Region 9 AAA reviewers utilize the following State tools to conduct formal provider monitoring visits based on the provider type:
  - a. MI Choice Waiver Provider Monitoring Tool (Attachment J)
  - b. MI Choice In-Home Participant Visit
  - c. Participant Survey for Provider-Owned Setting
  - d. Home and Community-Based Services (HCBS) Residential Setting Survey Template
  - e. HCBS Non-Residential Setting Survey Template
  - f. Self-Determination in Long-Term Care – Fiscal Intermediary Annual Performance Review (Attachment N)
8. Providers must take corrective action when deficiencies are noted. When a formal provider monitoring visit is conducted, the Region 9 AAA reviewer will inform providers of the review results and corrective action deficiencies in writing by issuing a "Findings Letter" or "Findings Report."
  - a. A Findings Letter is sent to a provider within 10 business days following completion of the initial review, if compliance items are identified during the visit that require immediate action. Items requiring immediate action include noncompliance with criminal history background checks and OIG exclusionary screenings as outlined in 42 CFR 455 and the Public Act 28 of 2021. The provider will have 5 business days from the receipt of the findings letter to submit their response and corrective action(s) taken. The reviewer will communicate the deficiencies requiring immediate action, expectation for correction, time periods, and process during the exit interview.
  - b. A Findings Report is sent to a provider within 30 days after the initial review to outline the review results. The Findings Report includes the compliance items

outlined in the findings letter even if action has already been taken on those findings. If a provider is required to submit a response or correction action plan (CAP) back to Region 9 AAA, it will be outlined in the letter with a date the response or CAP is due. CAPs (Corrective Action Plans) are due 30 days from receipt of the findings report.

9. If Region 9 AAA requests a correction action, correction action plan (CAP) in a findings letter or findings report, the POS Provider may take the following actions:
  - a. Accept the deficiencies as they are and submit a corrective action plan outlining the actions the provider plans to initiate or implement to correct the deficiencies identified.
  - b. Respond by submitting a rebuttal with evidence to support each claim being disputed.
  - c. A combination of the above actions.
10. Region 9 AAA has the sole discretion to accept or deny submissions of rebuttal or corrective action, including CAPs. Purchase of Service Providers are expected to meet CAP requirements on first submission, though Region 9 AAA reserves the right to grant the provider additional CAP resubmissions.
11. Region 9 AAA will schedule an onsite follow-up review with the provider, 180 to 360 days following the date of an accepted correction action plan (CAP) to ensure that the provider initiated and implemented the corrective action. For continued program participation, providers are expected to be in full compliance with the standards and conditions at the time of the follow-up review.

#### **Overpayments and Recoupment:**

12. Region 9 AAA has the right to recover overpayments directly from providers for the post payment evaluations they initiate and perform. Recoupment efforts will begin as soon as possible and will be recovered within 60 days of identification of an overpayment or final appeal decision.
13. Region 9 AAA will notify providers of overpayment identification and recoupment procedures in writing.
14. If a POS Provider identifies an overpayment was received, they must take the following actions:
  - a. Report the overpayment to Region 9 AAA. This can be done via a form: [Region 9 AAA – Provider/Vendor Overpayment Reporting Form](#) or <https://forms.office.com/r/YATU4qtFau>
  - b. Return the overpayment to Region 9 AAA within 60 days of the date the overpayment was identified (in accordance with 42 CFR § 401.305 and MCL 400.111b(16))
  - c. Notify Region 9 AAA in writing regarding the reason for the overpayment, if the overpayment was not reported to Region 9 AAA using the form.

## **Termination of Provider Contract for Cause**

15. Region 9 AAA has the authority to activate provider termination proceedings. The following provider actions, or inaction, may result in the activation of a 30-day notice of Intent to Terminate the Purchase of Services Agreement:
  - a. Failure to respond to written communications to address actual or suspected compliance issues.
  - b. Failure to submit a corrective action plan at the request of Region 9 AAA.
  - c. Failure to correct identified findings.
  - d. Failure to comply with applicable policies, procedures, practices, and standards.
16. Region 9 AAA must make a good faith effort to give written notice of termination of a contracted provider to each enrollee who received services from the provider. Notice to the enrollee must be provided by the later of 30 calendar days prior to the effective date of the termination, or 15 calendar days after receipt or issuance of the termination notice.
17. MI Choice Waiver POS Providers have the right to appeal review findings or audits when actions of probation, suspension or termination are taken.

## **Referrals to the Michigan Office of Inspector General (OIG):**

18. Suspected fraud, waste and abuse committed or condoned by a MI Choice Waiver Purchase of Service Contract provider will be subject to an internal investigation. Upon completion of the internal investigation, if the Region 9 AAA's Special Investigation Unit finds the referral to be a credible allegation of fraud, the case will be referred to the Michigan Office of Inspector General (OIG).
19. If findings or investigations of Tips or Grievances result in substantiated fraud, waste, or abuse, Region 9 AAA refers the case to the OIG via MDHHS-OIG's secure file transfer protocol (sFTP) using MDHHS-OIGs standard Fraud referral template.
20. Pursuant to 42 CFR § 438.608(a)(7), if Region 9 AAA identifies potential credible allegation of Fraud and refers the case to the OIG, Region 9 AAA must not:
  - a. Contact the subject of the investigation about any matters related to the investigation;
  - b. Enter into or attempt to negotiate any settlement or agreement regarding the findings/overpayment; or
  - c. Accept any monetary or other thing of valuable consideration offered by the subject of the investigation in connection with the findings/overpayment.
21. If the potential credible allegation of Fraud referral results in a suspension issued by MDHHS OIG in accordance with 42 CFR § 455. 23, Region 9 AAA will suspend payments to the Network Provider.