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## Section Q: Fraud Waste and Abuse (FWA) & Protected Health Information (PHI)

### Q1: Overview of Fraud, Waste and Abuse

CenCal Health is dedicated to the detection, investigation, prevention, and reporting of suspected or actual fraud, waste, and abuse (FWA). CenCal Health's Fraud Program is designed to prevent and detect suspected and or actual FWA. The Special Investigations Unit (SIU) in the Compliance Department investigates all reports of suspected FWA. The SIU works in tandem with state and federal agencies, as well as law enforcement, to report individuals or organizations who may be involved in FWA activities.

CenCal Health maintains and supports reporting of any suspected FWA through variety of reporting channels including an anonymous reporting hotline. In addition, CenCal Health's website includes sections dedicated specifically to FWA concerning Members and Providers. The website highlights many of the same elements included in this manual and includes:

- A definition of FWA.
- What information reporters should provide to assist in an investigation.
- How to report potential FWA.

For more information on FWA, please visit our CenCal Health website page on Fraud at <http://www.cencalhealth.org/providers/suspect-fraud>.

Under the terms of the contract between CenCal Health and its provider network, providers must report suspected cases of FWA to CenCal Health. This section of the Provider Manual provides general guidance for providers and subcontractors in identifying and reporting FWA to CenCal Health.

### Q2: Fraud Waste and Abuse (FWA) Definitions

- Fraud means an intentional deception or misrepresentation made by persons with the knowledge that the deception could result in some unauthorized benefit to themselves or some other person, and includes any act that constitutes Fraud under applicable federal or State law, including 42 CFR section 455.2 and W&I Code section 14043.1(i).
- Waste means the overutilization or inappropriate utilization of services and misuse of resources.
- Abuse means practices that are inconsistent with sound fiscal and business or medical practices, and result in unnecessary cost to the Medi-Cal program, or in reimbursement for services that are not Medically Necessary or that fail to meet professionally recognized standards for healthcare. It also includes Member practices that result in unnecessary cost to the Medi-Cal program.

### Q3: Health Care Examples of Fraud

For FY 2022<sup>1</sup>, The Department of Health and Human Services, Office of Inspector General reported a little over \$1.3 billion dollars in expected recoveries. Health care fraud harms both patients and taxpayers. Below are examples of Member and Provider FWA that must be reported to CenCal Health

- Member/Beneficiary:
  - Failure to report other health coverage;
  - Loaning, giving, or using another individual's identity, Beneficiary Insurance Card (BIC), CenCal Health identification card, Medi-Cal number, or other documentation of Medi-Cal or CenCal Health eligibility to obtain covered services, unless such person is an authorized representative who is presenting such document or information on behalf of a Member to obtain covered services for that Member;
  - Selling a Member's identity, BIC, CenCal Health identification card, Medi-Cal number, or other documentation of Medi-Cal or CenCal Health's eligibility;
  - Using a Covered Service for purposes other than the purposes for which it was prescribed or provided, including use of such Covered Service by an individual other than the Member for whom the covered service was prescribed or provided;
  - Soliciting or receiving a kickback, bribe, rebate, or other illicit incentive, as outlined in the Federal Anti-Kickback Statute, as an inducement to receive or not receive Covered Services; and,
  - Impersonating a provider or falsifying provider documentation to obtain unauthorized items (e.g. prescription medications, durable medical equipment).
- Provider:
  - When an individual or provider recruits and pays individuals money or offers gifts in exchange for referrals in the Medicare or Medi-Cal program;
  - Billing for services not rendered or at a higher level than actually provided;
  - Billing for non-covered services using an incorrect CPT<sup>2</sup>, HCPCS<sup>3</sup> and/or Diagnosis code in order to have services covered;
  - Billing for services that are performed by another provider or services performed by an unlicensed provider, yet billed under a licensed provider's name or information;
  - Altering records to receive covered services;
  - Ordering unnecessary tests or diagnostic procedures.

### Q4: Reporting Fraud, Waste or Abuse (FWA)

CenCal Health's contract between a Provider or Subcontractor includes terms requiring contracted entities to report suspected cases of Fraud, Waste and Abuse (FWA) within ten (10) business days of the date the Provider first becomes aware of or is on notice of such activity. Federal law also requires repayment of the overpayment to CenCal Health within sixty (60) calendar days after the date on which the overpayment was identified. CenCal Health supports good faith and anonymous reporting through a variety of reporting channels accessible to all employees, members, business partners, and the public, without fear of retaliation.

When Reporting Fraud, Waste or Abuse, please provide as much of the following information as possible (if available and applicable):

- **Actor (s) or Suspect (s) Identification and Contact Information:** Name, Address and License or Insurance ID.
- **Incident Description and Details:** who, what, where, when, date and time of incident(s).
- **Incident Documentation:** Any documentation you may have related to the incident(s).
- **Reporter Contact Information:** Your name, telephone number (if you would like to be contacted).

Any person may report a suspected FWA matter to CenCal Health through the following mechanisms:







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<sup>1</sup> Source: [Semiannual Report to Congress \(hhs.gov\)](https://www.hhs.gov/semiannual-report-to-congress) October 1, 2022 – March 31, 2023

<sup>2</sup> Current Procedural Terminology (CPT®)

<sup>3</sup> Healthcare Common Procedure Coding System

**CenCal Health**  
**FWA Reporting Contacts**

Reporting Channel	Contact Information	Contact Details
 <b>FWA Hotline</b> <b>(Phone)</b>	(866) 775-3944	<p>This hotline is operated by a third-party vendor of CenCal Health which:</p> <ul style="list-style-type: none"> <li>• Operates 24-hours a day, 7-days a week;</li> <li>• Maintains reporter confidentiality;</li> <li>• Offers anonymous reporting; and</li> <li>• Provides English and Spanish language.</li> </ul>
 <b>Online</b>	<a href="https://cencalhealth.alertline.com/gcs/overview">https://cencalhealth.alertline.com/gcs/overview</a>	<p>This is an online reporting system, hosted by a CenCal Health vendor.</p> <p><b>To file a report:</b></p> <ol style="list-style-type: none"> <li>1. Click the link or enter the URL into your browser.</li> <li>2. Select the "Make a Report" link at the top of the web page.</li> <li>3. After you complete your report, you will be assigned a unique code called a "report key."</li> <li>4. Write down your report key and password and keep them in a safe place.</li> <li>5. After 5-6 business days, use your report key and password to check your report for feedback or questions.</li> </ol>
 <b>Email</b>	<a href="mailto:compliance@cencalhealth.org">compliance@cencalhealth.org</a>	<p>Please send via secured email for reports containing PHI.</p>
 <b>Mail</b>	CenCal Health Fraud Investigations Compliance Department 4050 Calle Real Santa Barbara, CA 93110	
 <b>Fax</b>	(805) 681-8279	<p>Please send "ATTN: Compliance Department"</p>
 <b>Chief Compliance Officer &amp; Fraud Prevention Officer</b> <b>(Phone)</b>	(877) 814-1861	<p>This is CenCal Health's toll-free number. When speaking to a Member Services Representative, you may ask to speak to the Chief Compliance Officer as you would like to report Fraud, Waste or Abuse.</p>

**Government Agencies & CenCal Health Regulators**  
**FWA Reporting Contacts**

Department of Health Care Services (DHCS)	
 Phone	(800) 822-6222
 Online	<a href="http://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx">http://www.dhcs.ca.gov/individuals/Pages/StopMedi-CalFraud.aspx</a>
California Department of Justice, Bureau of Medi-Cal Fraud & Elder Abuse (BMFEA)	
 Phone	(800) 722-0432
 Online	<a href="https://oag.ca.gov/bmfea/reporting">https://oag.ca.gov/bmfea/reporting</a>
Health and Human Services (HHS) Office of Inspector General (OIG)	
 Phone	(800) HHS-TIPS (800-447-8477)
 Online	<a href="https://oig.hhs.gov/fraud/report-fraud">https://oig.hhs.gov/fraud/report-fraud</a>

**Q5: Investigation of Fraud, Waste, or Abuse (FWA)**

CenCal Health identifies, investigates, and responds to all allegations of suspected FWA from Members, providers, regulators, and internal CenCal employees. Investigations into suspected FWA are performed by the Special Investigation Unit (SIU) in the Compliance Department and overseen by CenCal Health's Chief Compliance and Fraud Prevention Officer.

During the investigation process, CenCal Health will review for FWA, which may include verifying whether services that have been represented to have been delivered by a Provider were received by members. During such verification, the provider may be asked to allow CenCal access to the medical record and billing documents that support the charges billed on either a prepayment or post-payment review basis. The provider may also be required to comply with any onsite audits or interviews requested by CenCal Health. In the event the provider does not submit or refuses to provide medical records or otherwise comply with the investigation, the provider may receive a denial or a request for recovery of payment.

In the event that CenCal Health determines that FWA occurred, the provider will be notified of the findings by a letter providing an explanation of any overpayment. The provider may be required to repay the amount through a one-time payment, payment plan, or offsets to future claims payments, as determined by CenCal Health. As directed or permitted by state law, regulation, or contract, CenCal Health may determine the overpayment amount through extrapolation of investigation findings for a particular provider obtained through a Statistically Valid Random Sample audit.

Investigations and cases shall be approved for closure upon final review of the case documentation, data, and findings by the Chief Compliance and Fraud Prevention Officer and/or designee. The Provider may have the right to dispute the results of the investigation.

The Compliance Investigator in collaboration with the Chief Compliance and Fraud Prevention Officer and/or designee shall determine the appropriate remediation steps to prevent or deter future FWA. Potential remediation steps may include, but are not limited to: (i) termination of the provider contract, (ii) revocation of delegation of activities, (iii) additional prepayment or post-payment review of claims, (iv) additional monitoring, reporting, or educational requirements, or (v) referral to DHCS' Program Integrity Unit or law enforcement.

#### **Q6: Health Insurance Portability and Accountability Act (HIPAA):**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that requires CenCal Health and its network Providers to protect the security and maintain the confidentiality of its members' Protected Health Information (PHI) and to provide its members with certain privacy rights.

PHI is any individually identifiable health information, including demographic information. PHI includes but is not limited to a member's name, address, phone number, medical information, social security number, ID card number, date of birth, and other types of personal information.

This section of the Provider Manual seeks to guide Providers on the following:

- 1) implementation of safeguards to protect CenCal Health member PHI;
- 2) ensure appropriate uses and disclosures of PHI;
- 3) ensure policies and procedures are in place;
- 4) ensure members are able to timely access their own PHI;
- 5) reminder of confidentiality and privacy provisions under Network Provider Agreements; and
- 6) how to identify and report privacy incidents and breaches to CenCal Health.

#### **Safeguarding PHI**

As HIPAA covered entities, CenCal Health and its network Providers must comply with HIPAA requirements. Below are a few reminders on how to protect and secure PHI:

##### **PHI in Paper Form**

- Documents containing PHI should not be visible or accessible to visitors or others who are unauthorized to have access to PHI.
- When faxing documents containing PHI, verify the recipient, the recipient's fax number, and the documents being sent.
- Ensure that outgoing faxes include a fax cover sheet that contains a confidentiality statement.
- When mailing PHI, verify the recipient, the recipient's mailing address, and the documents being sent.
- Ensure that envelopes and packages are properly sealed, secured, and if using a clear window envelope, ensure that information is not visible through the window of the envelope, prior to mailing out.
- When transporting PHI, ensure that the information is protected by using binders, folders, or protective covers.
- PHI must not be left unattended in vehicles.
- PHI must not be left unattended in baggage at any time during traveling.
- PHI should be locked away during non-business hours.
- PHI must be properly disposed of by shredding. Never recycle or dispose of documents containing PHI in the trash bin.

##### **PHI in Electronic Form**

- When transmitting PHI via email ensure that the email is encrypted, this prevents anyone other than the intended receiver from obtaining access to the PHI.

- Do not include PHI such as an individual's name or Beneficiary ID number (CIN) in the subject line of the email.
- Confirm the recipient, recipient's email address, and documents or information being sent, prior to sending the email.
- Ensure all portable data storage devices (CDs, DVDs, USB drives, portable hard drives, laptops, etc.) are encrypted.

#### **PHI in Oral Form**

- Do not discuss PHI in public areas such as the patient waiting room.
- Do not discuss PHI with unauthorized people. Always verify the identification of an individual, prior to discussing PHI with the individual.
- Ensure to speak quietly when discussing PHI.

#### **Uses and Disclosures of Member PHI**

The HIPAA Privacy Rule allows member PHI to be used and disclosed without the member's written consent for the following reasons (not a complete list):

- Verifying eligibility and enrollment
- Authorization for Covered Services
- Claims processing activities
- Member contact for appointments
- Investigating or prosecuting Medi-Cal cases (e.g. fraud, waste, or abuse)
- Monitoring Quality of Care
- Medical treatment
- Case Management/Disease Management
- Providing information to public health agencies as permitted by law
- In response to court orders or other legal proceedings
- Appeals/Grievances
- Requests from State or federal agencies or accreditation agencies

Providers must obtain specific written consent through a HIPAA Compliant Authorization Form for all other uses and disclosures of PHI that do not fall within the list above or are otherwise permitted by the HIPAA Privacy Rule.

#### **Policies and Procedures**

Providers must have policies and procedures in place to guard against unlawful disclosure of PHI, Personal Information (PI), and any other confidential information to any unauthorized persons or entities. Examples of policies and procedures include but are not limited to:

- Uses and Disclosures of PHI
- Minimum Necessary Disclosures of PHI
- Authorization for Release of PHI

#### **Member Access to PHI**

The HIPAA Privacy Rule requires CenCal Health and its network Providers to provide members, upon request, with access to their PHI. Providers must ensure that their medical records systems allow for prompt retrieval of medical records and that these records are available for review whenever a member requests access to their PHI. Providers must also ensure to provide the member with both timely access to their PHI and provide the PHI in the form and format requested by the member.

## Confidentiality and Privacy Provisions Under Network Provider Agreements

Providers are required to comply with all provisions of Confidentiality of Information in their Network Provider Agreements.

## Reporting of Privacy Incidents and Breaches to CenCal Health

The HIPAA Breach Notification Rule, requires CenCal Health and HIPAA covered entities to provide notification following a breach of PHI. Providers must immediately, within 24 hours from discovery report both privacy incidents and breaches involving CenCal Health members to CenCal Health.

A privacy incident is defined as an event or situation where an individual or organization has suspicion or reason to believe that PHI may have been compromised. Privacy incidents include but are not limited to the following:

- PHI sent to the wrong individual or organization.
- PHI being sent unencrypted.
- Loss or theft of documents containing PHI.
- Loss or theft of unencrypted devices (laptop, hard drives, usb drives).

A breach is defined as an unauthorized access, use, or disclosure of PHI that violates either federal or state laws or PHI that is reasonably believed to have been acquired by an unauthorized person.

Timely reporting of incidents and breaches involving the PHI of our members is crucial in the response, investigation, and mitigation of incidents and breaches. To report suspected or known privacy incidents and breaches you may contact CenCal Health through any of the following means.



Phone: Anonymous Compliance Hotline: 866-775-3944



Online: <https://cencalhealth.alertline.com/gcs/overview>



E-mail: [HIPAATeam@cencalhealth.org](mailto:HIPAATeam@cencalhealth.org)



Fax: (805) 681-8279



Mail: CenCal Health  
Attn: Privacy Office  
4050 Calle Real, Santa Barbara, CA 93110