



02.04 OPERATING POLICY & PROCEDURE

Subject: Provider Contract Compliance		Application: All Departments
First Effective 2/19/13	Revised 3/08/2018	Review 2/13/2023

PURPOSE

To outline the expectations for compliance by providers with the Provider Agreement/Contract for the delivery of supports and services.

DEFINITIONS

Agreement/Contract

A signed document that obligates the parties to a particular course of action. Generally speaking, a contract identifies the parties, effective dates and what is agreed to (i.e., services, terms/conditions and may include a rate). Referred to hereinafter as "Contract".

Sanctions

Penalties triggered when a provider fails to meet specified performance standards or other conditions of the contract. Sanctions include a range of options of varying in severity depending on the seriousness, frequency and/or nature of the contract violation.

POLICY

It shall be the policy Pivotal to:

- A. Promote the understanding of compliance with the provider contract.
- B. Actively monitor network providers to ensure compliance with the terms of the provider contract.
- C. Take firm and expedient action in the event of non-compliance. The actions taken may range from assisting the provider with compliance improvement projects to cancellation of the provider's contract depending on the severity and persistence of the non-compliance.

PROCEDURE

A. Communication To Providers On Requirements & Expectations

Pivotal will utilize a variety of means to assist providers in understanding the contract requirements. These include:

1. Information contained on the Pivotal; website.
2. Request for Proposal (RFP).
3. Informal and formal consultations.
4. Orientation and training activities.
5. Self-monitoring and documentation tools, etc.
6. Monitoring reviews (refer to Pivotal policy 02.08 [Provider Network Monitoring]).
7. Information mailings and meetings.

Through these formal and informal means, it is expected that non-compliance will be minimal. Pivotal staff shall be required to document pertinent conversations/interactions with providers in regards to any contract compliance issue. It is the responsibility of the provider to know and understand the terms of the provider contract and comply accordingly.

B. Communication From Providers On Negative Action

1. It is the responsibility of the provider to communicate negative actions (as described in section II.B below) and provide written notification to the responsible party within the Pivotal's provider network as indicated in the contract between the provider and Pivotal.

NOTE:

Additional reporting may be required and specified in Pivotal's policies related to the specific event.

2. Actions requiring immediate (within 10 business days) notification include, but are not limited to:
 - a. Loss of accreditation.
 - b. Contract Violation
 - c. Loss of insurance.
 - d. Unfavorable financial audit.
 - e. Successful litigation claim against the Provider member.
 - f. Loss of substance abuse license.
 - g. Loss or change in Adult Foster Care or Child Placing Licensing.
 - h. Reports of substantiated violations of State or Federal rules or regulations (i.e., Special Investigation Reports with substantial rule violations conducted by DHS Bureau of Children and Adult Licensing).
 - i. Any claim, allegation, financial loss or change in credentialing that can negatively impact the provider.
 - j. Sentinel Events (as defined by policy 03.07 [Incident, Event and Death Reporting]) must be reported as soon as possible and no later 24 hours after occurrence.

C. Changes in Ownership, Facilities or Licensing

The provider must report any changes in ownership, facilities and/or licensing to the contracts department at least 60 days in advance for credentialing review and so that a new contract can be put into place.

D. Provider Monitoring

1. Pivotal will monitor the compliance of providers as outlined in the policy 02.08 (Provider Network Monitoring).
2. Provider monitoring activities that lead to the development of summary performance reports will be used for consideration and decision-making.
3. Unsatisfactory performance, lack of response, failure to submit plan of correction within required timeframe and/or discovery of significant risks (i.e., health hazard, injury, loss, and exposure) may result in the application of a sanction.

E. Provider Sanctions

1. As it is in the best interest of Pivotal and the persons served by Pivotal, the focus of provider sanctions (compliance activities) will be on continuous improvement, as applicable. Pivotal will strive to work, whenever possible, with a provider who has been found to be out of compliance with the provider contract.
2. Providers will be sanctioned based on the severity and frequency of the contractual violation(s).
3. A provider may file an appeal of a sanction by using the provider grievance and appeal process (refer to policy 02.02 [Provider Grievance and Appeals – non-clinical]).
4. Under usual circumstances (a non-emergent situation where health and safety is not at risk), sanctions will require providers to satisfactorily remediate/correct violations noted, per a time frame determined by Pivotal.
5. Under emergent situations where health and safety is a concern, the provider will immediately remediate/correct violations noted by Pivotal.
6. Typically, sanctions will begin at Level 1 and be progressive in nature. However, a sanction can begin at any level depending on the severity and frequency of the violation.
7. The status of the progress toward remediation of the issue(s) for which the sanction was applied will have ongoing monitoring to ensure prompt resolution.
8. The following table outlines some examples of contract violations, sanctions and Pivotal's actions.

Level	Sanction	Description & Action
1	<ul style="list-style-type: none"> ▪ Notice of contractual violation 	Violation Description: For contractual violations (first, second, and/or persistent offenses). Contract violations include but are not limited to: quality of care, documentation requirements, fiscal or legal obligations, compliance with

Level	Sanction	Description & Action
	<ul style="list-style-type: none"> ▪ Plan of Correction 	contract performance indicators, etc. Pivotal's Action: 1) A level-1 sanction notice will be sent to the provider, describing the contractual violation, and (if applicable) notifying the provider of the required information and/or plan of correction and time frame for its receipt. 2) Additional monitoring for oversight during the course of the sanction. 3) The sanction and status action may be reflected on year-end reports on providers.
2	<ul style="list-style-type: none"> ▪ Plan of Correction and one or more of the following: ▪ Referral moratorium ▪ Withholding of funds, and/or ▪ Probation 	Violation Description: For a contract violation that is serious enough to warrant more than a level 1 sanction. Examples include but are not limited to: 1) Recipient Rights violation of abuse or neglect (Class I or II), 2) Sentinel Event where provider was found to be negligent, 3) Serious safety violations that resulted in the person(s) served being put at significant risk, 4) Licensing violations that jeopardize the status of the license, 5) Healthcare fraud, and/or abuse. Or For a repeat contract violation due to a failure to correct or remediate a previous issue. Or For a period of time while an investigation of a serious incident is ongoing, even in advance of any substantiated contract violation. Pivotal's Action: 1) A level-2 sanction notice will be sent to the provider, describing the contractual violation, notifying the provider of the type of sanction that has been executed, any required information or plan of correction, and any relevant time frames. 2) The provider will be placed on additional monitoring for oversight during the course of the sanction. 3) CMHSAS-SJC Executive Director will be notified. 4) The sanction and status action may be reflected on year-end reports on providers.
3	<ul style="list-style-type: none"> ▪ Contract Termination 	Violation Description: For a contract violation that is serious enough to warrant more than a level 2 sanction. Examples include but are not limited to: 1) negligence severe enough to result in the death of a person receiving services, 2) loss of a license, accreditation or other necessary credentials to perform the expected contracted service, 3) misrepresentation of vital information (i.e., credentials), 4) Centers for Medicare and Medicaid Services (CMS) - imposed administrative or regulatory sanctions, 5) instances where repeated contractual violations are observed with ineffective or unacceptable provider corrections.

F. Communication To Providers On Sanctions

1. For all Level 1 and 2 sanctions, Pivotal will send the provider a notice outlining the areas of non-compliance within 20 business days of discovery of the provider's failure to comply with the terms of the provider contract. The correspondence will outline:
 - a. The area(s) of non-compliance.
 - b. Level and type of sanction.

- c. The expected remedy/improvement.
 - d. Any additional monitoring of the provider.
 - e. The date by which remedy is expected to occur.
 - f. The due date of a response by the provider.
 - g. Contact person at Pivotal to direct questions to and send response.
2. All Level 2 or 3 sanctions will be:
 - a. Sent to the provider through certified mail with a return receipt requested.
 - b. Copied to the Pivotal Executive Director.
 3. If a provider does not achieve a required correction/improvement by the established deadline, Pivotal will notify the provider through certified mail. The compliance letter will include:
 - a. The information noted above in V.A above.
 - b. Any additional sanctions imposed with newly-defined timeframes.
 - c. The statement “the consequences for continued non-compliance may include termination of the contract”.

G. Communication from Providers on Sanctions

The provider is expected to respond to all Level 1 and 2 notices of non-compliance within stated timelines using the Plan of Correction (exhibit E) or as otherwise stated by Pivotal. Other expectations may be outlined in the communication from Pivotal.

REFERENCES

- MDHHS/CMHSP Managed Specialty Supports and Services Contract Section 6.4.1 Provider Contracts
- Southwest Michigan Behavioral Health Policy
 - 2.7 (Provider Communication)
 - 2.9 (Participating Provider Precautionary Suspension)

EXHIBITS

- 2.04A - Provider Sanctions, Actions, Communications & Authority
- 2.04B - Form Letter for Sanction Level 1
- 2.04C - Form Letter for Sanction Level 2
- 2.04D - Form Letter for Sanction Level 3