

First Tier, Downstream and Related Entities (FDR) Compliance Program Guide



South Country Health Alliance (South Country) is committed to complying with all federal, state, and local laws and regulations that governs its business. This commitment extends to our business partners and delegated entities.

“We are each responsible for ensuring our own compliance with laws, rules, regulations and contractual obligations.”

I. Introduction

CMS requires South Country implement an effective compliance program that meets the regulatory requirements outlined at 42 C.F.R. §§422.503(b)(4)(vi) and 423.504(b)(4)(vi). South Country maintains the responsibility for ensuring FDRs comply with Medicare program requirements.

Specific Requirements

As an FDR, your organization must comply with Medicare Compliance Program requirements including, but not limited to:

- Distribution of Standards of Conduct and Compliance Policies and Procedures
- General Compliance and Fraud, Waste, and Abuse (FWA) Training
- Office of Inspector General (OIG) and the Government Services Administration (GSA) Exclusion Screening
- Monitoring and Auditing Downstream Entities
- Record Retention
- Reporting FWA and Compliance Concerns

The Medicare compliance program requirements apply to all employees (including volunteers and contractors) and governing body members providing health or administrative services in connection with South Country programs.

It is important for you to follow these requirements

You received this guide because we’ve identified you as a FDR and you must comply with these requirements. The purpose of this guide is to assist FDRs in understanding and meeting their compliance obligations.

Questions and Concerns

If you have any questions or concerns regarding South Country’s Compliance Program, please email us at compliance@mnscha.org.



II. FDR as Defined by CMS

First Tier Entity is any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program. (See, 42 C.F.R. § 423.501).

Downstream Entity is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. (See, 42 C.F.R. §, 423.501).

Related Entity means any entity that is related to an MAO or Part D sponsor by common ownership or control and

- (1) Performs some of the MAO or Part D plan sponsor's management functions under contract or delegation;
- (2) Furnishes services to Medicare enrollees under an oral or written agreement; or
- (3) Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than \$2,500 during a contract period. (See, 42 C.F.R. §423.501).

III. FDR Compliance Requirements and How to Meet Them

Standards of Conduct and Compliance Policies

(Medicare Managed Care Manual Ch. 21 § 50.1.3)

CMS requires compliance policies and procedures and Standards of Conduct be distributed to employees within 90 days of hire, upon revision, and annually thereafter.

How to Comply: Distribute either South Country's Code of Conduct and compliance policies or your own comparable standards of conduct and compliance policies to all applicable employees and Downstream Entities who provide administrative and/or health care services to Medicare enrollees in connection with South Country programs.



General Compliance and Fraud, Waste and Abuse (FWA) Training

(Medicare Managed Care Manual Ch. 21 §§ 50.3.1 and 50.3.2)

Beginning January 1, 2019, CMS no longer requires health care providers participating in Medicare Advantage and Part D Plans to complete CMS-issued general compliance and fraud, waste and abuse training. While the 2019 Final Rule removed the requirement for FDRs to complete the CMS published training modules, it does not exempt the South Country from ensuring that FDRs have an effective compliance program. Specifically, CMS states, “We will continue to hold sponsoring organizations accountable for failures of their FDRs to comply with Medicare program requirements, even with this change.” Therefore, South Country will expect our first tier entities to implement an effective compliance program designed to prevent, detect, and correct Medicare and Medicaid non-compliance, fraud waste and abuse, and address improper conduct in a timely and well-documented manner.

How to Comply:

Ensure that your organization has completed adequate training to ensure understanding and adherence to Medicare program requirements. Training can be tailored to your organizational needs. You can also incorporate content from the Medicare Fraud & Abuse Booklet that is available on the Medicare Learning Network. (<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/MLN-Publications-Items/MLN4649244>)



OIG and GSA Exclusion Screening

(Medicare Managed Care Manual Ch. 21 § 50.6.8)

Federal law prohibits the payment by Medicare, Medicaid, or any other federal healthcare program for items or services furnished or prescribed by an excluded provider or entity.

How to Comply: Review the DHHS OIG List of Excluded Individuals and Entities (LEIE) and the GSA Excluded Parties Lists System (EPLS) prior to the hiring or contracting, and monthly thereafter, of any new employee, temporary employee, volunteer, consultant, governing body member, or Downstream Entity to ensure that none of these persons or entities are excluded or become excluded from participation in federal programs.

If an employee, governing body member, or Downstream Entity appears on the screening, you must notify South Country immediately.

Monitoring and Audit Downstream Entities

(Medicare Managed Care Manual Ch. 21 §50.6.6)

CMS requires that you monitor and audit the compliance of your Downstream Entities.

How to Comply: If your organization subcontracts with other entities to provide health or administrative services to Medicare enrollees in connection with South Country programs, you must monitor and audit their performance to ensure they are also in compliance with applicable CMS requirements.

Record Retention

(Medicare Managed Care Manual Ch. 21 §50.3.2)

CMS requires plan sponsors and FDRs to maintain records for a period of 10 years.

How to Comply: Maintain all supporting documentation in connection with South Country programs (including compliance and FWA training logs and evidence of OIG and GSA Exclusion monitoring) for 10 years.

Reporting FWA and Compliance Concerns

(Medicare Managed Care Manual Ch. 21 §50.4.2)

CMS requires that sponsors and FDRs maintain a confidential reporting system and ensure that all employees and those of any Downstream Entities are informed of how to report compliance concerns and suspected misconduct. Employees and FDRs must be notified that they are protected from retaliation for False Claims Act complaints, as well as any other applicable anti-retaliation protections.

How to Comply: Distribute FWA and compliance reporting mechanisms to your employees and post it in your facility. Notify your employees that they are protected from retaliation for False Claims Act complaints, as well as any other applicable anti-retaliation protections your organization has.

Reports can be made to South Country by any of the following reporting mechanisms:

- Submit a report to compliance@mnscha.org
- Submit a report to SCHA at 1-866-722-7770 (toll free);
- Submit an anonymous report to “Report-it” at 1-877-778-5463 or on-line at www.reportit.net (login is SCHA, password is Owatonna)

IV. Relevant Laws and Regulations

South Country provides a general notice of the provisions of the *Deficit Reduction Act and a Summary of Federal and Minnesota False Claims Act Laws*. Please review the general notice available on our website by visiting <https://mnscha.org/> and clicking on Fraud, Waste, and Abuse (bottom of the page) and then Deficit Reduction Act Information – Summary of Federal and Minnesota False Claims Act Laws.

V. Receipt of Federal Funds

South Country receives federal payments and is therefore subject to the laws which are applicable to individuals and entities receiving federal funds. As an FDR, all payments that you receive from South Country are, in whole or in part, from federal funds.

VI. FDR Annual Attestation

South Country is requiring all FDRs who provide health or administrative services in connection with South Country’s Medicare Advantage programs to attest that they are in compliance with the above requirements annually. An authorized representative from your organization will need to attest to compliance with the requirements described in this guide no later than **December 31st each year**. The attestation of completion attached to this guide is also available by visiting https://mnscha.org/?page_id=9498 and clicking on FDR Annual Attestation (bottom of page).

FIRST TIER, DOWNSTREAM AND RELATED ENTITIES (FDR) ANNUAL COMPLIANCE ATTESTATION

Section I: Instructions for Completing the Attestation	
<p>Please complete this form in its entirety and return the completed form to one of the following:</p> <p>Email: compliance@mnscha.org</p> <p>Fax: (507) 444-7774, Attn: Compliance Department</p> <p>Mail: South Country Health Alliance, Compliance Department, 2300 Park Drive, Suite 100, Owatonna, MN 55060</p>	
Section II: Annual Attestation	Response
<p>1. Distribution of Standards of Conduct and Compliance Policies and Procedures</p> <p>My organization has adopted either South Country’s or a comparable Code of Conduct and compliance policies and procedures which have been distributed to employees within 90 days of hire, upon revision, and annually thereafter.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>2. General Compliance and Fraud, Waste, and Abuse (FWA) Training</p> <p>My organization has completed adequate training to implement an effective compliance program designed to prevent, detect, and correct Medicare and Medicaid non-compliance, fraud waste and abuse, and address improper conduct in a timely and well-documented manner.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>3. OIG and GSA Exclusion Screening</p> <p>My organization screens the OIG and the GSA exclusion lists prior to hire or contracting, and monthly thereafter, for our employees and Downstream Entities.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>4. Monitoring and Auditing Downstream Entities</p> <p>My organization either doesn’t use Downstream Entities or uses Downstream Entities in connection with South Country programs and we monitor and audit their performance to ensure they are also in compliance with applicable CMS requirements.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>5. Record Retention</p> <p>My organization understands and agrees to maintain records and supporting documentation for a period of 10 years and will furnish evidence of the above to South Country or CMS upon request.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>6. Reporting FWA and Compliance Concerns</p> <p>My organization has distributed a confidential FWA and compliance reporting mechanism to all employees and Downstream Entities.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
Section III: Attestation Authorization	
<p>By signing below, I hereby attest that the information contained herein is true, correct and complete and agree to complete this attestation on an annual basis.</p>	
Name of FDR:	Date:
Name of Authorized FDR Representative:	Email address:
Signature of Authorized FDR Representative:	Phone #:

If you have any questions regarding this attestation or South Country’s Compliance Program, please email us at compliance@mnscha.org.

SOUTH COUNTRY

HEALTH ALLIANCE

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