

# Disciplinary Standards

<b>Department:</b>	<b>Compliance, Corporate</b>	<b>Policy No:</b>	<b>171</b>
Prepared By/Date:	Emily Coriale / June 1, 2018	Date Originated:	<b>6/1/2018</b>
Approved By/Date:	Compliance Committee – June 26, 2018	Last Revision Date:	N/A
<b>Areas of Impact:</b>	<b>All P3 Employees and Departments</b>	<b>Supersedes P&amp;P No.</b>	N/A

## 1. PURPOSE:

P3 Health Group Holdings, LLC (“**P3**”)<sup>1</sup> has established well publicized disciplinary standards and will enforce disciplinary actions for failure to report identified fraud, waste or abuse (“**FWA**”), as well as any other Non-Compliant Activity (as defined below). This policy applies to any and all employee conduct that P3, in its sole discretion, determines must be addressed by discipline. Of course, no discipline policy can be expected to address each and every situation requiring corrective action that may arise in the workplace. Therefore, P3 takes a comprehensive approach regarding discipline and will attempt to consider all relevant factors before making decisions regarding discipline.

## 2. SCOPE:

1. This policy applies to all of P3’s employees, management, contractors, student interns, and volunteers.
2. This policy describes P3’s objectives and policies regarding disciplinary standards for any violations of FWA policies, procedures, laws, regulations or the like, as well as any other employment related issues.

## 3. DEFINITIONS:

Unless defined in the body of this policy (which would be indicated by a term in parenthetical, underlined and with quotations around the defined term), the following terms, have the following meanings for this policy:

**Abuse:** Includes actions that may directly or indirectly, result in unnecessary costs to the Medicare Program, improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud, because the distinction between “fraud” and “abuse” depends on facts and circumstances, intent and prior knowledge, and available evidence, among other factors.

**Client Plan Sponsor:** Any entity that holds a contract directly with CMS who is involved with the Medicare Advantage benefit or Part D benefit, and who contracts with P3 to provide certain services (e.g., Blue Cross Blue Shield of Arizona).

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<sup>1</sup>When the term “**P3**” is used herein, it also includes the following entities, in addition to P3 Health Group Holdings, LLC (“**Holdings**”) – P3 Health Partners, LLC; P3 Health Group Management LLC; P3 Consulting, LLC; P3 Health Partners-Nevada, LLC; Kahan Wakefield Abdou, PLLC; Bacchus Wakefield Kahan, PC; as well as any direct or indirect subsidiaries of Holdings, whether now existing or hereafter formed.

**CMS:** Centers for Medicare and Medicaid Services.

**Compliance Officer:** P3's Compliance Officer and his or her designee(s).

**Compliance Committee:** P3's Compliance Committee.

**Downstream Entity:** Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the Medicare Advantage ("**MA**") benefit or Part D benefit, below the level of the arrangement between a MA Organization ("**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.

**FDR:** First Tier, Downstream or Related Entity

**First Tier Entity:** Any party that enters into a written arrangement, acceptable to CMS, with a 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.

**Fraud:** Knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.

**Non-Compliant Activity:** Any activity that violates or breaches, among other things: (a) a contractual requirement with Client Plan Sponsor or any other contract with a third party, (b) any CMS regulation, guidance, memoranda or the like, (c) any statutes applicable to P3, including, without limitation, the Health Insurance Portability and Accountability Act of 1996, as the same may be amended from time-to-time, and (d) any policies and/or procedures established by P3.

**Related Entity:** Any entity 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.

**Waste:** The overutilization of services or other practices that directly or indirectly, result in unnecessary costs to the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.

#### **4. POLICY:**

As part of their employment duties, employees may encounter potential FWA and/or Non-Compliant Activities that may need to be reported to the Compliance Officer. The Compliance Officer will include Human Resources if allegations require their expertise or assistance with disciplinary actions.

The following are examples:

- Submission of false claims;
- Failure of P3 and/or its FDRs to comply with any contractual provisions, including, without limitation, the failure to comply with any Client Plan Sponsor contractual requirements;
- Fraudulent use of an enrollee's Member ID card to receive services;

- Use of multiple doctors to gain access to large amount of prescription drugs;
- Any form of harassment, including sexual harassment;
- Any behavior that disrupts the work environment or other employees; or
- Improper use of P3's resources.

All employees, volunteers, temporary worker, contractors, board of directors, enrollees and FDRs are required to report and assist with the investigation and resolution of potential FWA allegations, as well as illegal, unethical or suspicious activities.

The Compliance Officer will employ disciplinary actions to mitigate FWA actions, and any other Non-Compliant Activities of P3's employees, volunteers, temporary worker, contractors, board of directors, enrollees and FDRs.

For substantiated issues, P3 may impose one or more of the following disciplinary actions in a timely manner to effectively stop the activity or correct the behavior:

- Education and training;
- Payment suspension as part of an ongoing investigation;
- Prepayment review as part of an ongoing investigation;
- Corrective Action Plan;
- Revision of Policy and Procedures;
- Recommendations to add or modify system edits;
- Recoup improper claim payments;
- Termination of employment or contract;
- Referral to National Benefit Integrity – Medicare Drug Integrity Contractor, Department of Health and Human Services – Office of the Inspector General, the Department of Justice or other law enforcement;
- Report finding to applicable licensing board;
- Report finding to CMS; or
- Use de-identified FWA summary as part of educational material to support disciplinary actions taken.

Generally, the disciplinary standards are not progressive in nature, and P3 will enforce the most appropriate disciplinary action in a timely, consistent and effective manner to mitigate the risk of continued or future non-compliant, unethical or illegal behavior.

However, progressive discipline may be issued on employees even when the conduct that leads to more serious discipline is not the same that resulted in less severe discipline. That is, violations of different rules may be considered the same as repeated violations of the same rule for purposes of progressive action.

Probationary employees are held to the highest standards for behavior and job performance. Progressive discipline is the exception rather than the rule for probationary employees.

## **5. PROCEDURE / ACTION:**

The Compliance Officer is responsible for establishing disciplinary standards in coordination with P3's Human Resources Department. The Compliance Officer is responsible for clearly articulating disciplinary standards and promoting disciplinary standards to mitigate the impact of FWA, as well as any other Non-Compliant Activities. Moreover, P3 will undertake the following:

1. P3 will review and update (as necessary) the disciplinary standards in P3's Code of Conduct and Compliance policy & procedures, P3's other policies and procedures, and P3's Employee

Handbook, and disseminate the revised standards through internal distribution, newsletters, training and other methods.

2. All disciplinary actions will be communicated in writing following approval by the Compliance Officer, Human Resources, the Compliance Committee, and may include the Chief Executive Officer and Legal Counsel.
3. The Compliance Officer may recommend any of the published disciplinary standards to each independent finding.
4. The Compliance Officer will provide oversight of the use of disciplinary standards to confirm actions taken are appropriate to the seriousness of the violation, and imposed in a fair and consistent manner within a reasonable timeframe.

As noted above, P3 may invoke a progressive disciplinary process, when it deems it necessary to do so. In such circumstances, P3 may do any of the following:

1. **Verbal Caution:** An employee will be given a verbal caution when he or she engages in problematic behavior. As the first step in the progressive discipline policy, a verbal caution is meant to alert the employee that a problem may exist or that one has been identified, which must be addressed. Verbal warnings will be documented and maintained by your supervisor. A verbal caution remains in effect for 3 months.
2. **Verbal Warning:** A verbal warning is more serious than a verbal caution. An employee will be given a verbal warning when a problem is identified that justifies a verbal warning or the employee engages in unacceptable behavior during the period a verbal caution is in effect. Verbal warnings are documented and placed in the employee's personnel file and will remain in effect for 3 months.
3. **Written Warning:** A written warning is more serious than a verbal warning. A written warning will be given when an employee engages in conduct that justifies a written warning or the employee engages in unacceptable behavior during the period that a verbal warning is in effect. Written warnings are maintained in an employee's personnel file and remains in effect for 3 months.
4. **Suspension:** A suspension without pay is more serious than a written warning. An employee will be suspended when he or she engages in conduct that justifies a suspension or the employee engages in unacceptable behavior during the period that a written warning is in effect. An employee's suspension will be documented and, regardless of the length of the suspension issued, will remain in effect for 3 months.
5. **Decision Making Leave :** Generally following a suspension, an employee will be reprimanded then sent home for the day on decision making leave. This is intended to help the employee decide whether they should continue employment with P3. If the employee returns, he or she will be expected to work harder than before to follow P3's guidelines and continue his or her employment without interruption. The other option with this leave is the employee may choose to resign because employment with P3 is not a match.
6. **Termination:** An employee will be terminated when he or she engages in conduct that justifies termination or does not correct the matter that resulted in less severe discipline.

Again, while P3 may take disciplinary action in a progressive manner, it reserves the right, in its sole discretion, to decide whether and what disciplinary action will be taken in a given situation.

**6. DOCUMENTATION / REFERENCES:**

SUPPORTING DOCUMENTS

N/A

CROSS REFERENCED P&Ps

Code of Conduct

MANUAL

Medicare Managed Care Manual, Chapter 21, Sections 50.5.1, 50.5.2, and 50.5.3

RELEVANT REGULATORY CITATIONS

42 C.F.R. § 422.503(b)(4)(vi)(E)

42 C.F.R. § 423.504(b)(4)(vi)(E)

**7. HISTORY:**

<b>DATE</b>	<b>REVISED BY</b>	<b>REASON FOR REVISION/CONTENT CHANGED</b>