

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)

CMS requires plan sponsors 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. Plan sponsors are also responsible for ensuring FDRs comply with these program requirements.

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>)



Exclusion Screening

(Medicare Managed Care Manual Ch. 21 § 50.6.8)

(MN Stat. § 256B.064, subd. 3)

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.

All FDRs that contract with South Country to provide administrative or health care services for South Country are responsible for checking Federal *and* State exclusion databases.

How to Comply: Review the OIG List of Excluded Individuals and Entities (LEIE), the General Services Administration (GSA) System for Awards Management (SAM) database, and the Minnesota Department of Human Services (DHS) Excluded Provider Lists 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 state or federal programs.

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

Monitor 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 South Country 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://www.mnscha.org/about-us-a/compliance/fraud-waste-abuse/> and clicking on 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://www.mnscha.org/about-us-a/compliance/fdr-compliance/> and clicking on FDR Annual Attestation (bottom of page). There is also a link to complete the attestation online.

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

Section I: Instructions for Completing the Attestation	
Please complete this form in its entirety and return the completed form to one of the following: Email: compliance@mnscha.org Fax: (507) 444-7774, Attn: Compliance Department Mail: South Country Health Alliance, Compliance Department, 6380 West Frontage Road, Medford, MN 55049	
Section II: Annual Attestation	Response
1. Distribution of Standards of Conduct and Compliance Policies and Procedures 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.	☐ Yes ☐ No
2. General Compliance and Fraud, Waste, and Abuse (FWA) Training 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.	☐ Yes ☐ No
3. Exclusion Screening My organization screens the OIG List of Excluded Individuals/Entities (LEIE), the General Services Administration (GSA) System for Awards Management (SAM) database, and the Minnesota Department of Human Services (DHS) Excluded Provider Lists exclusion lists prior to hire or contracting, and monthly thereafter, for our employees and Downstream Entities.	☐ Yes ☐ No
4. Monitoring and Auditing Downstream Entities 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.	☐ Yes ☐ No
5. Record Retention 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.	☐ Yes ☐ No
6. Mechanism to Report FWA and Compliance Concerns My organization has distributed a confidential FWA and compliance reporting mechanism to all employees and Downstream Entities.	☐ Yes ☐ No
7. Reporting FWA and Noncompliance My organization has disclosed all instances of FWA and noncompliance including all instances of FWA and noncompliance from Downstream Entities.	☐ Yes ☐ No
Section III: Attestation Authorization	
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.	
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.



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