CABINET FOR HEALTH AND FAMILY SERVICES	Subject: Participant Directed Services SOP Title: Fraud, Waste and Abuse PDS-SOP-6.32
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PURPOSE

The Participant Directed Services (PDS) Fraud, Waste, and Abuse (FWA) standard operating procedure (SOP) section provides general information about Medicaid program FWA. The goal of this section is to educate all individuals and providers involved in the delivery of services through the PDS option of the Home and Community Based Services (HCBS) waivers regarding what constitutes Medicaid FWA and how to report suspected FWA to the proper authorities.

POLICY

1. The funding for PDS comes from Medicaid, which is funded by the state and federal government. Fraudulent, wasteful, and abusive use of Medicaid funded services is against the law.
2. Suspected FWA must be reported to the Office of Inspector General by any person who knows or has reason to believe it is being committed.
    a. Reports can be made using the following link of by one of the following options:
    Phone: (800) 372-2970
    Email: chfs.fraud@ky.gov
    Mail: Office of Inspector General
    Division of Audits and Investigations
    275 East Main Street, 5E-D
    Frankfort, KY 40621
3. To file a report of Medicaid FWA the reporter should include the name and address of the person or agency suspected of committing the FWA, when known, and any other details about the extent of the violation which may be helpful in the investigation.
4. **Fraud** is defined in Kentucky Revised Statues (KRS) KRS 205.8451 and means misrepresenting the truth or hiding information or facts.
    a. Fraud may occur if a PDS participant, PDS representative, PDS employee, family member or Medicaid provider agency, including the case manager or Financial Management Agency, gives false information or changes facts to benefit or get assistance from the Medicaid program, which includes PDS.
5. **Waste** is the careless expenditure or use of program resources.
    a. Waste may occur if inefficient or ineffective practices result in a cost to the Medicaid program, which includes PDS.
6. **Abuse** is an activity or practice that is not consistent with sound business or program guidelines and results in an unnecessary cost to Medicaid, which includes PDS.
    a. Abuse may occur if actions that are improper, inappropriate, and outside acceptable standards of the program are taken.
7. The difference between FWA is that fraud requires the person to have intent to deceive and the knowledge that their actions are wrong and is prosecutable as a crime. Waste and abuse may involve obtaining improper payment, but do not require the same intent and knowledge.

   a. These differences are based upon intent and knowledge and depend on specific facts and circumstances.
8. A case manager who suspects FWA may also need to complete a Corrective Action Plan in situations where suspected FWA impacts a PDS participant's compliance with PDS requirements. For more information on PDS Corrective Action Plans refer to PDS-SOP 6.24.
9. It is the responsibility of the case manager to ensure the PDS participant and PDS representative are educated about Medicaid FWA and the reporting requirements and methods.
10. It is the responsibility of the PDS participant or PDS representative to educate the PDS employee about Medicaid FWA and the reporting requirements and methods.
    a. It is the responsibility of the PDS participant or PDS representative to obtain a signed acknowledgement that the PDS employees received training on Medicaid FWA.
11. FWA training should be documented using Cabinet's "FRAUD, WASTE AND ABUSE FACT SHEET" form. A copy of this form should be signed and dated by the PDS participant, PDS representative and each PDS employee one time prior to the delivery of services.
    a. The form must be completed for each participant if a PDS employee serves more than one participant.
    b. A new form must be signed if a PDS employee terminates for a period and then returns to provide services again.
    c. Completed forms should be uploaded into the Medicaid Waiver Management Application (MWMA).

Examples of Fraud, Waste and Abuse

1. *Examples* of PDS participant, PDS representative, and PDS employee fraud or abuse in PDS include, but are not limited to:
    a. A PDS employee submits more time than they worked in the Electronic Visit Verification system and receives pay for time that was not worked.
    b. A PDS employee provides services to more than one participant at a time.
    c. A PDS employee indicates tasks or activities were performed that they did not perform.
    d. A PDS participant knowingly approves services not provided by PDS employee for the benefit of the employee or in exchange for a share of the funds.
    e. Forging a signature.
    f. Submitting time for inappropriate activities that are unrelated to a PDS participant's assessed needs and Person-Centered Service Plan goals and objectives.
2. *Examples* of case manager or Financial Management Agency FWA include, but are not limited to:
    a. Not keeping or falsifying required records.
    b. Billing for services that were not rendered (e.g., not conducting home visits but documenting one occurred).
    c. Knowingly approving falsified timesheets.
    d. Coercing or offering inducements to participants to sign up for services that are excessive or not medically necessary.
    e. Providing services that are not medically necessary.