



CORPORATE COMPLIANCE POLICY

POLICY CC-07 RESPONDING TO GOVERNMENTAL OR OTHER EXTERNAL INVESTIGATIONS

- I. **Policy:** Children's Health System (CHS) shall be informed immediately of any governmental or other external investigations concerning its operations whenever contact by such agencies has been made with CHS employees, contractors, or affiliates. The Corporate Compliance Officer shall be involved in coordinating and responding to investigations by governmental or other investigative units of external agencies targeting healthcare fraud, abuse, or waste.
- II. **Purpose:** To provide a collaborative and timely response to any external investigation, notification, or request and allow CHS the opportunity to exercise its legal rights within established timeframes while fully cooperating with the investigation.
- III. **Background:** Today's healthcare environment involves increasing governmental monitoring of fraud, abuse, and waste of healthcare funds through investigations and payment recovery initiatives.

External investigations targeting fraud, abuse, or waste may include: subpoenas and requests for correspondence and documents maintained in electronic or paper format; requests for appointments for onsite interviews or audits; subpoenas and requests for medical record documentation maintained in electronic or paper format; and any method of personal communications, interviews, or queries with CHS employees during or outside normal work hours and locations.

Agencies authorized to conduct such activities include, but are not limited to, the Office of Inspector General (OIG), Office for Civil Rights (OCR), Centers for Medicare and Medicaid Services (CMS), the Federal Bureau of Investigation (FBI), Federal or State Attorney General Offices, the Alabama Medicaid Agency Fraud Unit, the Network Integrity Unit of Blue Cross and Blue Shield, and specific audit contractors authorized by CMS under current payment recovery initiatives.

- IV. **Procedure:**
 - A. Guidelines for Responding to External Investigators
 1. Notify the Corporate Compliance Officer immediately if an agent or investigator from a governmental or enforcement agency approaches you for information or questioning regarding CHS. The Corporate Compliance Officer will notify the Patient Safety/Risk Management Officer in Administration of the request to evaluate liability issues.
 2. **ALWAYS** request identification from the agent. Photocopy the agent's identification and other documents presented, i.e., subpoenas,

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warrants. Explain to the agent you will be happy to cooperate, but you must first notify your supervisor, the Corporate Compliance Officer and the Patient Safety/Risk Management Officer to verify identity and legal documents presented before answering questions or providing documents.

3. You have the right to determine the time and place of the interview, but do not in any way attempt to deter or obstruct a governmental investigation. Representatives from external agencies may arrive unannounced at CHS offices or homes of CHS staff with or without prior notification to CHS Senior Management.
4. CHS takes no position on whether you should participate in an outside interview. **Do not become intimidated or bullied into talking with an investigator.** You may request the Corporate Compliance Officer, the Patient Safety/Risk Management Officer, or legal counsel be present during an interview.
5. Answer all questions truthfully and completely. If you do not know the answer, or cannot remember, simply state that you do not know. Do not repeat hearsay or make assumptions. When possible, note specifics of the interview content. Information provided to a government representative during an interview can be used in subsequent administrative, civil, or criminal proceedings. In addition, you may be subpoenaed to testify in court regarding the subject matter of the interview.
6. You have the right to stop an interview at any time.
7. Do not allow the agent or investigator to take CHS documents or medical records unless you have been authorized to do so by the Corporate Compliance Officer, or the Patient Safety/Risk Management Officer, the Director of MIS, or Corporate Counsel.

B. Subpoenas and Search Warrants

1. Ask to see the agency representative's identification and business card with the name of the agency represented, or obtain the agent's name, agency office address, telephone numbers, and any additional license or identification numbers. For document searches, ask to see a legal document authorizing the search. Photocopy all information presented.
2. Do not respond independently to the request. Immediately notify the Patient Safety/Risk Management Officer, or the Corporate Compliance Officer, or the Administrator on Call.

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3. If the external agency representative asks for copies of medical records (including patient, billing, financial, or quality assurance data), explain such requests will be honored in response to a lawfully issued subpoena or search warrant.
 4. If presented with a search warrant, request the agency representative wait until the Patient Safety/Risk Management Officer or Administrator on Call arrives to determine the validity of the warrant. If the warrant is valid, the search may proceed.
 5. The confidentiality of medical records and other sensitive information is maintained when responding to a subpoena, search warrant, or other authorized request for document production. The Corporate Compliance Officer, Director of MIS, and Risk Manager/HIPAA Privacy Officer shall direct the collection and transfer of records, ensure the confidentiality of the records, and verify the response to the warrant is appropriate.
- C. Responding to Payment Recovery Audit Contractors/Payer Audits
1. Requests from a payment recovery auditor (Audit Contractor) are received by “demand” letter. The letter may request records for field or desk audit. Depending on the Audit Contractor, the letter may state an overpayment has been determined and a recoupment process will begin. A list of claims involved in the overpayment determination is included with the demand letter.
 2. The letter may be addressed to the Corporate Compliance Officer, and/or Director of Medical Information Services (MIS), or possibly to “Point of Contact at CHS.” **The letter should be forwarded immediately to Corporate Compliance Officer.**
 3. Upon receipt and verification of the letter, the Corporate Compliance Officer will alert and activate the CHS Integrity Audit Team and notify the Patient Safety/Risk Management Officer and CHS Senior Executives.
 4. The CHS Integrity Audit Team will convene to plan a response, determine submission deadlines, and review record requests. The Audit Contractor protocols and timelines will be distributed to members of the Integrity Audit Team and applicable Department Managers to facilitate timely response and decrease risk of denial of CHS appeals due to missed deadlines.

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5. The MIS Director will coordinate medical record scanning or copying in the required format and track records submitted to the Audit Contractor.
6. The Medical Review Department will analyze billing to verify errors or billing patterns that have reportedly resulted in overpayment. Documentation found to defend the overpayment determination will be communicated to the Director of MIS in writing so that the relevant documents are submitted to the Audit Contractor for reconsideration.
7. Appeals will be coordinated by the Integrity Audit Team and submitted to the Audit Contractor according to the Audit Contractor's established protocol.
8. If an overpayment is confirmed, the Corporate Compliance Officer will notify the Integrity Audit Team to assign roles and responsibilities regarding preparation of check requests, cover letters, and requirements for submitting appropriate documents by the stated due date. Note: Interest may accrue on unpaid balances while the appeals process continues.
9. The Audit Integrity Team along with applicable Department Directors will assess and implement controls where applicable to ensure no recurrence of improper billing or coding that may have contributed to the confirmed overpayment. The Audit Integrity Team and Corporate Compliance Officer will document the preventive measures and provide follow up reviews to ensure corrective actions were effective.

D. CHS Corporate Response

1. When an external agency initiates contact with CHS and an investigation is disclosed, the Corporate Compliance Officer shall immediately notify the Patient Safety/Risk Management Officer and other applicable Senior Executives.
2. The Corporate Compliance Officer will establish a specific file for communications with Corporate Counsel. The Corporate Compliance Officer reviews all communications to be included in the file and ensures the file and all correspondence with Corporate Counsel is labeled "Confidential: Attorney-Client Privileged."
3. The Corporate Compliance Officer will not make copies other than a file copy and will not distribute confidential communications between CHS and Corporate Counsel.

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4. Questions and information related to the investigation are directed to the Corporate Compliance Officer in conjunction with the Patient Safety/Risk Management Officer.
5. It is important that CHS staff not discuss CHS involvement in an investigation or any issue relating to an inquiry by an external agency with co-workers or others not directly involved.
6. Contacts by the media shall be directed to Corporate Communications and the Corporate Compliance Officer should be notified immediately. For patient privacy issues, the Corporate Compliance Officer will work in conjunction with the HIPAA Privacy and Security Officers.

Refer to CHS Code of Conduct

CHS Administrative Policy ADM G-04 "Third Party Organizations Onsite Reviews"

CHS Medical Review Department Policy "External Medical Audits"