Electronic First Tier Entity (FTE) Attestation

Date: __________________________ First Tier Entity Name: __________________________

As part of an effective compliance program, the Centers for Medicare and Medicaid Services (CMS) and other federal and state regulators require our Medicare Advantage Organizations (MAO/Sponsor) and Medicaid Health Plan Sponsors, communicate and monitor specific compliance and fraud, waste and abuse (FWA) requirements to our First Tier, Downstream and Related entities (FDRs), including guidance set forth in Title 42 of the Code of Federal Regulations, Parts 422 and 423 and sub-regulatory guidance published in both Pub. 100-18, Medicare Prescription Drug Benefit Manual Chapter 9, and in Pub. 100-16, Medicare Managed Care Manual Chapter 21. While a Medicare Sponsor may contract with FDRs to perform certain functions on its behalf, the Sponsor maintains ultimate responsibility for fulfilling the terms and conditions of its contract with CMS and for meeting the Medicare program requirements, including ensuring that FDRs are in compliance with all applicable laws, rules and regulations with respect to delegated responsibilities. The same responsibilities apply to subcontracted delegates that perform functions for Medicaid Health Plan Sponsors.

This Attestation Form is to facilitate the oversight and monitoring for FTE compliance with the CMS and other federal and state regulators program requirements, laws, rules and regulations. We are asking our First Tier Entities to complete and sign this Attestation Form. This Attestation Form must be signed by an individual with the authority to attest to the accuracy and completeness of the information provided. Please submit the completed Attestation Form within 15 days of the contract effective date.

Timely submission is a condition of continued FTE and Sponsor contracting. Note: Medicare Advantage Organizations (Sponsors) that agreed to collaborate and use the same attestation form are noted in Resource 1- “Sponsor Participant List” which is posted on the following ICE website: ICE FDR Documents.

1 For example: Sales and marketing; Utilization management; Quality improvement; Applications processing; Enrollment, disenrollment, membership functions; Claims administration, processing and coverage adjudication; Appeals and grievances; Licensing and credentialing; Pharmacy benefit management; Hotline operations; Customer service; Bid preparation; Outbound enrollment verification; Provider network management; Processing of pharmacy claims at the point of sale; Negotiation with prescription drug manufacturers and others for rebates, discounts or other price concessions on prescription drugs; Administration and tracking of enrollees’ drug benefits, including TrOOP balance processing; Coordination with other benefit programs such as Medicaid, state pharmaceutical assistance or other insurance programs; Entities that generate claims data; and Health care services. [Chapter 21, Section 40].

Attestation Form Submission Instructions
Please respond “YES” or “NO” to the questions below. If the response is “NO”, provide an explanation and a corrective action plan to the Sponsor in the section provided after each question. Submit the completed, signed attestation within fifteen days of the contract effective date.

Offshore Subcontracting
Attestation Resources: ICE FDR Documents
Resource 1- Sponsor Participant List (Industry Collaboration information and Contacts)
I. Standards of Conduct and Conflicts of Interest:
- Chapter 9 of the Prescription Drug Benefit Manual, §50.1
- Chapter 21 of the Medicare Managed Care Manual, §50.1
- 42 C.F.R. §§ 438.230, 457.1233
- Deficit Reduction Act of 2005

a. First tier entity has **adopted and implemented its own** Standards of Conduct (or similar documents) and written Compliance Policies and Procedures for its board members, employees, temporary employees, volunteers/interns, consultants, contractors and downstream entities, sub-contractors.
☐ Yes ☐ No

b. First tier entity **distributes** its adopted Standards of Conduct to board members, employees, temporary employees, volunteers/interns, consultants, contractors and downstream entities, sub-contractors **within 90-days** of hire/contracting; and/or upon required updates/mandates; and annually thereafter. First tier entity, in compliance with CMS documentation retention requirements, maintains documentation, distribution and receipt documentation. This information would be available for Sponsor access and audit,
☐ Yes ☐ No

c. First tier entity **identifies and addresses conflicts of interest** for board members, employees, temporary employees, volunteers/interns, consultants, contractors and downstream entities on at least an annual basis and maintains documentation of all conflict of interest questionnaires, responses, and follow-up activities.
☐ Yes ☐ No

If there is a “No” response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.

II. General Compliance and Fraud, Waste and Abuse (FWA) Training:
- Chapter 9 of the Prescription Drug Benefit Manual, §50.3
- Chapter 21 of the Medicare Managed Care Manual, §50.3
- 42 C.F.R. §§ 422.503(b)(4)(vi)(C), 423.504(b)(4)(vi)(C), 438.230

d. First tier entity board members, employees, temporary employees, volunteers/interns, contractors and downstream entities complete **CMS Medicare Parts C and D General Compliance Training Web-Based Training (WBT)** Course or download the PDF version or by incorporating the content of the CMS training into their organizations’ existing training materials/systems (content has not been modified as per CMS requirements) **within 90-days** of hire or contracting and annually thereafter and documentation of...
completion is maintained by the First tier entity, per CMS retention requirements and Sponsor accessible for audit.
☐ Yes □ No

e. First tier entity board members, employees, temporary employees, volunteers/interns, contractors and downstream entities complete the CMS Combating Medicare Parts C and D Fraud, Waste, and Abuse WBT Course or download PDF version or by incorporating the content of the CMS training into their organizations’ existing training materials/systems (content has not been modified as per CMS requirements) within 90-days of hire or contracting and annually thereafter and documentation of completion is maintained by the First-tier entity, per CMS retention requirements and Sponsor accessible for audit.
☐ Yes □ No □ Not Applicable (Required for 2018)

If there is a “No” response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.

________________________________________________________________________

________________________________________________________________________

CMS Free WBTs located at: Medicare Part C and D General Compliance Training: 


Resource 2- “CMS Fraud Waste Abuse Training Information” document located at: ICE FDR Documents

III. Records Management:
- 42 CFR 422.504 (d), 438.230

f. First tier entity maintains all records related to administration or delivery of Part C and/or Part D benefits and including but not limited to: attendance records for General Compliance and Fraud, Waste and Abuse Training, Standards of Conduct Training, Compliance Policy Training, and monthly evidence of OIG and GSA/SAM screening records for a period of 10 years.
☐ Yes □ No

If there is a “No” response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
IV. Reporting
- Chapter 9 of the Prescription Drug Benefit Manual, §50.7.3
- Chapter 21 of the Medicare Managed Care Manual, §50.7.3

g. First tier entity has a widely publicized system in place for employees, temporary employees and downstream entities to report compliance questions, concerns, or potential misconduct, and FWA confidentially and anonymously.
☐ Yes ☐ No

h. First tier entity has a non-retaliation policy that is communicated to all employees, temporary employees and downstream entities.
☐ Yes ☐ No

i. First tier entity has processes in place to ensure compliance concerns or potential misconduct are reported to the Sponsor and/or appropriate law enforcement agency in a timely manner in order to ensure timely resolution.
☐ Yes ☐ No

If there is a “No” response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.

V. Monitoring and Auditing
- Chapter 21 of the Medicare Managed Care Manual §50.6
- Chapter 9 of the Prescription Drug Benefit Manual, §50.6

j. First tier entity has an auditing and monitoring program that addresses functions and services performed as part of the delegated relationship.
☐ Yes ☐ No

k. First tier entity has processes in place to report auditing and monitoring results to the Sponsor routinely or upon request.
☐ Yes ☐ No

If there is a “No” response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.
VI. OIG/GSA Exclusion Monitoring:
- Chapter 9 of the Prescription Drug Benefit Manual, §50.6
- Chapter 21 of the Medicare Managed Care Manual, §50.6
- For Medicaid Health Sponsors, some states require you also check state exclusion lists, as applicable

I. First tier entity is not currently excluded from participation in any federal healthcare programs.
☐ Not Currently Excluded ☐ Currently Excluded

m. First tier entity screens all board members, employees, temporary employees, volunteers/interns, consultants, contractors and downstream entities against the Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE) and General Services Administration (GSA) System for Award Management (SAM) prior to initial hire or contracting and monthly thereafter and maintains evidence of all screening activities and results.
☐ Yes ☐ No

If you support Medicaid Health Sponsors, do you also check state exclusion lists, if applicable for the state(s) you support?
☒ Yes ☐ No ☐ NA state does not require checks against state exclusion list(s)

n. First tier entity immediately removes any board members, employees, subcontractors, volunteers/interns, consultants, and downstream entities responsible for the administration or delivery of any Part C and/or Part D benefits, found on the OIG or GSA exclusion lists, from any work related (directly or indirectly) to federal health care programs and notifies the Sponsor.
☐ Yes ☐ No

If you support Medicaid Health Sponsors, do you also check state exclusion lists, if applicable for the state(s) you support?
☐ Yes ☐ No ☐ NA state does not require checks against state exclusion list(s)

If there is a “No” response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.

VII. Oversight of Downstream Entities
- Chapter 9 of the Prescription Drug Benefit Manual, §50.6
- Chapter 21 of the Medicare Managed Care Manual, §50.6
- Chapter 11 of the Medicare Managed Care Manual, §100

o. First tier entity validates that downstream entities maintain Business Associate Agreements (when applicable).
   ☐ Yes ☐ No

p. First tier entity and downstream contract contain required CMS language as stated in Chapter 11 of the Medicare Managed Care Manual, §100
   ☐ Yes ☐ No

q. First tier entity validates that downstream entities meet the requirements outlined in this attestation on an annual basis.
   ☐ Yes ☐ No

If there is a "No" response to any of the questions above, please use the space below to provide a corrective action plan to address each instance of non-compliance.

________________________________________________________________________

________________________________________________________________________

VIII. Offshore Subcontracting
- Health Insurance Portability and Accountability Act of 1996, 45 CFR Parts 160, 162 and 164
- CMS issued guidance 08/15/2006 and 07/23/2007; and CMS 2008 Call Letter r. If Contractor offshores any protected health information (PHI) (guidance provided above), Contractor should complete the Offshore Subcontracting Attestation within 30-days of entering into or amending any agreement with an Offshore Subcontractor.

Please check one of the following:

☐ Contractor does not offshore any protected health information.

☐ Contractor does offshore protected health information. (Complete Offshore Subcontracting Attestation Form)

Thank you for completing this attestation and your commitment to compliance.
**Statement of Attestation:**
I attest that the answers provided are complete and accurate to the best of my knowledge and that documentation to support the responses will be made available to the Sponsor or CMS upon request, and understand that the Sponsor may conduct an audit to confirm the attestations (with at least 30 days’ notice).

If a corrective action plan is required, I attest that the actions will be completed in 30 days from the date listed below to remediate attestation gaps.

**Organization Name:**

**Name of Person Completing Form:**

**Title:**

**Email Address:**

**Telephone Number:**

**Signature:**

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### Offshore Subcontractor(s)/Staff

Please complete one form for each offshore subcontractor/Staff and mail or email to the Sponsor. 
Attach additional pages as necessary.

#### Attestation

<table>
<thead>
<tr>
<th>Attestation</th>
<th>Response</th>
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<tbody>
<tr>
<td>1. Our organization uses an offshore subcontractor or offshore staff to perform functions that support our contract with the Sponsor Health Plan. If no, skip to #9. If yes, please specify offshore relationship:</td>
<td>□ Yes □ No</td>
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<tr>
<td>Offshore subcontractor name (if applicable – attach additional pages as necessary):</td>
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<tr>
<td>Country of offshore function:</td>
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<tr>
<td>Offshore function(s):</td>
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<tr>
<td>Description of PHI to be provided to offshore subcontractor/staff:</td>
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<tr>
<td>Description of the reason providing PHI offshore is necessary:</td>
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<td>Description of alternatives considered to avoid providing PHI offshore and why each was rejected:</td>
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<tr>
<td>Proposed or actual effective date for offshore subcontractor or staffing:</td>
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<td>2. Offshore subcontractor/staff has policies and procedures in place to ensure that Protected Health Information (PHI) and other personal information remains secure.</td>
<td>□ Yes □ No*</td>
</tr>
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<td>3. Offshore subcontractor/staff does not have access to (or is prohibited from accessing) member data not associated with the functions subcontractor/staff performs for our organization.</td>
<td>□ Yes □ No*</td>
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<td>4. Offshore subcontracting arrangement has policies and procedures in place that allow for immediate termination of the subcontract upon discovery of a significant security breach. For offshore staff, our organization enforces disciplinary actions against any person violating HIPAA privacy and security requirements.</td>
<td>□ Yes □ No*</td>
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<td>5. Offshore subcontracting agreement with our organization includes all required Medicare Part C and D language (e.g., record retention requirements, compliance with all Medicare Part C and D requirements, etc.).</td>
<td>□ Yes □ No*</td>
</tr>
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<td>6. Our organization conducts (or will conduct) an annual audit of offshore subcontractor and monitors offshore staff’s access to PHI.</td>
<td>□ Yes □ No*</td>
</tr>
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<td>7. Offshore subcontractor audit results will be used by our organization to evaluate the continuation of its relationship with the offshore subcontractor.</td>
<td>□ Yes □ No*</td>
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<tr>
<td>8. Our organization agrees to share offshore subcontractor’s audit results with Health Plan Sponsor and CMS upon request.</td>
<td>□ Yes □ No*</td>
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<tr>
<td>9. Our organization agrees to notify the Health Plan at least 60 days in advance of our intent to use new offshore subcontractor(s) or before employing new offshore staff for a function Sponsor Health Plan has asked us to perform.</td>
<td>□ Yes □ No*</td>
</tr>
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*Explanation required for “no” response to questions #2-#9: ___________________________________________ 
________________________________________________________________________________________

### Section IV. Authorization

#### Attestation Authorization

By signing below, I hereby attest that the information contained herein is true, correct and complete.

<table>
<thead>
<tr>
<th>Printed Name of Authorized FDR Representative:</th>
<th>Title of Authorized FDR Representative:</th>
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