CHAPTER 14
SECTION 1

GENERAL

1.0. CONTRACTOR'S RESPONSIBILITY IN PROGRAM INTEGRITY

1.1. The contractor shall incorporate into its organizational management philosophy a published corporate strategy that underlines commitment to health care fraud detection and prevention. The strategy, developed and endorsed by corporate management, shall include maintaining a focus on increased health care fraud awareness, developing processes which identify fraud, aggressively referring health care fraud cases, assisting in the prosecution of the cases, and developing deterrents to health care fraud. Internal procedures shall be in place for all offices to provide potential fraud and abuse cases to the contractor's program integrity function.

1.2. Program integrity is a contractor responsibility to ensure that medically necessary services are provided only to eligible beneficiaries by authorized providers under existing law, Regulation and TRICARE Management Activity (TMA) instructions. Further, the program integrity responsibility extends to applying the expertise of the contractor staff to the evaluation of the quality of care, and to ensure that payment is made for care which is in keeping with generally accepted standards of medical practice. In carrying out this function, the contractor is required to apply all the standards and requirements addressed in this and all other chapters of this manual. The contractor shall have a program integrity function which shall perform the program integrity activities listed below and shall respond to requests and direction from the TMA, the Office of General Counsel and the Program Integrity Office.

1.3. Contractors shall develop and maintain those internal management controls necessary to prevent theft, embezzlement, fraud, or abuse of benefit funds. These controls shall be addressed in the annual letter of assurance.

1.4. The contractor shall conduct the following functional activities:

1.4.1. On-line manipulation and analyses of professional and institutional health care data associated with type, frequency, duration and extent of services, to identify patterns of probable fraudulent or abusive practices by providers and/or beneficiaries. Commercial anti-fraud software designed for such purposes, or upon approval of the TMA, the contractor's own link-analysis program will be used. Software must be state-of-the-art and have the ability to use layered logic and artificial intelligence, to receive queries in English, to ask questions in English and to produce comprehensive fraud detection reports. The application must be on-line and accessible by the contractor's Program Integrity Unit fraud specialists and shall be used on a daily basis. It is expected that as a result of the use of this software, a minimum of ten cases a year shall be identified, developed, and if warranted, referred to TMA. The list of cases and their disposition shall be included as an addendum to the fourth quarter Fraud and Abuse Summary Report.

1.4.2. Perform validation audits on statistical samples of claims for care provided by specific provider(s). Perform audits of claims submitted by specific beneficiaries to verify services with the provider. Transmit the audit and its health care database information via electronic media. (See Chapter 14, Section 4, paragraph 2.0.)

1.4.3. Provide technical and professional consultation and information concerning the delivery of health care services in the United States*, OCONUS when applicable,* and the requirements of TRICARE for the submission, adjudication, and reimbursement of claims for health care services.

1.4.4. Identify and provide expert witnesses at Grand Jury proceedings, criminal and civil trials.

1.4.5. Provide requested documents as directed by the TMA Program Integrity Office or Office of General Counsel.

1.4.6. Evaluate the effectiveness of prepayment screens and postpayment detection reports and initiate appropriate changes. Maintain the supporting documentation for the changes for two years unless the change is mandated by TMA.

2.0. ROLES AND RESPONSIBILITIES OF COOPERATING COMPONENTS

2.1. TRICARE Management Activity/TMA

The Director, TMA, and designees administer the TRICARE program in accordance with TRICARE law, Title 10, Chapter 55, United States Code, "Medical and Dental Care," 32 CFR 199, and other applicable laws, regulations, directives and instructions.

2.2. Program Integrity Office, TMA

The Program Integrity Office is the centralized administrative hub for fraud and abuse activities worldwide. The Office is responsible for developing policies and procedures regarding prevention, detection, investigation and control of TRICARE fraud, waste and program abuse, monitoring contractor program integrity activities, coordinating with DoD and external investigative agencies and initiating administrative remedies as required.

2.3. Office of General Counsel, TMA

The Office of General Counsel is responsible for providing legal counsel and legal services to TMA. It is the principal point of contact on all legal matters involving the Department of Justice (DOJ) and its Federal Bureau of Investigation. This office serves as DOJ's primary contact point in civil litigation involving benefit funds, and in preparing for litigation or pursuant to litigation, may make direct requests to TMA offices, principally the Program Integrity Office, and contractors for information and records. The Office of General Counsel is responsible for actions pursued under the Program Fraud Civil Remedies Act (PFCRA) and, in developing or pursuing a PFCRA case, may request information, data, and records from TMA offices and contractors. Settlements that affect the agency (e.g., civil settlement involving a monetary compromise, a provider's TRICARE status, compromise of

waiver of any sanction) must be coordinated with and approved by TMA, Office of General Counsel, or designee.

2.4. Department Of Defense Inspector General (DoDIG)

The DoDIG has the responsibility to conduct, supervise, monitor, and initiate investigations relating to fraud within the DoD. This authority specifically includes TMA, its employees, contractors and subcontractors. This authority is not limited by the type of contract which has been entered into by the Director, TMA. All contractor, managed care, consultant, service, and other types of contracts are subject to the audit, investigation and evaluation authority of the DoDIG.

2.5. Defense Criminal Investigative Service Of The DoDIG (DCIS)

The DCIS is responsible for all fraud investigations involving the Secretary of Defense, the Office of the Joint Chiefs of Staff, the Defense Agencies (including the TMA), and any other fraud investigation deemed appropriate by the DoDIG or designated representative. The DCIS has primary investigative jurisdiction for cases concerning alleged fraud. This includes cases that may involve the use of facilities by medical providers on military installations, alleged fraud by retired service members and their family members, and managed care cases (to include network providers).

2.6. Military Criminal Investigation Organizations (MCIOs)

The MCIOs include the United States Army Criminal Investigative Division (USACID), Naval Investigative Service (NIS), United States Air Force Office of Special Investigations (AFOSI), United States Coast Guard Investigations and Health and Human Services Inspector General's Office (for the United States Public Health Service). The MCIOs have jurisdiction to investigate cases concerning alleged fraud by Active Duty military service members and their family members who have received health care services.

2.7. Defense Contract Audit Agency (DCAA)

Upon request, the DCAA provides audit assistance to the DCIS and MCIOs.

2.8. Department Of Justice (DOJ) And United States Attorneys' Offices (USAO)

The DOJ, acting through its Civil and Criminal Divisions, and the USAO have responsibility for litigation and prosecution of cases involving violation of the civil and criminal laws of the United States.

2.9. Federal Bureau Of Investigation (FBI)

The FBI is the principal investigative arm of the DOJ. It has primary responsibility for investigating federal employee bribery and conflict of interest cases and other violations of Federal law except those that have been assigned by law or otherwise to another Federal agency. It has the authority to investigate Federal agencies, Federal contractors, and Federal program fraud such as the submission of fraudulent TRICARE claims.

3.0. COORDINATION AND SUPPORT: OTHER CONTRACTORS AND EXTERNAL AGENCIES

3.1. Contractor Coordination With Other TRICARE Contractors

Contractors shall coordinate their activities with other TRICARE contractors since potential fraud or abuse involving a provider or beneficiary could have a direct effect on payments made by another contractor. The TMA Program Integrity Office shall be informed in the case report of these contacts and findings. Findings of potential fraud or abuse by another contractor shall be reported to the TMA Program Integrity Office by the contractor which initiated the investigation.

3.2. Contractor Coordination And Support With DOJ, U.S. Attorney's Office And Investigative Agencies

3.2.1. DOJ has jurisdiction for civil action. Requests for information related to civil action must be referred to the TMA Office of General Counsel, with a copy to the TMA Program Integrity Office.

3.2.2. The DoDIG has jurisdiction over all cases involving suspected fraud or other criminal activity under TRICARE. Requests for information by the criminal investigative arm of the DoDIG, DCIS, shall be referred to the TMA Program Integrity Office. Contractor contact by any other investigative agency, e.g., FBI, MCIOs, etc., shall also be reported immediately to the TMA Program Integrity Office. The contractor may not release any documents or copies of documents, conduct audits, etc., at the request of any individual or agency without direction from the TMA Program Integrity Office or the TMA Office of General Counsel.

3.2.3. The contractor shall provide investigative and prosecutive support, at the direction of the TMA Program Integrity Office or Office of General Counsel, by downloading claims data in no less than dBase III+ format to electronic media and have the capability to compress the data using PK-Zip self extracting software, with no less than version 2.4 or provide the data on a CD-ROM. Other documentation to be provided may include the original or copies of claims, explanations of benefits, original or copies of checks (front and back), provider certification forms, or any other relevant information, as requested. The contractor shall have dedicated personnel and equipment available to meet the timeliness requirement of ten calendar days for retrieval, transmission, and/or mailing of the information.

3.2.4. The contractor shall ensure compliance with the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) Reorganization Act, Public Law 102-321 (July 10, 1992) and implementing regulations including 42 CFR Part 2, when data requested includes services related to substance abuse.

3.2.5. The contractor must identify and provide for expert witnesses at Grand Jury hearings, criminal trials and civil and administrative cases. An expert witness is an individual having acquired a special skill or knowledge through training or experience on a subject being discussed. This could be a professional person (medical doctor, dentist, etc.) or a technical person (lab/x-ray technician, ADP person, etc.) A prosecutor or defense attorney

may request that a witness be declared an "expert witness" based on their knowledge, such as someone from the policy department or the contractor's claims processing section. Travel and per diem costs of witnesses subpoenaed by DOJ will be paid by DOJ in accordance with Federal guidelines.

3.2.6. The contractor must provide technical and professional consultation concerning the operations and benefits of TRICARE to investigative agencies, DOJ or U.S. Attorney's Office for both criminal and civil cases.

3.3. Contacts By Suspects Or Their Legal Representative

The contractor shall refer all contacts with the contractor by the suspect or his/her legal representative (personal, letter or telephone) to the TMA Office of General Counsel.

3.4. Coordination With Private Business And Other Government Contractors

Contractors shall implement procedures for and coordinate potential fraud or abuse cases with the program integrity units of their private business and other Government contractors, such as Medicare or Medicaid.