

Program Integrity Overpayment Recovery (HHW/HIP)

The Contractor has primary responsibility for the identification of all potential waste, fraud and abuse associated with services and billings generated as a result of this Contract. In cases involving wasteful or abusive provider billing or service practices (including overpayments) identified and recovered by Contractor.

In cases involving wasteful or abusive provider billing or service practices (including overpayments) identified by the FSSA PI Unit, FSSA may recover any identified overpayment directly from the provider or may require Contractor to recover the identified overpayment and repatriate the funds to the State Medicaid program as directed by the FSSA PI Unit. The FSSA PI Unit may also take disciplinary action against any provider identified by Contractor or the FSSA PI Unit as engaging in inappropriate or abusive billing or service provision practices.

If a fraud referral from Contractor generates an investigation and/or corresponding legal action results in a monetary recovery to IHCP, the reporting Contractor will be entitled to share in such recovery following final resolution of the matter (settlement agreement/final court judgment) and following payment of recovered funds to the State of Indiana. The Contractor's share of recovery will be as follows:

- From the recovery, the State (including the IMFCU) shall retain its costs of pursuing the action, including any costs associated with FSSA PI Unit operations associated with the investigation, and its actual documented loss (if any). The State will pay to the Contractor the remainder of the recovery, not to exceed the Contractor's actual documented loss. Actual documented loss of the parties will be determined by paid false or fraudulent claims, canceled checks or other similar documentation which objectively verifies the dollar amount of loss.
- If the State determines it is in its best interest to resolve the matter under a settlement agreement, the State has final authority concerning the offer, or acceptance, and terms of a settlement. The State will exercise its best efforts to consult with the Contractor about potential settlement. The State may consider the Contractor's preferences or opinions about acceptance, rejection or the terms of a settlement, but they are not binding on the State.
- If final resolution of a matter does not occur until after the Contract has expired, the preceding terms concerning disposition of any recovery and consultation with the Contractor shall survive expiration of the Contract and remain in effect until final resolution of a matter referred to the IMFCU by the Contractor under this section.

If the State makes a recovery from a fraud investigation and/or corresponding legal action where the Contractor has sustained a documented loss but the case did not result from a referral made by the Contractor, the State shall not be obligated to repay any monies recovered to Contractor, but may do so at its discretion. Funds recovered as a result of a multi-state fraud investigation/litigation, however, will be shared with Contractor as prescribed for funds recovered as a result of Contractor's fraud referral absent extenuating circumstances.

The Contractor is prohibited from the repayment of state-, federally-, or Contractor-recovered funds to any provider when the issues, services or claims upon which the repayment is based meets one or more of the following:

- The funds from the issues, services or claims have been obtained by the State or Federal governments, either by the State directly or as part of a resolution of a state or federal audit, investigation and/or lawsuit, including but not limited to false claims act cases;
- When the issue, services or claims that are the basis of the repayment have been or are currently being investigated by the FSSA PI Unit, the Federal Medicaid Integrity Contractor (MIC), Contractor, Indiana MFCU, or Assistant United State Attorney (AUSA), are the subject of pending Federal or State litigation, or have been/are being audited by the State Recovery Audit Contractor (RAC).

This prohibition described above shall be limited to a specific provider(s), for specific dates, and for specific issues, services or claims. The Contractor shall check with the FSSA PI Unit before initiating any repayment of any program integrity related funds to ensure that the repayment is permissible.