



KERN HEALTH SYSTEMS POLICY AND PROCEDURES			
<b>Policy Title</b>	Conflict of Interest Avoidance	<b>Policy #</b>	14.59-P
<b>Policy Owner</b>	Compliance	<b>Original Effective Date</b>	01/01/2024
<b>Revision Effective Date</b>		<b>Approval Date</b>	01/10/2025
<b>Line of Business</b>	<input checked="" type="checkbox"/> Medi-Cal <input type="checkbox"/> Medicare <input type="checkbox"/> Corporate		

## I. PURPOSE

The purpose of this policy is to provide an overview of KHS' compliance with the conflict of interest avoidance requirements set forth in the DHCS Contract.

## II. POLICY

Kern Health Systems (KHS) will avoid conflicts of interest or the appearance of conflicts of interest.

KHS will ensure that it complies with the conflict of interest avoidance requirements set forth in the DHCS contract and all other regulatory requirements. KHS will ensure the compliance of its employees, officers, and directors throughout the entire term of the DHCS contract, and any extensions thereto.

## III. DEFINITIONS

TERMS	DEFINITIONS
Subcontractor	An individual or entity that has a Subcontractor Agreement with the KHS that relates directly or indirectly to the performance of the KHS's obligations under its contract with DHCS. A Network Provider is not a Subcontractor solely because it enters into a Network Provider Agreement
Downstream Subcontractor	An individual or entity that has a Downstream Subcontractor Agreement with a Subcontractor of the KHS or a Downstream Subcontractor that relates directly or indirectly to the performance of the Subcontractor's obligations under its Subcontractor Agreement with the KHS

## **IV. PROCEDURES**

### **A. Ownership and Control Disclosures**

1. To identify potential conflicts of interest, KHS will collect and review our Subcontractors' ownership and control disclosures as set forth in 42 CFR 455.104.
2. The review of ownership and control disclosures applies to all Subcontractors that contract with KHS, including disclosing entities, fiscal agents, and managed care entities.
  - a. Any form of ownership interest, affiliation, financial interest, contractual relationship, and/or control Contractor has in any corporation or other entity that operates as a Medi-Cal managed care health plan, Prepaid Inpatient Health Plan (PIHP), Prepaid Ambulatory Health Plan (PAHP), Primary Care Case Management (PCCM), pharmaceutical company or any other health care provider, fiscal intermediary, billing agent, or any other controlling agent for Medi-Cal services ("Medi-Cal Program Participant"); and
  - b. Any form of ownership interest, affiliation, financial interest, contractual relationship, and/or control KHS has in any corporation, partnership, limited partnership, limited liability company, sole proprietorship, or any other legal entity that is not a Medi-Cal Program Participant.

### **B. Ownership Disclosure Form**

1. KHS will require and ensure Subcontractors accurately provide all required information in their disclosures:
  - a. This information includes the date of birth and social security number for each person with an ownership or control interest and for each managing employee.
  - b. An officer or director of a disclosing entity that is organized as a corporation should be considered a person with control interest.
  - c. The CMS toolkit specifies that a board member of a disclosing entity must be listed as a "managing employee" to the extent that they meet that definition in 42 CFR 455.101. The CMS toolkit also specifies that a board member of the disclosing entity must be listed as a "person with an ownership or control interest" to the extent that they meet that definition in 42 CFR 455.101.
2. KHS will review to identify potential conflicts of interest and make Subcontractors' ownership and control disclosures available upon request, as the information is subject to audit by DHCS.

### **C. Conflicts of Interest**

If KHS has a potential, suspected, and/or actual conflict of interest, KHS will provide a description of the relationship and a Conflict Avoidance Plan to ensure that such a relationship will not adversely affect DHCS, other Medi-Cal managed care plans, and/or Medi-Cal Members.

1. In the Conflict Avoidance Plan, KHS must also establish procedures to avoid, neutralize, and/or mitigate a potential, suspected, and/or actual conflict of interest.
2. Any of the following instances would be considered a potential, suspected, and/or actual conflict of interest, including but not limited to any of these instances in the past, present, or future:
  - a. An instance where KHS or any of its Subcontractors and Downstream Subcontractors, or any employee, officer, or director of KHS or any of its Subcontractors and Downstream Subcontractors, has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any purpose that is inconsistent with the goals and objectives of the contract.
  - b. An instance where KHS or any of its Subcontractors and Downstream Subcontractors, or any employee, officer, or director of KHS or any of its Subcontractors and Downstream Subcontractors, improperly uses their positions for purposes that are, or give the appearance of being, for private gain for themselves or others, such as those with whom they have family, business, or other ties that are determined by DHCS to be a conflict of interest.
  - c. An instance where KHS or any of its Subcontractors and Downstream Subcontractors, or any employee, officer, or director of KHS or any of its Subcontractors and Downstream Subcontractors, gains an unfair competitive advantage due to its unequal access to information, such as where non-public information gained on one contract by KHS may be leveraged in bidding for another government contract.
  - d. Where pursuant to the Political Reform Act (Govt. Code §§ 87100–87500), a DHCS official has an economic Interest in KHS and the official makes, participates in the making of, or uses his or her official position to influence the making of a decision involving KHS where it is reasonably foreseeable that the decision could materially affect the official’s economic interest.
  - e. Where pursuant to Government Code section 1090 et seq., a DHCS official participates in the making of a Contract with KHS and the official is financially interested in the Contract.
  - f. Where in contravention of Welfare and Institutions Code section 14479, a DHCS employee is employed in a management consultant position by KHS, Subcontractor, or Downstream Subcontractor one year after the state officer or employee terminates their state employment.
  - g. An instance where KHS will be contracted, affiliated, or otherwise entered into a partnership arrangement to serve as a Local Initiative in the same Two-Plan County where KHS is operating as the commercial plan, or has indicated an intent to do so.

#### **D. Conflict Avoidance Plan Framework**

The requirements of a Conflict Avoidance Plan will vary depending on the nature of the conflict, but must include, at a minimum, the following elements:

1. Clear definitions

2. Statement of organizational commitment to develop and follow the Conflict Avoidance Plan
3. Description of the type of conflict of interest (e.g., unequal access to information, impaired objectivity, and/or biased ground rules implicated by a contract)
4. Description of the factors that may or do place KHS in a potential, suspected, and/or actual conflict of interest situation
5. If applicable, identification of Subcontractors and Downstream Subcontractors with potential, suspected, and/or actual conflict of interest
6. Detailed plans for avoiding, neutralizing, and/or mitigating conflicts of interest, or, if not feasible, an explanation and justification for accepting conflicts of interest
7. Administrative, technical, physical, and management controls, as required in the context of the specific conflict of interest
8. Provision for third-party monitoring and a requirement that the third-party monitor certify KHS's compliance with the Conflict Avoidance Plan, if required by DHCS
9. KHS's certification of compliance with the Conflict Avoidance Plan
10. Provisions requiring periodic review and amendment by KHS of the Conflict Avoidance Plan to address material changes impacting the conflict of interest.

#### **E. DHCS Approval of Conflict Avoidance Plan**

1. DHCS, in its sole discretion, will determine whether the specific provisions of the Conflict Avoidance Plan satisfactorily address the actual, suspected, or potential conflicts of interest. DHCS, in its sole discretion, may impose additional requirements or require modification to the Conflict Avoidance Plan, which may include, but are not limited to, the following:
  - a. Termination of contractual obligations that in DHCS' determination create actual or potential conflicts of interest.
  - b. Removal of KHS's management or staff who DHCS determines were involved in the relationship creating the conflict of interest; and/or
  - c. Creation of an "ethical firewall," with measures to ensure that no information passes between individuals/entities within KHS's organization that were involved in the conflict and those individuals/entities not involved in the conflict.
2. These requirements will vary, depending on the nature of the potential, suspected, and/or actual conflicts of interest, the manner in which those potential, suspected, and/or actual conflicts of interest impact the Contract, and DHCS' determination of the best method for addressing those conflicts of interest.

## **F. Third-Party Monitor Oversight**

DHCS may, in its sole discretion, appoint a third-party monitor to assist in overseeing KHS's compliance with the Conflict Avoidance Plan.

1. The third-party monitor's responsibilities will include monitoring, reporting, consulting, and, where necessary, investigation of compliance concerns.
2. Appropriate provisions regarding the third-party monitor's duties and KHS's obligations in connection with the third-party monitor will be included in the Conflict Avoidance Plan.

## **G. DHCS' Right of Termination**

1. If DHCS is aware or becomes aware of a potential, suspected, and/or actual conflict of interest, KHS will be given an opportunity to submit additional information to resolve the conflict of interest.
2. If KHS has a potential, suspected, and/or actual conflict of interest, KHS will have five (5) Working Days from the date of notification by DHCS of the potential, suspected, and/or actual conflict of interest to provide complete information regarding the conflict of interest.
3. If DHCS determines that an actual conflict of interest exists and the conflict cannot be resolved or mitigated to the satisfaction of DHCS, the conflict of interest will be grounds for termination of the Contract by DHCS for cause.

## **H. Notice of Conflict of Interest to DHCS**

1. KHS, and each of its Subcontractors and Downstream Subcontractors, must notify their DHCS Contract Manager within ten (10) Working Days of when they become aware of:
  - a. Any potential, suspected, or actual conflict of interest.
  - b. Any potential violations of the ownership and control requirements.
  - c. Any change occurs to the information provided to DHCS previously, whether provided previously through the Request for Procurement or previous notice given during the term of the Contract.
  - d. Discovery that a Subcontractor is noncompliant with these requirements.
2. This notice will be in a form and manner as directed by DHCS through APL or other similar instructions.

## **I. Subcontractor, Downstream Subcontractor, Oversight**

KHS will ensure that its Subcontractors and Downstream Subcontractors, and the employees, officers and directors of Subcontractors and Downstream Subcontractors, comply with these requirements throughout the entire term of the Contract, and any extension thereto.

## V. ATTACHMENTS

Attachment A: KHS Ownership and Disclosure Form

## VI. REFERENCES

Reference Type	Specific Reference
DHCS Contract (Specify Section)	Exhibit H
All Plan Letter (APL)	APL 23-006 Delegation and Subcontractor Network Certification
Regulatory	42 CFR 455.104
Regulatory	42 CFR 438.608(c)
Other KHS Policies	14.15-I Form 700 – Conflict of Interest
Other KHS Policies	14.61-P Delegation Policy
Other KHS Policies	14.55-P Delegation Oversight Policy

## VII. REVISION HISTORY

Action	Date	Brief Description of Updates	Author
Effective	01/01/2024	Policy became effective 01/01/2024 to align with the 2024 DHCS Operational Readiness Contract (R.0241).	
Created	05/24/2023	New policy created to comply with requirements in 2024 DHCS Operational Readiness Contract (R.0241); DHCS Approved 05/30/2023.  This policy version was also submitted for DHCS APL 23-006; DHCS approved 07/26/2023	J. MacAdam

## VIII. APPROVALS

Committees   Board (if applicable)	Date Reviewed	Date Approved
Choose an item.		

Regulatory Agencies (if applicable)	Date Reviewed	Date Approved
Department of Health Care Services (DHCS)		07/26/2023
Department of Health Care Services (DHCS)		05/30/2023
Choose an item.		

Chief Executive Leadership Approval *		
Title	Signature	Date Approved
Chief Executive Officer		
Chief Financial Officer		
Chief Operating Officer		
Chief Medical Officer		
Chief Compliance and Fraud Prevention Officer		
Chief Information Officer		
Chief Health Equity Officer		
Chief Human Resources Officer		
*Signatures are kept on file for reference but will not be on the published copy		



## Policy and Procedure Review

**KHS Policy & Procedure:** 14.59-P Conflict of Interest

**Last approved version:** N/A

**Reason for Creation:** New policy created to comply with requirements in 2024 DHCS Operational Readiness Contract (R.0241); DHCS Approved 05/30/2023. The policy was also submitted and approved for DHCS APL 23-006 on 7/26/2023.

Director Approval		
Title	Signature	Date Approved
Amisha Pannu Senior Director of Provider Network		
Jane MacAdam Director of Compliance and Regulatory Affairs		
Andrea Hylton Director of Procurement and Facilities		

Date posted to public drive: \_\_\_\_\_

Date posted to website (“P” policies only): \_\_\_\_\_



## SUBCONTRACTOR DISCLOSURE OF OWNERSHIP AND CONTROL

“Subcontractor” is defined as an individual or entity that has a contract with Kern Health Systems (“KHS”) that relates directly or indirectly to the performance of KHS’s obligations under its contract with the California Department of Health Care Services (“DHCS”). (42 CFR 438.2.) KHS must collect and review Subcontractor’s ownership and control disclosure information as required by applicable state and federal law, including 22 CCR § 51000.35; 42 CFR 455.104, and 45 CFR 438.608(c)(2). The information in this statement is made available to DHCS and subject to audit by DHCS.

### SECTION 1:

Please complete the following subcontractor information.

Subcontractor Name	Address	SSN or TIN

### SECTION 2A: INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST AND MANAGING EMPLOYEES OF SUBCONTRACTOR

Please list all **individuals** with an ownership or control interest in Subcontractor and any managing employees, including, but not limited to owners, co-owners, officers, directors, general partners, stockholders holding five percent (5%) or more of Subcontractor’s stock, and major creditors holding five percent (5%) or more of Subcontractor’s debt. Include each person’s name, address, date of birth (“DOB”), and Social Security Number (“SSN”). Also indicate the title (e.g., chief executive officer, owner). Please see the definitions of “persons with an ownership or control interest” and “managing employee” in Appendix 1 to ensure that all individuals are included. Attach additional pages as needed.

Name of Individual	Title	% of Ownership	Address	DOB	SSN



## SECTION 2B: CORPORATIONS WITH OWNERSHIP OR CONTROL INTEREST OF SUBCONTRACTOR

Please list all **corporations** with an ownership or control interest in Subcontractor, including, but not limited to: owners, co-owners, corporations owning five percent (5%) or more of Subcontractor's stock, and major creditors holding five percent (5%) or more of Subcontractor's debt. Include the Tax Identification Number (TIN), the primary business address, every business location, and P.O. Box address(es). Attach additional pages as needed.

Name of Corp.	% of Ownership	Primary Business Address	Other Business Location(s) and/or P.O. Box Address(es)	TIN

## SECTION 2C: DOWNSTREAM SUBCONTRACTORS

A Downstream Subcontractor is an individual or entity that has a contract with Subcontractor that relates directly or indirectly to the performance of Subcontractor's obligations under Subcontractor's contract with KHS. Please list any Downstream Subcontractors in which Subcontractor has a five percent (5%) or more interest. Attach additional pages as needed.

Name of Downstream Subcontractor	TIN

## SECTION 2D: RELATIONSHIPS

Please indicate whether any person (individual or corporation) listed in sections 2A or 2B of this form is related to another person with ownership or control interest in Subcontractor as a spouse, parent, child, or sibling. Please indicate whether any person (individual or corporation) with an ownership or control interest in any Downstream Subcontractor listed in section 2C is related to another person with ownership or control interest in Subcontractor as a spouse, parent, child, or sibling.

---

---

---



## SECTION 2E: OWNERSHIP OR CONTROL INTEREST IN OTHER DISCLOSING ENTITIES

Please list the name of any other disclosing entity in which an owner of Subcontractor has an ownership or control interest. Please see the definition of “disclosing entity” in Appendix 1.

## SECTION 3: FORM OF SUBCONTRACTOR

Please state the form of the Subcontractor (e.g., Corporation, Partnership, Sole Proprietorship, Individual).

## SECTION 4: AFFILIATION WITH KHS

Is Subcontractor either directly or indirectly related to or affiliated with KHS?

## SECTION 5: DEBARMENT AND SUSPENSION

By signing this form, Subcontractor represents and warrants that Subcontractor (including any individuals or corporations with an ownership or control interest in Subcontractor and Subcontractor’s managing employees and Downstream Subcontractors) and its affiliates (as defined in the Federal Acquisition Regulation at 48 CFR 2.101) are not debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in nonprocurement activities under regulations issued under Executive Order No. 12549 or guidelines implementing Executive Order No. 12549. Further, Subcontractor represents and warrants that Subcontractor (including any individuals or corporations with an ownership or control interest in Subcontractor and Subcontractor’s managing employees and Downstream Subcontractors) is not excluded from participation in any health care program under section 1128 or 1128A of the Act. (42 CFR 438.610.)

## SECTION 6: NEW DISCLOSURE FORMS

By signing this form, Subcontractor agrees that it shall complete and submit updated versions of this form upon: (1) any change in ownership or control (and in no event later than thirty-five (35) days after the change), (2) renewal or extension of the underlying contract with KHS, and (3) KHS’s request.

I, an authorized representative of Subcontractor, certify that the information provided herein is true, accurate, and complete as of the date set forth below.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Date



## APPENDIX 1

Definitions are in 42 CFR 455.101:

**Disclosing entity** means a Medicaid provider (other than an individual practitioner or group of practitioners), or a fiscal agent.

**Person with an ownership or control interest** means a person or corporation that —

- a) Has an ownership interest totaling five percent (5%) or more in a disclosing entity;
- b) Has an indirect ownership interest equal to five percent (5%) or more in a disclosing entity;
- c) Has a combination of direct and indirect ownership interests equal to five percent (5%) or more in a disclosing entity;
- d) Owns an interest of five percent (5%) or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five percent (5%) of the value of the property or assets of the disclosing entity;
- e) Is an officer or director of a disclosing entity that is organized as a corporation; or
- f) Is a partner in a disclosing entity that is organized as a partnership.

**Managing employee** means a general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency.