



KERN HEALTH SYSTEMS POLICY AND PROCEDURES			
Policy Title	Delegation	Policy #	14.61-P
Policy Owner	Compliance	Original Effective Date	01/01/2024
Revision Effective Date		Approval Date	
Line of Business	<input checked="" type="checkbox"/> Medi-Cal <input type="checkbox"/> Medicare		

I. PURPOSE

This policy provides requirements for Kern Health Systems (KHS) employees to ensure regulatory requirements and performance expectations are met when considering delegation of any functions to a Network Provider, Subcontractor, and/or Downstream Subcontractor.

II. POLICY

KHS is fully responsible for all duties and obligations set forth in the Department of Health Care Services (DHCS) Contract. However, KHS may enter into agreements with other individuals, groups, or entities to fulfill its obligations and duties under the Contract, including Network Provider Agreements and Subcontractor Agreements.

- A. Some individuals, groups, or entities may be a combination of Network Provider, Subcontractor, and/or Downstream Subcontractor, in which case they would need to comply with the requirements for Network Provider Agreements, Subcontractor Agreements, and Downstream Subcontractor Agreements, as applicable.
- B. Subcontractors and Downstream Subcontractors may enter into agreements to fulfill their obligations and duties under the Contract, in which case they would need to comply with the requirements of Downstream Subcontractor Agreements or Network Provider Agreements, as applicable.
- C. KHS must ensure that all Subcontractors and Downstream Subcontractors comply with all Contract requirements related to the delegated functions undertaken by each Subcontractor or Downstream Subcontractor.

- D. KHS remains fully responsible for the performance of all duties and obligations it delegates to Subcontractors and Downstream Subcontractors. Regardless of the relationship KHS has with a Subcontractor, whether direct or indirect through additional layers of contracting or delegation, KHS has the ultimate responsibility for adhering to, and fully complying with, all terms and conditions of the DHCS Contract, and all state and federal regulations.

III. DEFINITIONS

TERMS	DEFINITIONS
Administrative Subcontractor	A Subcontractor that contractually assumes administrative obligations of KHS under the DHCS Contract. Administrative obligations include functions such as credentialing verification or claims processing. However, functions related to coordinating or directly delivering health care services to Members, such as Care Coordination are not administrative functions.
Delegation	The process whereby KHS gives another entity authority to perform certain functions on its behalf.
Delegated Entity	Any party to an agreement with KHS which is entered into for the purpose of providing any goods or services connected with the obligations under KHS' requirements.
Downstream Subcontractor	<p>An individual or an entity that has a Downstream Subcontractor Agreement with a Subcontractor or a Downstream Subcontractor. A Network Provider is not a Downstream Subcontractor solely because it enters into a Network Provider Agreement.</p> <p>Downstream Fully Delegated Subcontractor means a Downstream Subcontractor that contractually assumes all duties and obligations of KHS under the DHCS Contract, through the Subcontractor, except for those contractual duties and obligations where delegation is legally or contractually prohibited. A managed care plan can operate as a Downstream Fully Delegated Subcontractor.</p> <p>Downstream Partially Delegated Subcontractor means a Downstream Subcontractor that contractually assumes some, but not all, duties, and obligations of a Subcontractor under the Contract, including, for example, obligations regarding specific Member populations or obligations regarding a specific set of services. Individual Physician Associations and Medical Groups often operate as Downstream Partially Delegated Subcontractors.</p> <p>Downstream Administrative Subcontractor means a Downstream Subcontractor that contractually assumes administrative obligations of a Subcontractor under the Contract. Administrative obligations include functions such as credentialing verification or claims processing. However, functions related to coordinating or directly delivering health care services for Members, such as Utilization Management or Care Coordination, are not administrative functions.</p>

Downstream Subcontractor Agreement	A written agreement between a Subcontractor and a Downstream Subcontractor or between any Downstream Subcontractors. The Downstream Subcontractor Agreement must include a delegation of KHS' and Subcontractor's duties and obligations under the Contract.
Oversight	The monitoring of a set of activities in order to assess performance.
Pre-delegation Audit	An evaluation of a delegated entity's capacity to specific activities before entering into a delegation agreement.
Subcontractor Agreement	A written agreement between KHS and a Subcontractor. The Subcontractor Agreement must include a delegation of KHS' duties and obligations under the Contract.
Subcontractor	An individual or entity that has a Subcontractor Agreement with KHS that relates directly or indirectly to the performance of KHS' obligations under the DHCS Contract. A Network Provider is not a Subcontractor solely because it enters into a Network Provider Agreement.

IV. PROCEDURES

A. Delegation

KHS will not delegate the following contractual elements, as specified in the DHCS contract:

1. 1.1.7 Chief Health Equity Officer
2. 1.2.5 Medical Loss Ratio (MLR)
3. 1.3.1 Compliance Program
4. 2.2.8 NCQA Accreditation
5. 3.1.4 Duty to Ensure Subcontractor, Downstream Contractor, and Network Provider Compliance
6. 1.1.7 Delegation of Authority
7. 1.1.32 Conflict of Interest Avoidance

B. Subcontractor Agreements

To ensure Subcontractor's and Downstream Subcontractor's compliance, KHS will, at a minimum, do the following:

1. Include all DHCS contract duties and obligations and reporting relating to the delegated duties in the Subcontractor Agreement, utilizing the KHS approved Professional Services Template and Business Associates Agreements, where applicable (see attachments).

- a. Specify any and all delegated activities, obligations, and related reporting responsibilities.
 - b. Include the Subcontractor's agreement to perform the delegated activities, obligations, and reporting requirements.
2. Subcontractor agreements must provide for the revocation of the delegation of activities or obligations or specify other remedies where DHCS or KHS determines the Subcontractor is not performing satisfactorily.
 - a. Contractual provisions will include, as relevant, the enforcement of corrective action plans when performance and/or regulatory requirements are not met, such as financial sanctions, payment withholds or liquidated damages.
3. The Subcontractor Agreement must also state that the Subcontractor agrees to comply with all applicable Medicaid laws and regulations, including all sub regulatory guidance and Contract provisions, as well as the applicable state and federal laws.
4. Subcontractor Agreements must include that Subcontractors provide written disclosures of information on ownership control (see section 7 below).
5. Ensure the Subcontractor includes all DHCS contract obligations relating to the delegated duties in all Downstream Subcontractor Agreements
6. Provide policies and procedures to Subcontractors applicable to the delegated functions.
7. If using the Subcontractor policies, ensure the Subcontractor provides the relevant policies and procedures as applicable to delegated functions.
8. Provide the Subcontractor with KHS policies for monitoring Subcontractor compliance with all requirements related to any delegated activities, obligations, and related reporting responsibilities.
9. Ensure Subcontractor policies and procedures are made available to DHCS upon request.
10. Monitor and oversee all delegated functions, including those that may flow down to Downstream Subcontractors (reference *14.55 Delegation Oversight Policy*); and
11. Provide to DHCS a delegation reporting and compliance plan, as outlined below.

C. Subcontractor and Downstream Subcontractor Quality Improvement (QI) Activities

1. KHS is accountable for all QI and Health Equity functions and responsibilities that are delegated to Subcontractors and any Downstream Subcontractors, in accordance with Exhibit A, Attachment III, Subsection 3.1.1 (*Overview of Contractor's Duties and Obligations*).

2. KHS will, at a minimum, specify the following requirements in its Subcontractor Agreements and Downstream Subcontractor Agreements, as applicable:
 - a. QI or Health Equity responsibilities, and specific subcontracted functions and activities of Subcontractor and Downstream Subcontractor
 - b. The schedule for KHS's ongoing oversight, monitoring, and evaluation of Subcontractor and Downstream Subcontractor including quarterly reporting and an annual review of Subcontractor's and Downstream Subcontractor's performance.
 - c. Subcontractor's and Downstream Subcontractor's reporting requirements and Contractor's approval procedure of Subcontractor's and Downstream Subcontractor's reports
 - d. Subcontractor's and Downstream Subcontractor's obligation to report findings and actions of QI or Health Equity activities at least quarterly to Contractor.
 - e. KHS' actions and remedies if Subcontractor's and Downstream Subcontractor's obligations are not satisfactorily performed.

D. Network Provider Agreements

KHS will ensure that Network Providers comply with all applicable DHCS Contract requirements and all requirements set forth in their Network Provider Agreements.

E. Submissions to DHCS

1. KHS will submit to DHCS all Network Provider Agreement templates, and any proposed amendments thereto, for review and approval before use.
2. KHS will submit all Subcontractor Agreements and Downstream Subcontractor Agreements to DHCS, and any amendments thereto, as follows:
 - a. Fully Delegated Subcontractors and Downstream Fully Delegated Subcontractors: KHS must submit all Subcontractor Agreement and Downstream Subcontractor Agreement templates and any amendments thereto, to DHCS for review and approval **before use**.
 - i. KHS must also file with DHCS all executed Subcontractor Agreements with Fully Delegated Subcontractors and Downstream Subcontractors.
 - b. Partially Delegated Subcontractors and Administrative Subcontractors, and Downstream Partially Delegated Subcontractors and Downstream Administrative Subcontractors:
 - i. KHS must submit all proposed Subcontractor Agreements and Downstream Subcontractor Agreements, and any amendments thereto, to DHCS for review and approval **prior to execution** of the Subcontractor Agreement or Downstream Subcontractor Agreement.

F. DHCS Timeframes for Review and Response

1. Within sixty (60) calendar days of receipt, DHCS will make all reasonable efforts to approve in writing the use of Subcontractor Agreement and Downstream Subcontractor Agreement templates and/or actual proposed Subcontractor Agreements and Downstream Subcontractor Agreements submitted by KHS.
2. DHCS will provide KHS with a written explanation indicating whether the template and/or actual proposed Subcontractor Agreement or Downstream Subcontractor Agreement is approved, disapproved, or an estimated date for completion of DHCS' review.
3. If DHCS does not complete its review of the submitted material within 60 calendar days of receipt, or within DHCS' estimated date of completion, whichever is later, KHS may elect to implement or use the template and/or actual proposed Subcontractor Agreement or Downstream Subcontractor Agreement at KHS' sole risk and subject to possible subsequent disapproval by DHCS.

G. Ownership and Control Disclosures

KHS will collect and review Subcontractor ownership and control disclosures in accordance with *14.59-P, Conflict of Interest Avoidance Policy*.

H. Delegation Reporting and Compliance Plan

1. KHS will provide DHCS with a delegation reporting and a compliance plan describing:
 - a. All contractual relationships with Subcontractors and Downstream Subcontractors
 - b. KHS's oversight responsibilities for all delegated obligations
 - c. How KHS will oversee all delegated activities, including, but not limited to, details regarding key personnel who will be overseeing such delegated functions.
2. KHS' delegation reporting and compliance plan will include the information specified in Exhibit J (*Delegation Reporting and Compliance Plan*) of the DHCS Contract.
3. KHS will submit to DHCS, using the templates specified by DHCS in Exhibit J (see attachments) and as specified by DHCS, annual reports indicating changes to its delegation arrangements.
4. KHS will also provide reports to DHCS if there are changes in the Delegation Reporting and Compliance Plan as specified by DHCS and pre-approved by DHCS. The report will be submitted within thirty (30) calendar days following the end of the reporting period.

I. Policies

1. KHS will maintain policies and procedures approved by DHCS to ensure that Network Providers, Subcontractors, and Downstream Subcontractors fully comply with all applicable terms and conditions of this Contract and all duties delegated to Subcontractors and Downstream Subcontractors as set forth above.
2. KHS will maintain and communicate to Subcontractors their policies and procedures for monitoring Subcontractors' compliance with all requirements related to all delegated activities, obligations, and related reporting responsibilities (*see 14.55 Delegation Oversight Policy*).

J. Prospective Subcontractors

KHS will evaluate each prospective Network Provider's, Subcontractor's, and Downstream Subcontractor's ability to perform the contracted services or functions as outlined in *14.55, Delegation Oversight*.

K. Delegation Oversight

KHS will oversee and remain responsible and accountable for any services or functions undertaken by a Network Provider, Subcontractor, or Downstream Subcontractor; and must meet all applicable requirements set forth in State and federal law, regulation, any APLs or DHCS guidance, and the DHCS Contract (*see 14.55 Delegation Oversight*).

L. Website

KHS will post on its website a summary of its delegation model that outlines how it delegates obligations and duties of this Contract to Fully Delegated Subcontractors, Partially Delegated Subcontractors, Downstream Fully Delegated Subcontractors, and Downstream Partially Delegated Subcontractors.

V. ATTACHMENTS

Attachment A: Delegation Function Matrix
Attachment B: Downstream Delegation
Attachment C: Delegation Justification
Attachment D: Contract Requirements Grid
Attachment E: Professional Services Agreement Template
Attachment F: Business Associate Agreement Template

VI. REFERENCES

Reference Type	Specific Reference
DHCS Contract (Specify Section)	Exhibit A, Attachment III, 3.1.1 through 3.1.5
DHCS Contract (Specify Section)	Exhibit J
Other KHS Policies	14.55-P Delegation Oversight Policy
Other KHS Policies	14.59 Conflict of Interest Avoidance Policy
Other KHS Policies	14.62 Responding to Compliance Issues Policy
Regulatory	42 CFR 438
Regulatory	42 CFR 438.608
Regulatory	42 CFR 438.230 (c) (1)
Regulatory	42 CFR 438.230 (c) (2)

VII. REVISION HISTORY

Action	Date	Brief Description of Updates	Author
Effective	1/01/2024	Effective 1/1/2024, per the 2024 DHCS Contract Readiness.	J.M. Compliance
Revised	01/2024	Non-substantive changes made to Attachment C due to actual 2024 DHCS Contract	J.M. Compliance
Revised	07/2023	Updated for R.0036	J.M. Compliance
Revised	05/2023	New Policy created for 2024 DHCS Contract Readiness R.0243.1, R.0243.2	J.M. Compliance

VIII. APPROVALS

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

Regulatory Agencies (if applicable)	Date Reviewed	Date Approved
Department of Health Care Services (DHCS)	R.0036	09/15/2023
Department of Health Care Services (DHCS)	R.0243.2	07/31/2023
Department of Health Care Services (DHCS)	R.0243.1	07/14/2023

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



KERN HEALTH SYSTEMS

Policy and Procedure Review

KHS Policy & Procedure: 14.61-P Delegation

Previous implemented version: N/A

Director Approval		
Title	Signature	Date Approved
Jane MacAdam Director of Compliance		
Cesar Delgado Deputy Chief Information Officer		
Melissa McGuire Senior Director of Delegation Oversight		
Nate Scott Senior Director of Member Services		
Robin Dow-Morales Senior Director of Claims		
Christine Pence Senior Director of Health Services		
Amisha Pannu Senior Director of Provider Network		
Jake Hall Senior Director of Contracting & Quality Performance		
Isabel Silva Senior Director of Wellness & Prevention		
Louis Iturriria Senior Director of Marketing & Member Engagement		
Bruce Wearda Director of Pharmacy		

Magdee Hugais Director of Quality Improvement		
Amanda Gonzalez Director of Utilization Management		
Kailey Collier Director of Quality Performance		
Michelle Curioso Director of Population Health Management		
Melinda Santiago Director of Behavioral Health		
Loni Hill-Pirtle Director of Enhanced Care Management		
Adriana Salinas Director of Community & Social Services		
Alonso Hurtado PM Director of Strategic Initiatives		

Date posted to public drive: _____

Date posted to website ("P" policies only): _____