

POLICY AND PROCEDURE

Department: Compliance

Title: Antitrust Compliance Policy

Effective Date: 2/2017

Annual Review Date: 9/2019

Date Revised: 9/2018

Overview

Adirondack Health Institute, Inc. (AHI) requires compliance with all applicable federal and state antitrust laws, rules and regulations (collectively, the “Antitrust Law”), by its officers, directors, employees, and our Partner Organizations and other entities participating with AHI to implement the Delivery System Reform Incentive Payment Program (DSRIP). All AHI operations and DSRIP-related activities in the Performing Provider System (“PPS”) will be conducted in accordance with Antitrust Law and this policy including, but not limited to, Antitrust Law applicable to Medicaid, Medicare and commercial insurance health care markets. A summary of the legal background of the major Antitrust Law principles is attached as Appendix A.

Policy Guidelines

Antitrust Law is designed to preserve and promote fair and honest competition within the free enterprise system. We are committed to complying with Antitrust Law. AHI prohibits anti-competitive conduct, including the improper exchange of competitively sensitive information, collusion to limit competition, and actions to discourage the PPS’ Partner Organizations from contracting with any payers outside the context of any particular provider’s arrangements with such payers. As a PPS, we operate a non-exclusive, voluntary network. AHI and those participating in the PPS will not engage in anti-competitive behavior in violation of the Antitrust Law in activities, operations and relationships with other organizations in the PPS network.

AHI, Partner Organizations and other participating organizations are engaged in transformative care delivery system restructuring activities as part of DSRIP, funded by Medicaid. As required by DSRIP and the New York State Department of Health (“NYSDOH”) guidance, we are undertaking clinical integration, care coordination, delivery system transformation and planning and preparation to enter into Medicaid managed care contracts based on value-based purchasing (“VBP”). AHI and its Partner Organizations will not allow AHI and PPS planning and implementation activities for VBP contracting as required by DSRIP to spillover to any Medicare or commercial contracting activities by AHI.



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<p><u>DSRIP Program</u></p> <ul style="list-style-type: none"> • Medicaid patient 	<p><u>Competitive Markets</u></p> <ul style="list-style-type: none"> • Medicare patients • Insured patients
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As a general rule, with the exception as provided by contracts, we shall not exchange (not provide to or obtain from a competitor) competitively sensitive information. Examples of what would be considered competitively sensitive information include, but are not limited to:

- Current or future prices¹ (caution should be taken in discussing past² prices)
- Methods of calculating price
- Discounts, credit terms or other terms and conditions of sale
- Possible increases or decreases in price
- Stabilization of prices
- Timing or announcement of price changes
- Costs (such as salaries, wages and employee benefits)
- Reimbursement rates
- Division or allocation of markets (by geography, customer, distribution level, types of services or other factors)
- Bidding plans, strategies or tactics
- What constitutes a fair profit level
- Capacity, except publicly available information
- Revenues, except publicly available information
- Refusing to deal with a patient or group of patients, particular providers, suppliers or payers (boycotting)
- Other competitors

If it becomes necessary to exchange such competitively sensitive information to further the goals of DSRIP, it may be permissible if done with the assistance of legal counsel and in a manner that does not violate applicable antitrust law.

Moreover, we will not use bargaining power we may have in the Medicaid market arising from building an integrated delivery system and integrating clinical care as required by DSRIP in connection with the Medicare or commercial markets. For example, neither AHI nor any Partner Organization will jointly negotiate on behalf of participants in the PPS network in the Medicare or commercial markets.

¹ The word “price” includes actual charges and negotiated rates.

² The term “past prices” means prices which are at least three months old.

POLICY AND PROCEDURE

AHI and Partner Organizations will continue to compete in the Medicaid market, consistent with DSRIP requirements and NYSDOH guidance regarding DSRIP implementation.

We are a voluntary, non-exclusive network. All health care providers participating in the AHI PPS may enter into arrangements with Medicaid, Medicare and commercial managed care plans without the participation of AHI and with providers outside the PPS. All providers in our PPS network may provide health care services to Medicaid beneficiaries and other patients outside of the PPS network.

AHI shall provide antitrust compliance training to its officers, directors, employees, Partner Organizations and other participating organizations and individuals involved in DSRIP-related activities, as necessary and appropriate, and shall actively monitor compliance with Antitrust Law through its compliance program.

KEY ANTITRUST COMPLIANCE GUIDANCE

We will undertake clinical integration and care coordination activities required by AHI's DSRIP implementation plan submitted to NYSDOH. We will not enter into agreements or understandings between or among competitors to limit competition (in the Medicare or commercial markets).

We will not enter into agreements to divide or allocate markets in relation to managed care contracts or other joint negotiations. We understand that competitors are strictly prohibited from agreeing to stay out of each other's markets. Markets are broadly defined to include geographical territories, customer types, distribution levels and types of services.

In connection with our Medicare business and our commercial business:

- Do not discuss prices (actual charges or negotiated rates) with a competitor. It is strictly prohibited to reach any agreement or understanding with a competitor about prices, whether to raise, lower or stabilize prices. AHI and Partner Organizations should not exchange or discuss prices, elements of prices (as examples, costs, discounts or credit) or any price information with any competitor. Partner Organizations should not exchange price lists with a competitor.
- Do not coordinate or discuss bids or quotes with a competitor. Bid rigging is strictly prohibited.
- Do not agree with a competitor to or refuse to deal with (or to boycott) a supplier, a customer or another competitor.
- Do not tie or force the sale of one service or product to another service or product.
- Do vigorously compete. The Antitrust Law promotes and protects competition.



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POLICY AND PROCEDURE

- Do operate as a voluntary, non-exclusive network of health care providers in all markets.

If you have any concerns or questions about antitrust compliance or the application of this Policy to your conduct, please call the AHI Compliance Officer at (518) 480-0111.

Contact Person: Corporate Compliance and Privacy/Security Specialist

Responsible Person: Chief Operating and Compliance Officer

Approved by: CEO/Board of Directors



POLICY AND PROCEDURE

Appendix A

Legal Background

The antitrust law promotes and protects competition.

There are three primary federal antitrust statutes:

- The Sherman Act which prohibits unreasonable agreements to limit competition, monopolization and attempts to monopolize.
- The Clayton Act which prohibits unreasonable tying arrangements.
- The Federal Trade Commission Act which prohibits unfair methods of competition.

New York antitrust law generally follows federal law.

The courts have ruled that some types of agreements by competitors are per se (by itself) unreasonable or illegal which prevents offering any defense or justification for the agreement. The per se illegal agreements are:

- (1) Price fixing,
- (2) Market division, and
- (3) Bid rigging

Also, some agreements by competitors to refuse to deal with a supplier, a competitor or a customer (group boycotts) can be per se illegal.

An antitrust lawsuit may be brought by the U.S. Department of Justice, the Federal Trade Commission, State Attorneys General or private parties (including customers and suppliers). A violation of federal antitrust law carries serious consequences for companies and individuals. For each criminal violation, a company can be punished by a fine of up to \$100 million, and an individual can be fined up to \$1 million and sentenced to federal prison for up to 10 years. In the alternative, maximum fines can be increased to twice the gain (or twice the loss) resulting from the antitrust violation. In addition to criminal penalties, companies face potential civil liability from class actions seeking treble money damages (three times the actual money damages incurred), plus attorneys' fees, for an antitrust violation.