

# PROGRESSIVE CONSEQUENCES

12/18/2014

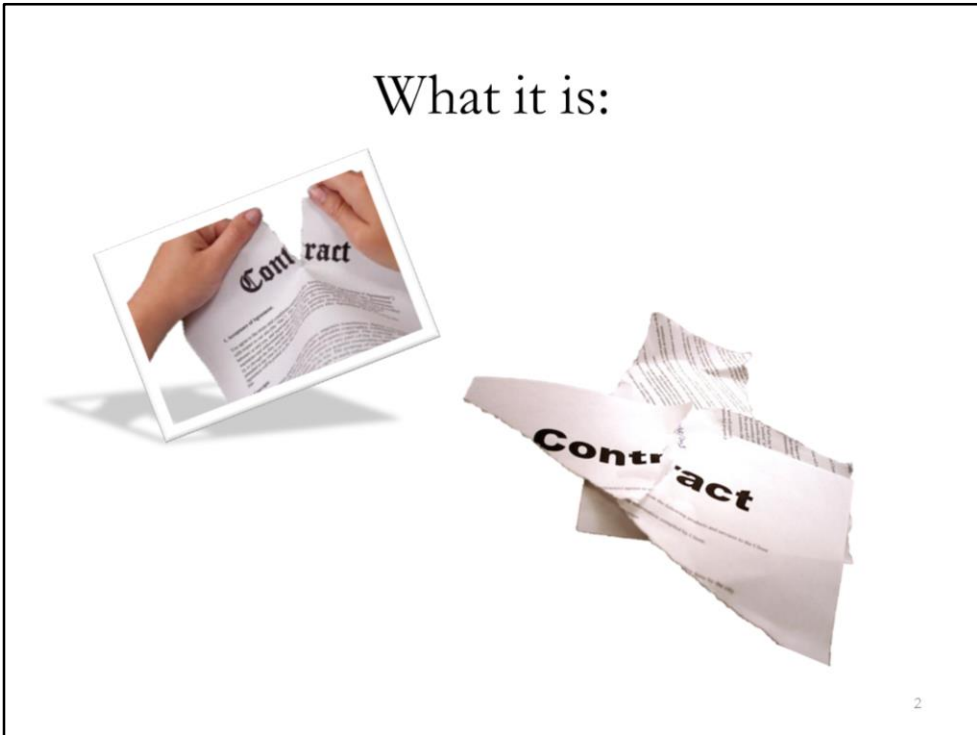


## Sanctions and Financial Penalties



- The information in this presentation is derived from the policy called: Sanctions and Financial Penalties.
- The Sanctions and Financial penalties policy has been in effect since July 2012. We have now formalized the process and enforcement will begin January 1, 2015.

What it is:



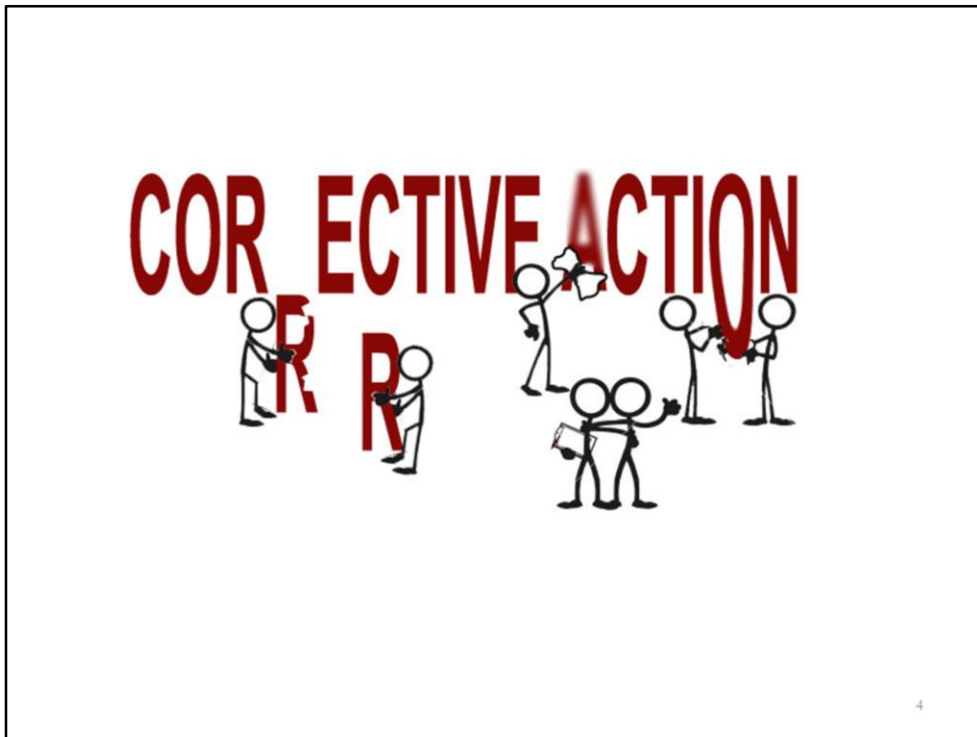
- This policy outlines and explains the repercussions that will occur for those Subcontractors (i.e. Providers) who do not meet their obligations outlined in the CFCHS Provider subcontract.



[Presentation Progress Report.xlsx](#)

3

- And who do not meet performance measure targets.
- Provider's performance measure targets will be illustrated in a monthly progress report that will be issued to Providers.
- These progress reports will offer a glimpse at how the network performed during the previous month and then each provider will have an individualized report detailing their specific progress.



- In addition, this policy will also explain the process when a Subcontractor fails to achieve compliance through the corrective action process.



The purpose of this policy is to implement an objective, predictable, progressive, and systematic approach to address the below standard performance by the Subcontractors of their specific responsibilities as defined in the CFCHS Subcontractor Documents.

## Corrective Action Plan (CAP)



- A way to do this is through a corrective action plan (CAP)
- A CAP is a plan of action agreed upon between the Subcontractor and CFCHS to resolve unacceptable and/or a noncompliant performance

# Plan of Action

- Specifies the actions to be taken
- Timeframes



- The plan of action:
  - Specifies the actions to be taken
  - And includes a timeframe that acceptable performance or compliance is to be achieved



# Violation of Obligations

## Contractual Violations

- The type violation of obligation that we will focus on is:
  - Contractual violation

# CFCHS Contractual Violations Matrix

	<b>MINIMAL RISK</b> (Subcontractor breached protocol specified in contract; minimal or no harm to client care or CFCHS operating functionally)	<b>MODERATE RISK</b> (Repeat breach in protocol of an earlier violation or a new violation of measurable harm to client care and CFCHS operating functionally)	<b>SERIOUS RISK</b> (Irreconcilable differences exists to the extent that CFCHS Board of Directors declares a loss of confidence in the subcontractor due to significant breaches)
<b>VIOLATION TYPES:</b>			
<b>Administrative</b>	Failure to add clients to the wait list.	Not offering interim services to clients who are waiting for services.	Continued failure to offer interim services to pregnant women on the waiting list, and as a result, pregnant female client and unborn child are negatively impacted.
<b>Operational</b>	Late submission of data and reports.	Not meeting performance measures.  Not Maintaining accreditation/licensure	Performance continuously below thresholds despite CAP.
<b>Health and Safety</b>	Conversations within a therapeutic room can be heard by others within the surrounding rooms.	Not all the agency's computers have been encrypted and staff is taking laptops to the field.	Staff with access to client information is selling client's identity for Medicaid fraud purposes.

9

- Here you'll see CFCHS contractual violations matrix
- The 3 violations types within the policy are:
  - Administrative
  - Operational
  - And, Health and Safety
- The types of risks that may occur within these 3 violation types are:
  - Minimal Risk - Subcontractor breached protocol specified in contract; minimal or no harm to client care or CFCHS operating functionally
  - Moderate Risk - Repeat breach in protocol of an earlier violation or a new violation of measurable harm to client care and CFCHS operating functionally
  - And, Serious Risk - Irreconcilable differences exists to the extent that CFCHS Board of Directors declares a loss of confidence in the subcontractor due to significant breaches
- The listed risks are examples of what may be considered as a violation type.
- How we become aware of, the steps to we take and the method in which decisions are made will be discussed in the next few slides.

## Contractual Violation Reporting, Investigation and Determination

- Notice of Non-Compliance
- Request for Corrective Action Plan
- Notification of Determination
- Appeal Processes
- Penalty Enactment
- Collection of Financial Penalties



10

This next section goes more into detail about the process.

Corrective Action Process involves Notice of Non-Compliance and the Request for Corrective Action Plan.

## Notice of Non-Compliance



11

Examples of notice of non-compliance could occur during a monitoring or desk review. During one of those we may have a finding that is not meeting contractual compliance. At that point if these findings are deemed to warrant a corrective action response it is then communicated in writing and discussed with the Provider to examine and validate the accuracy.

## Request for Corrective Action Plan



12

- If these findings are found to be accurate then a CAP will be required. It will be documented and communicated to the provider with a deadline for the CAP due to CFCHS for approval.
- CFCHS shall respond within 30 days of receipt. Once approved CFCHS schedules a monitoring to evaluate success of plan.

## Request for Corrective Action Plan cont'd



13

The CAP process initiates a progressive sequence of interventions to resolve non-compliance, which includes and/or results in:

- Letter of satisfaction of compliance when compliance has been achieved
- Extension time of period for CAP completing where notable compliance has been achieved.
- Letter of Determination of Non-Performance to the President of the Provider's BOD when non-compliance continues to exist. It will specify financial penalties and any contract adjustments (contract budget amount, reduction or elimination of services or termination). If services are being reduced or eliminated the letter shall specify expectations and timeframes for transition.

# Notification of Determination



14

So, based on the CAP process results CFCHS will formally notify the provider, in writing, within 5 days of a determination being made. Which will be one of the following : Satisfaction of Compliance, Formal Extension of CAP time period or Determination of Non-Performance.

## Appeal Process (non-financial consequences)

- Appeals are to be submitted in writing to the CEO of CFCHS.
- The CEO shall issue a written response within 5 days.
- The determination is final.



15

### Appeal Process

Subcontractors have the right to appeal findings, CAP requirements, the magnitude of financial penalties imposed, substantial changes proposed to a subcontractor's contract.

- Appeals are to be submitted in writing to CFCHS' CEO and should include
  - Finding/issue being appealed
  - Penalty being appealed and the rationale the appeal is based on.
  - The CEO shall issue a response in writing within 5 days of receipt of the appeal.

## Appeal Process (financial consequences)

- Appeals shall be submitted to the President of the CFCHS Board of Directors.
- The Exec Committee will be notified, a hearing will convene within 5 days.
- The EC's determination is final.
- Subcontractor is notified in writing within 5 days.



16

- The CEO decision is final when the appeal is related to findings or CAP that do not involve financial penalties for the provider.
- If the appeal is related to a financial penalty or substantial changes to a provider's contract the issue must be appealed in writing to the President of the Board of Directors.
- The board President shall notify the Executive Committee and convene a meeting. The determination of the Executive Committee is considered final. The subcontractor will be notified within 5 days of the hearing.

# Penalty Enactment

	<b>MINIMAL RISK</b> (Subcontractor breached protocol specified in contract; minimal or no harm to client care or CFCHS operating functionally)	<b>MODERATE RISK</b> (Repeat breach in protocol of an earlier violation or a new violation of measurable harm to client care and CFCHS operating functionally)	<b>SERIOUS RISK</b> (Irreconcilable differences exists to the extent that CFCHS Board of Directors declares a loss of confidence in the subcontractor due to significant breaches)
<b>VIOLATION TYPES:</b>			
<b>Administrative</b>	Failure to add clients to the wait list.  <b>Penalty 1%</b>	Not offering interim services to clients who are waiting for services.  <b>Penalty 1.5%</b>	Continued failure to offer interim services to pregnant women on the waiting list, and as a result, pregnant female client and unborn child are negatively impacted.  <b>Penalty 2%</b>
<b>Operational</b>	Late submission of data and reports.  <b>Penalty 2%</b>	Not meeting performance measures. Not Maintaining accreditation/licensure  <b>Penalty 3.5%</b>	Performance continuously below thresholds despite CAP.  <b>Penalty 5%</b>
<b>Health and Safety</b>	Conversations within a therapeutic room can be heard by others within the surrounding rooms.  <b>Penalty 5%</b>	Not all the agency's computers have been encrypted and staff is taking laptops to the field.  <b>Penalty 7.5%</b>	Staff with access to client information is selling client's identity for Medicaid fraud purposes.  <b>Penalty 10%</b>

## Penalty Enactment example

For example a subcontractor's total contract amount is \$1,000,000.00 the corrective action timeframe was 3 months and the penalty was 5% the total amount withheld is \$12,500.00.

# Collection of Financial Penalties



18

## Collection of Financial Penalties

The financial penalty will be subtracted from the invoice following final notification of financial penalty imposition to the subcontractor. This reduction in funds cannot be recouped by the provider and shall be re-allocated according to CFCHS policies and procedures.

# Questions

