

# Cherokee Indian Hospital Authority



*The Mission of the Cherokee Indian Hospital is to be the provider of choice for the community by providing accessible, patient and family centered quality healthcare with responsible management of the Tribes resources.*

**TITLE: CIHA Whistleblower Protection Policy**

**REVIEWED AND APPROVED BY: CIHA Executive Committee**

**EFFECTIVE DATE: 2/25/2021**

**LAST REVIEWED: 4/5/2024**

**POLICY OWNER: CIHA Executive Director of Quality/Patient Safety and Compliance Officer**

## **PURPOSE:**

The purpose of this Policy is to encourage disclosure of any wrongdoing that may adversely impact CIHA and those affiliated with/within the organization and to provide a reporting process that will initiate an investigation into wrongdoing and retaliation. The purpose is to, also, establish a policy of protection of whistleblower rights as required by the North Carolina Department of Health and Human Services/Eastern Band of Cherokee Indians (NCDHHS/EBCI) Tribal Option Contract. The whistleblower protections create an environment for Cherokee Indian Hospital Authority (CIHA) and its division EBCI Tribal Option that aligns with its Core Purpose, Mission, Vision, and Guiding Principles.

## **STAFF GOVERNED BY THIS POLICY:**

This Policy applies to all:

- CIHA workforce;
- CIHA Executive staff;
- EBCI Tribal Option staff;
- EBCI Tribal Option Member Services staff;
- EBCI Tribal Option Provider Network;
- EBCI Tribal Option Subcontractors;

### **CIHA Whistleblower Protection Policy**

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- Care Managers;
- Behavioral Health Care Managers [Behavioral Health Consultants (BHCs)];
- Other Primary Care (Nutritionists, Pharmacists, and Providers in the Integrated Care Team);
- Care Manager Extenders [Licensed Practical Nurses (LPNs)/Certified Medical Assistants (CMAs)/Other];
- Primary Care – Case Management Support (CMS).

**POLICY:**

CIHA and EBCI Tribal Option shall protect their employees, subcontractors, and Network providers who report activities believed to be mismanaged, illegal, dishonest, unethical, a gross waste of funds, a lack of authority, or a substantial and specific danger to health and safety or are otherwise improper.

CIHA and EBCI Tribal Option shall not intimidate or retaliate against individuals for exercising their whistleblowing rights. CIHA and EBCI Tribal Option shall not discharge, threaten, or discriminate against an employee, subcontractor, or Network provider regarding their compensation, terms, conditions, location, or privileges of employment or contract execution.

The intent of the EBCI Tribal Option and CIHA’s is to maintain the confidentiality of the whistleblower; however, identification may have to be disclosed for a thorough investigation in order to comply with the law and to provide the accused individuals their legal rights of defense.

Whistleblower protected individuals include:

- The employee, subcontractor, Network provider, or a person acting on behalf of the individual who reports to a public body, such as a regulatory agency, or who is about to report to a public body on a matter of concern;
- The employee, subcontractor, or Network provider who participates in a court action, an investigation, a hearing, or an injury held by a public body on a matter of concern.

CIHA and EBCI Tribal Option may not exclude an employee or other person who makes an allegation from receiving a benefit, a bid on contracts, or other rights/entitlements. Policy provisions do not:

- Require the organization to compensate an employee or subcontractor for participation in a court action or in an investigation, hearing, or inquiry by a public body;
- Forbid the entity from compensating an employee or subcontractor for participation in a court action or in an investigation, hearing, or inquiry by a public body;
- Sanction the disclosure of information that is legally required to be confidential.

Limitation to protections:

- An individual is not entitled to the protections under this Policy unless they reasonably believe that the information reported is (or is about to become) a concern;
- The information is reported in good faith; and/or

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- An individual is eligible to the protections under this Policy only if the matter of concern is not the result of conduct by the individual requesting protection, unless it is the result of the person's conduct that was required by their employer.

EBCI Tribal Option and CIHA shall act in accordance with the **Federal False Claims Act and Applicable State False Claims Act Provisions, 31 U.S.C. § 3730 and other applicable federal, state, and tribal laws and regulations:**

- **Federal False Claims Act (FCA)**  
The federal FCA prohibits knowingly submitting (or causing to be submitted) to the federal government false or fraudulent claims for payment or approval. It prohibits knowingly making or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved. The federal FCA also prohibits knowingly making or using (or causing to be made or used) a false record or statement of material to an obligation to pay or transmit money or property to the federal government or to knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the federal government;
- Protections and Awards for whistleblowers under the federal FCA includes no retaliation. The federal FCA protects and provides relief to any associate, contractor, or agent from retaliatory actions taken by the company if the individual acts as a whistleblower. These retaliatory actions include discharge, demotion, suspension, threats, harassment, and any other discrimination against the associate, contractor, or agent resulting from following the federal FCA requirements and this Policy.

Additional examples of relevant laws include, but are not limited to:

- Anti-Kickback Statute (AKS);
- Beneficiary Inducement Law;
- Exclusion Statute;
- Whistleblower Protection Act (WPA);
- Other relevant federal Fraud, Waste and Abuse (FWA) laws include:
  - Physician Self-Referral Prohibition (Stark Law);
  - Civil Monetary Penalties Law (CMPL);
  - Health Insurance Portability and Accountability Act (HIPAA); and
  - Deficit Reduction Act of 2005 and subsequent issued guidance by the Centers of Medicare and Medicaid (CMS) or NC Medicaid.

## **DEFINITIONS:**

### **Abuse**

Includes any practice that is inconsistent with acceptable fiscal, business, medical, or healthcare practices that unnecessarily increase costs or causes unnecessary harm. It also includes Medicaid beneficiary or EBCI Tribal Option Member practices that result in unnecessary cost to the Medicaid program.

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### **Cherokee Indian Hospital Authority (CIHA)**

An independent component unit of the Eastern Band of Cherokee Indians tribal government to oversee, supervise, and direct the operations of the Cherokee Indian Hospital and other health programs assigned to CIHA by the EBCI Tribal Council.

### **CIHA Business Day**

Monday through Friday, 8:00am until 4:30pm, Eastern Standard Time, except for holidays observed by CIHA. These holiday dates will be submitted annually to NCDHHS, and posted on the EBCI Tribal Option website at [www.ebcitribaloption.com](http://www.ebcitribaloption.com).

### **CIHA Workforce**

CIHA workforce includes all full-time or part-time CIHA staff/personnel/agents/employees (i.e., contractors, volunteers, interns, trainees, students, contract employees/workers, other third parties, guests), non-employees, and other persons/individuals whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such covered entity or business associate, whether or not they are paid by the covered entity or business associate.

### **EBCI Tribal Option**

The unit within CIHA that is responsible for managing the Indian Managed Care Entity and serves as the point of contact with the Division of Health Benefits, within the NC Department of Health and Human Services.

### **EBCI Tribal Option Contract**

The Indian Managed Care Entity Contract #30-2020-014-DHB between the North Carolina Department of Health and Human Services, Division of Health Benefits and Cherokee Indian Hospital Authority. Subsequent revisions and amendments are also included in this definition. This Contract is also referred to as the NCDHHS/EBCI Tribal Option Contract.

### **Employee**

An individual hired by CIHA or a member of the EBCI Tribal Option Provider Network.

### **Fraud**

An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

### **Matter of Concern**

- A violation of a state, federal, or tribal law, regulation, or ordinance;
- A danger to public health or safety; and/or
- Inappropriate management, substantial waste of funds, or an apparent abuse of authority.

### **North Carolina Department of Health and Human Services (NCDHHS)**

A Department within the North Carolina Executive Branch that is the designated single state agency with the US Department of Health and Human Services, Centers for Medicare and

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Medicaid Services (CMS) for the administration of the Medicaid Program through the Division of Health Benefits.

**Subcontractor**

An entity having an arrangement with Cherokee Indian Hospital Authority (CIHA) and/or EBCI Tribal Option, where CIHA and/or EBCI Tribal Option use the products and/or services of that entity to fulfill some of its obligations under the NCDHHS/EBCI Tribal Option Contract. Use of a subcontractor does not create a contractual relationship between the subcontractor and NCDHHS, only CIHA. Network primary care providers (PCPs) are not considered subcontractors for the NCDHHS/EBCI Tribal Option Contract.

**Waste**

The inappropriate use of resources.

**Whistleblower**

An employee, internal and external PCPs, subcontractors, and all other agents of the EBCI Tribal Option who report to one or more of the parties specified in this Policy an activity that they consider to be mismanaged, illegal, dishonest, unethical or is a gross waste of funds, an absence of authority, or a substantial and specific danger to public health and safety or are otherwise improper.

**PROCEDURE:**

Employees, internal and external PCPs, subcontractors, and all other agents of EBCI Tribal Option as defined shall have the right to file a whistleblower complaint with:

- CIHA 1-828-497-9163 or EBCI Tribal Option: 1-800-260-9992
- NCDHHS Compliance Attorney, Office of the Secretary: 1-919-855-4800
- Office of the State Auditor Tipline: 1-800-730-TIPS (1-800-730-8477)
- NC Office of the Attorney General’s Medicaid Investigations Division: 1-919-881-2320
- U.S. Office of Inspector General Fraud Line: 1-800-HHS-TIPS (1-800-447-8477)
- EBCI Fraud, Waste and Abuse Tip Line: 1-800-455-9014
- NC Medicaid Fraud, Waste and Abuse Tip Line: 1-877-DMA-TIP1 (1-877-362-8471)

In the instance that an employee has a concern about or knowledge of an illegal or dishonest activity, the CIHA/EBCI Tribal Option employee is encouraged to report the allegation to their immediate supervisor. In the event that the concern is in regards to their immediate supervisor, the employee may report to the next individual in the chain of command or report to the CIHA/EBCI Tribal Option Compliance Officer.

Subcontractors, Network PCPs, or other agents of CIHA/EBCI Tribal Option should report to their EBCI Tribal Option point of contact or the CIHA/EBCI Tribal Option Compliance Officer.

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Examples of illegal or dishonest activities include violations of federal, state, or local laws, billing for services not performed or for goods not delivered, and other fraudulent financial reporting. The CIHA/EBCI Tribal Option employee, subcontractor, or Provider Network members should exercise good judgement to avoid a baseless allegation. An employee, Provider Network member, and/or subcontractor may be subject to disciplinary action if they should intentionally file a false report of wrongdoing.

The report of a concern of an illegal or dishonest activity by a member of the CIHA workforce will be forwarded by the receiving supervisor or contact person to the CIHA Human Resources (HR) Manager. The CIHA Human Resources Manager shall work collaboratively with the CIHA/EBCI Tribal Option Compliance Officer, who is responsible for facilitating the investigation and coordinating any required corrective action.

Any concerns applicable to the CIHA HR Manager or the CIHA/EBCI Tribal Option Compliance Officer should be reported to the EBCI Tribal Option Director or the CIHA CEO.

The whistleblower is not responsible for investigating the alleged illegal or dishonest activity or for determining if fault or corrective measures are needed. The CIHA HR Manager and/or the CIHA/EBCI Tribal Option Compliance Officer are the responsible party(ies) with applicable consultation from subject matter experts.

The responsible party shall initiate an investigation within twenty-one (21) CIHA business days of receipt of concern. The investigation may include, but is not limited to, the following:

- Interviews;
- Research and analysis of materials or data;
- Consultation with or review by subject matter experts;
- Referral to federal or state regulatory agency to conduct the investigation and/or handle disposition of the allegation; and
- Referral to federal, state, or tribal law enforcement or other legal entity to conduct the investigation and/or handle the disposition of the allegation.

Disposition or rendering decision of the allegation of concern will be completed as reasonably possible given the nature of the allegation. In the event of Medicaid fraud, waste or abuse, including credible allegations of fraud, referrals shall be made to the NC Medicaid Program Integrity Office. At no point in the review of the allegation shall the review or investigation infringe on the referral or create obstacle for any action to be taken by a regulatory or enforcing agency.

In all aspects of the CIHA Whistleblower Protection Policy, it is expected that privacy protections and compliance will be maintained. This Policy and its procedures will compliment and work in tandem with the EBCI Tribal Option and AMH Fraud, Waste, and Abuse Prevention Policy and Plan. In addition, EBCI Tribal Option and CIHA shall train all their employees, subcontractors, and the PCP Network on the EBCI Tribal Option and AMH Fraud, Waste, and Abuse Prevention

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Policy and Plan. This referenced Policy and Plan includes reporting requirements and processes and definitions.

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**CIHA OPTION WHISTLEBLOWER PROTECTION POLICY:  
POLICY IMPLEMENTATION/REVISION INFORMATION**

Original Effective Date: 2/25/2021

**Revision Information:**

<b>Date</b>	<b>Section Updated</b>	<b>Change</b>
2/11/2022	Policy Header	Added "Last Reviewed" date and added "CIHA" to Executive Committee title
2/11/2022	All sections	Checked and amended grammar, numbering, and readability as needed
2/11/2022	Procedure	Provided phone numbers to a list of entities to which whistleblower complaints may be filed and added U.S. Office of Inspector General Fraud Line and phone number to that list
2/11/2022	Policy Implementation/ Revision Information	Added policy revision information table
4/27/2023	Policy Header	Added Cherokee translation and syllabary for "EBCI Tribal Option"
4/27/2023	Policy Header	Amended "Last Reviewed" date and added "Policy Owner" and identified the role
4/27/2023	Purpose	Added language to the Purpose of this Policy to reflect the value of the Policy and how it is strategically important to fulfilling roles
4/27/2023	Staff Governed By This Policy	Amended the "Staff Governed By" section with the appropriate parties
4/27/2023	Definitions	Added "CIHA," "CIHA Business Day," "CIHA Workforce," "EBCI Tribal Option," and "NCDHHS" to the Definitions list and amended a definition by supplementing language for "Whistleblower"
4/27/2023	Procedure	Identified Compliance Attorney and Medicaid Investigations Division as those that a whistleblower complaint may be filed with
4/27/2023	Policy Implementation/ Revision Information	Amended the policy revision information table

**CIHA Whistleblower Protection Policy:  
Policy Implementation/Revision Information**

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4/5/2024	Title and Policy Content	Combined the CIHA Whistleblower Protection Policy and the EBCI Tribal Option Whistleblower Protection Policy into one universal Policy, which includes applicable language and Staff Governed By from both policies
4/5/2024	Policy Header	Updated the “Last Reviewed” date
4/5/2024	All sections	Checked and amended grammar, numbering, and readability as needed
4/5/2024	Definitions	Amended definitions for “Abuse,” “CIHA,” “CIHA Business Day,” “Employee,” “Fraud,” “Subcontractor,” and “Whistleblower”
4/5/2024	Procedure	Clarified that the CIHA Human Resources Manager shall work collaboratively with the CIHA/EBCI Tribal Option Compliance Officer, who is responsible for facilitating the investigation and coordinating any required corrective action
4/5/2024	Procedure	Clarified that any concerns applicable to the CIHA HR Manager or the CIHA/EBCI Tribal Option Compliance Officer should be reported to the EBCI Tribal Option Director or the CIHA CEO
4/5/2024	Procedure	Clarified that the CIHA HR Manager and/or the CIHA/EBCI Tribal Option Compliance Officer are the responsible party (ies) with applicable consultation from subject matter experts
4/5/2024	Procedure	Amended the title of the EBCI Tribal Option and AMH Fraud, Waste, and Abuse Prevention Policy and Plan

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