SynerMed
Innovating Healthcare

COMPLIANCE DEPARTMENT

Self-Disclosed Non-Compliance Investigation Report:

Utilization Management – Medical Services

Draft Report: 10/5/2017

TABLE OF CONTENTS

1. BACKGROUND

A. SYNERMED'S CONTRACTUAL & REGULATORY OBLIGATIONS

SynerMed contracts with Independent Provider Associations (IPAs), to administer health insurance benefits through: Medicare Advantage, Cal MediConnect, Medicaid & Commercial health insurance plans. SynerMed's Compliance Department is responsible for conducting oversight of all delegated functions pursuant to 42 CFR Sections 422.503(d)(2), 423.504(d)(2), CA Health and Safety Code Sections 1367.01(h)(3) and (4), Title 22 of the CA Code of Regulations Sections 51014.1 and 51014.2 and SynerMed's Compliance Program and may conduct internal audits and investigations into reported non-compliance, to ensure compliance with all benefit administration requirements. Internal departments, as well as downstream entities delegated parts or all of SynerMed's administrative functions, must provide full access to records, and staff to facilitate Compliance audits, and non-compliance investigations.

B. REPORTED NON-COMPLIANCE DETAILS

ISSUE BACKGROUND

On August 18th, 2017 SynerMed's Compliance Department received notification from Health Net of an upcoming annual audit **Refer to: Attachment 1**.

The scope of the audit was SynerMed's Utilization Management delegated functions as it pertains to:

- Alpha Care Medical Group (Alpha)
- Angeles IPA
- Crown City Medical Group (CCMG)
- Employee Health Systems Sacramento and satellites (EHS)
- MultiCultural Primary Care Medical Group (Multi)

The audit materials requested included: logs, files and other materials such as policies & procedures etc.

On September 1st, 2017 SynerMed's Compliance Department submitted all logs and other audit materials requested for the audit, to Health Net via Health Net's file exchange system **Refer to: Attachment 2.**

On September 7th, 2017 & September 8th, 2017 SynerMed's Compliance Department received the file selection request from Health Net, due to Health Net on September 19th, 2017 **Refer to: Attachment 3.**

On September 15th, 2017 SynerMed's Compliance Department received a request for a two-week extension for the submission of case files to Health Net from the Delegation Oversight Team **Refer to: Attachment 4.**

On September 15th, 2017 SynerMed's Compliance Department reached out to Health Net for an extension **Refer to: Attachment 4.**

On September 15th, 2017 Health Net granted SynerMed an extension through September 25th, 2017 for the submission of all audit files **Refer to: Attachment 4.**

On September 15, 2017 SynerMed's Compliance Manager notified the Delegation Oversight team of the extension to September 25th, 2017 **Refer to: Attachment 4.**

On September 25th, 2017 SynerMed's Compliance Department submitted the following case files to Health Net via Health Net's exchange system **Refer to: Attachment 5.**

- Approval case files for:
  - Alpha
  - Angeles
  - CCMG
  - EHS
  - Multi
- Pending submissions included denial, NOMNC and DENC case files for:
  - Angeles
  - CCMG
  - EHS
  - Multi

On September 25th, 2017 SynerMed's Compliance Department notified Delegation Oversight that denial files were missing from their submissions, and that as previously noted in the extension request, all cases files were due to Health Net on September 25th, 2017 **Refer to: Attachment 6.**

On September 26th, 2017 the Delegation Oversight Coordinator informed the Compliance Manager that they were still pending the submission of the: denial, NOMNC and DENC files from the Notice of Action (NOA) team **Refer to: Attachment 6.**

On September 26th, 2017 SynerMed's Compliance Manager notified Health Net of the delay **Refer to: Attachment 7.**

On September 26th, 2017 the Sr. Compliance Director escalated the matter to UM's Associate Vice President (AVP) **Refer to: Attachment 8.**

On September 27th, 2017 the QI AVP confirmed that UM's AVP was looking for a resource to complete the pending case files **Refer to: Attachment 8.**

On September 28th, 2017 UM's AVP provided the following timeline for the completion of the pending denial files:

- NOA Manager to complete Multi case files by September 28th, 2017 and submit all applicable files to the Delegation Oversight team for quality review and submission to Compliance
- NOA Manager to complete EHS and Angeles case files September 26th, 2017 and submit all applicable files to Delegation Oversight for quality review and submission to Compliance

Self-Reported Non-Compliance Details

On September 27th, 2017 SynerMed's Compliance Manager was verbally notified of the submission of falsified denial and provider fax documents for the Health Net audit. This was self-reported to Compliance by the Delegation Oversight Coordinator.

The incident was identified by the Coordinator when a falsified extension letter **Refer to: Attachment 10**, was accidentally submitted for the Health Net audit by an NOA staff member. Upon realizing the error, the NOA staff member requested that the falsified extension letter be removed from the case file. When asked by the Coordinator why the letter should be removed, the NOA staff member disclosed that the letter was falsified, and was never sent to the member. In addition, no extension was ever taken on the case.

The NOA staff member indicated that they were requested by their Manager to create letters, and corresponding provider fax confirmations, to support compliance with the audit requirements **Refer to Attachment: 11_Redacted.**

The Coordinator immediately informed the NOA staff member that the practice was fraudulent. According to the Coordinator, upon learning that the practice they were involved in was fraudulent, the NOA staff member was very shaken and upset.

On September 27th, 2017 around 11:30am, the Compliance Manager informed the Sr. Director of the self-reported incident of non-compliance.

On September 27th, 2017 around 11:50am, the Sr. Compliance Director & the Compliance Manager discussed the reported incident with the reporting Coordinator. The Coordinator confirmed that the NOA team have been directed by their Manager to create false member letters, and provider fax confirmations to support health plan audit requests.

When asked how they create false provider fax confirmations, the Coordinator explained that the NOA staff members use Adobe to edit previous provider faxes, with correct date and time that meets regulatory requirements for provider notifications.

In addition, the Coordinator confirmed that member notices that are never sent to members, are created with dates that meet regulatory notice requirements, and submitted for health plan audits.

On September 27th, 2017 around 12:10pm, the Sr. Compliance Director, the Compliance Manager met with UM's AVP, and the Coordinator to discuss the reported incident. The Coordinator provided the AVP with the details surrounding the self-disclosed incident.

In addition, the Coordinator mentioned that this issue had previously been discovered by the former Compliance Director, and in a meeting with the Sr. VP, and other leadership in UM, the Compliance Director had instructed UM that this practice was unethical, and in violation of SynerMed's contractual obligations, & regulatory requirements pertaining to member and provider organization determination notices.

The Sr. Director of Compliance informed the AVP that Compliance would not participate in the submission of falsified documents.

The AVP indicated that she would look into the matter, and report back to Compliance with her findings and next steps.

On September 27th, 2017, in an e-mail to Compliance, the AVP provided a list of authorization numbers where falsified member notifications had been removed **Refer to: Attachment 12.**

On the same e-mail the UM Director confirmed that the provider fax notices attached to the case files, were compliant.

Investigation Details

On September 28th, 2017, the Sr. Director of Compliance in an e-mail to UM notified the UM leadership team (Sr. VP, AVP & Director) of the formal investigation of the reported non-compliance as required by SynerMed's Compliance Program, SynerMed's Standards of Conduct, Federal & State regulations and contractual obligations with all contracted health plans **Refer to: Attachment 12.**

In her e-mail, the Sr. Director of Compliance notified the UM leadership team that any non-compliant finding involving staff members will require disciplinary actions. In the e-mail the Sr. Director of Compliance indicated that if disciplinary action is deemed necessary, the Compliance Department would work together with HR to enforce the appropriate action.

In addition, the Sr. Compliance Director indicated that because the staff members reported as having involvement with the non-compliant practice were still in their respective roles, the Compliance team will require a Director level and up attestation, attesting to the authenticity of all audit documents submitted by the NOA team.

On September 28th, 2017, around 10am, the Sr. Director of Compliance met with the Chief Compliance Officer, and discussed the reported non-compliant finding and the steps being taken to investigate the report.

Upon returning back to her office, the Sr. Director of Compliance found the Compliance Manager, the Compliance Coordinator and a member of the NOA staff member in conversation in her office. The NOA staff member had come forward to report the unethical practice taking place in her team, which is the creation of falsified member and provider notices for the purposes of health plan audits.

The NOA staff member disclosed that they have under the direction of the NOA Manager, been creating false documents, and provider fax confirmations to support audit requirements. This has been ongoing for years.

Further, the NOA staff member indicated that upon hire, all staff members are trained to do this.

The interview with the NOA staff member continued, and additional 2 NOA staff member's joined the interview. At this point, the Compliance Manager and Compliance Coordinator excused themselves. At the agreement of all 3 NOA staff member's the Sr. Director of Compliance recorded the interview session.

In the interview:

- The Sr. Director of Compliance informed all 3 NOA staff member's that there would be no retaliation for reporting & participating in the investigation, and should they experience any form of retaliation they should immediately report it to the Sr. Compliance Director.
- When asked how long they had been in the organization, 1 NOA staff member indicated that she has been with SynerMed around 10 years.
- When asked if they had always falsified member and provider notices for audits, they indicated yes. However, since they are unfamiliar with the laws and regulations, they initially had no idea that what they were doing was wrong.
- When asked if the current NOA Manager has always been their Manager, all 3 NOA staff members indicated – Yes.
- When asked if the current NOA Lead had always been the Lead, the NOA staff members indicated – Yes.
- When asked how the NOA staff members are notified by their Manager to create both the provider and member notices for audits. The NOA staff members indicated that they receive a list of authorizations to create from the NOA Manager. When there has been a change in templates for the member notices, the NOA Manager will request that the NOA staff, use the previous version in use during the audit period to create the letters. See examples:

- Attachment A_Redacted
- Attachment B_Redacted
- Attachment C_Redacted
- Attachment D_Redacted
  - Attachment D_A/D_B
- Attachment C_Redacted
- Attachment F_Redacted
- Attachment G_ Redacted
- Attachment H_Redacted
- Attachment I_Redacted
- Attachment J_ Redacted

- When asked why they create false documents for audits, the NOA staff members indicated that they are months behind with their workload, as such members and provider notifications required for audits are unavailable, and to pass their audits, they are required to create false documents.
- In the interview 1 NOA staff member presented her hand written training materials, where they are directed to process notices incorrectly **Refer to: Attachments 19, 20 & 21.**
- The NOA staff members also indicated that many instances the NOA Manager will indicate in e-mail that the NOA staff members should not back date member/provider notifications. **Refer to: Attachment 14_Redacted**. However verbally the NOA Manager will request that they back date. Due to the confusion when the NOA staff member asks the NOA Manager what they should do - back date or not, according to the NOA staff member the NOA Manager's response is, *"Don't you remember," "How long have you been here?"*
  - Please note that **Attachments A – J** evidences the incorrect direction being given to the NOA staff members.
  - Directly requesting the staff to use previous versions of the member templates, and not the most recent versions. Audits are performed on a look-back basis, as such all audit documents should be presently available, and no creation should be necessary.
- The NOA staff members also indicated that for audits letters mailed to the member are modified to meet audit requirements. When asked to clarify, the NOA staff member indicated that the notices sent out to members, are not the same notices presented for audits. Notices presented for audits are modified to meet regulatory requirements to help pass the audits.
- When asked if they have ever expressed their discomfort with the creation of false documents to their Management team, they indicated that, *"It just seems like we can't." "That they are in on it, the Lead and Manager," "They just want quantity not quality."*

- 1 NOA staff member indicated that she has been written up for production. In an email to her Lead (**See Attachment 15_ Redacted**), she attempts to explain to the Lead that the reason why she is slow in production is because of the amount of time it takes to modify the provider fax confirmation and member letters. The NOA staff member states that she signed her write up, and was also not provided with a copy.
- The NOA staff members indicated that their Manager is unfair to all of them. When asked if they have reported this to HR, they indicated yes.
    - 1 of the NOA staff member indicated that she had a medical problem, and her Manager was unwilling to work with her. The NOA staff member indicated that her Manager gave her a difficult time when requesting time off. She complained to HR and HR was able to provide a resolution.
    - 1 NOA staff member indicated that, "she is on eggshells."
    - 2 NOA staff members indicated that the Manager is especially unfair to one of the NOA staff member present in the interview. Indicating that the NOA staff member produces more than they do, and yet she gets in trouble more.
    - 1 NOA staff member also confirmed that she has reported her discomfort to the Department of Labor.
- When asked why they have stayed in their job, they all responded that they all need their job, they all have children, they all need to pay their bills.
    - 1 NOA staff member indicated that she is looking for another job.
    - They indicated that they "love" their coworkers, they "love" coming to SynerMed, but what they don't "love" is the hostile environment.
    - They indicated that they would not be opposed to changing teams, even being split up to be away from their current environment and unethical practices.
- The NOA team indicated that on September 27th, 2017 their team attended a meeting with the AVP.
    - They indicated that they were appreciative that someone in a much higher authority was providing guidance and clarification around the unethical practice of creating false documents.
    - 1 NOA staff member indicated that they were unsatisfied with the outcome of that meeting, as there was no corrective action plan, no request for a Standard Operating Procedure to assist them in getting their work done compliantly.
        - In addition, the NOA Manager & Lead did not take responsibility for their actions in leading them astray.
    - 1 NOA staff member indicated that after the meeting she sent an email to the AVP expressing her "uneasy" feeling in regards to her job, and upper management and also the fact that the Manager did not take any responsibility for her actions. **Refer to: Attachment 16 & 17_Redacted**

- The NOA staff members also indicated that when a team member is away on PTO, or when a team member resigns and leaves SynerMed, there are no additional resources assigned to assist in the work load.
- The NOA staff members indicated that they are surprised that no one knows how far behind they are with their work loads.
    - When asked how far behind they are, they indicated months behind.
- The NOA staff members indicated that they are required to come up with their own verbiage for the denial rationale and insert the verbiage in the member denial letter.
    - They also indicated that they are evaluated against the inpatient Coordinator who copies and pastes the denial rationale in the member notification, and does not have to come up with the verbiage like they do.
        - Please note that the NOA staff members responsible for generating these notices are not clinical, and their notices are not reviewed by a clinician for appropriateness.
- When asked if they understand the regulations that pertain to the work they do, the NOA staff members responded by saying, "somewhat". They don't have an in-depth understanding of the impact to regulation on their jobs.
- 2 members of the staff were in tears at the end of the meeting, and the meeting adjourned shortly after.

On September 28th, 2017, the Sr. Compliance Director requested supporting evidence from the reporting Coordinator. **Refer to: Attachment 13_Redacted**

- On September 28, 2017, the reporting Coordinator responded to the request, and submitted 2 supporting documents. **Refer to: Attachment 10 & Refer to Attachment: 11_Redacted**
- In her e-mail she indicated that the submitted evidence **Attachment 10** had been deleted from SharePoint, however she had managed to save a hard copy which she scanned and submitted.
- In the e-mail back to the reporting Coordinator, the Sr. Director of Compliance re-assured the reporting Coordinator, that no retaliation would be tolerated and should she experience any retaliation, she must immediately notify the Sr. Director of Compliance.

On September 28th, 2017 around 12:30pm the Sr. Director of Compliance met with the NOA Manager to discuss the reported non-compliance.

- When asked what was going on with the denial notices, the NOA Manager started off by stating that she has informed her team on several occasions not to back date or create false documents.

- When informed that Compliance had supporting evidence to the contrary, the NOA Manager confessed that she has been directing her team to create false member and provider notices for audit requirements.
- When asked if someone in Upper Management had put pressure on her to be a part of this unethical practice, the NOA Manager indicated no.
    - She knowingly and willingly participated, and led her team to participate in this unethical conduct
- The NOA Manager confirmed that her team is extremely behind with their work load, as such member and provider notices are not delivered timely. As a result, when an audit request comes in, they create false documents to support the audit requirements.
- When asked why she participated and led her team to participate in this unethical practice if not coerced by someone in leadership, the NOA Manager indicated that she did not know why.
- When asked if her Management team was aware of this practice, the NOA Manager indicated yes. Specifically indicating that the Sr. VP and Director were aware. In addition, the NOA Manager indicated that the Sr. VP was also aware of other non-compliant practices within the department.
- When asked why they continued in this unethical practice after it had first been discovered by the former Compliance Director, the NOA Manager had no response.
- At the end of the interview, the NOA Manager indicated that she was aware of her wrong doing and was considering submitting her resignation.
- The NOA Manager indicated that she receives requests from the Quality Improvement (QI) team related to Appeals from health plans. In the requests, the health plan requests a copy of the denial packet with member notifications etc.
    - The NOA Manager indicated that the QI team asks her to create documents when they are unavailable. However, the NOA Manager indicates that she always informs the QI team that she would not create false documents, and that the QI Director is aware of her stance around that.
    - When asked why she would not do it for QI, but do it for health plan audits, she had no response.
- The interview concluded with the Sr. Director of Compliance informing the NOA Manager that she is welcome to report other incidents of non-compliance, or provide additional information for the case and that retaliation will not be tolerated.
- The NOA Manager was at the time in tears. The interview concluded with the Sr. Director of Compliance encouraging the NOA Manager to face her team and apologize for leading them astray.

On September 28th, 2017 around 3:10pm, the Sr. Director of Compliance met with the NOA Lead to discuss the reported non-compliance.

- When asked what was going on with the denial notices, the NOA Lead indicated that this is how they have been operating for years, and that she really didn't understand why it was wrong.
- After the Sr. Director of Compliance explained why the practice was unethical and out of compliance, the NOA Lead indicated that after the explanation, she understood why the practice was wrong.
- When asked if she was ever coerced into participating in this unethical behavior, the NOA Lead indicated no. She willingly and knowingly participated. She indicated that they had done it for so many years, that it had become normal for her.
- When asked if the practice had stopped. The NOA Lead indicated that after the meeting on September 27th, 2017 with the AVP the practice had stopped.
- The NOA Lead acknowledged her wrong doing, and was at the time in tears. The interview concluded with the Sr. Director of Compliance encouraging the NOA Lead to face her team and apologize for leading them astray.

OTHER SUPPORTING EVIDENCE GATHERED

Untimely & Non- Existing Member Notifications

- Refer to **Attachment 18 page 11** – As of 2/2/2017 NOA team was working on denials 3 months in the past (through November 2016)
  - As witnessed during the investigation, and with supporting evidence, such notices are backdated to reflect "compliance," with member and provider notifications.
- Refer to **Attachment 25 page 2-6** for further evidence of falsification of letters, & provider fax confirmations for health plan audits.
  - The Attachment continues to detail the non-compliance levels as it pertains to member/provider notifications, and timeliness of such notifications.
- Refer to Attachment 26 for evidence of further non-compliance, and how to distinguish compliant cases, vs. non-compliant cases on Share.
- Refer to **Attachment 21, 19 & 20** which explains how the NOA staff are trained to modify provider fax confirmations, and determine what date (backdate) to put on the member letter.
- Refer to **Attachment 26 & 27** as evidence that Adventist and Alpha files sent to Health Net though attested to having met compliance, were in-fact falsified and out of compliance.

It is important to note, that many instances the notices are just created for the purpose of the audit, and are never mailed out to the members. The faxes however are faxed even in the cases

where they are significantly late. According to the NOA team, they have not received any complaints from providers.

Staff Production

- In addition, refer to **Attachment 18 page 1**, where the NOA staff member is written up (warning 3/2/2017) for not meeting production, and for not following the NOA Manager's direction.
    - In the same attachment, the NOA staff member indicates on page 2 that the reason why she is behind with her production, is because of the amount of time it takes to change fax dates in IDM, and because she was experiencing system issues.
- In another final write up (4/5/2017) see **Attachment 18 page 11& 12** the NOA staff member is written up for not meeting production once again.
    - In the same write up the NOA staff member indicates that she was following the NOA Manager's direction.
    - In another email to her Lead (**See Attachment 15_ Redacted**), she attempts to explain to the Lead that the reason why she is slow in production was because of the amount of time it takes to modify the provider fax confirmation, and member letters.
- Refer to **Attachments: 22, 23 & 24** as evidence that NOA staff need clinical supervision, as the denial verbiage written by the NOA staff members who are not clinicians, could drastically misrepresent the Medical Director's instructions.
    - Such a mistake could lead to delayed care for members, and additional unnecessary financial hardships.
    - In addition, non-clinical staff members are appraised on clinical functions, without clinical oversight.

2. FINDINGS

This report provides the results of the self-reported non-compliance investigation. The investigation focused on the determination of non-compliance, with the self-reported non-compliance with standard and expedited organization determinations - denial notice requirements as required by: 42 CFR Section 422.568, 422.566, 422.578, CA Health and Safety Code Sections 1367.01(h)(3) and (4), Title 22 of the CA Code of Regulations Sections 51014.1, 51014.2 and Chapter 13 of the Medicare Managed Care Manual, Sections: 40.1, 40.2, 40.3, 50.1, 50.2, 50.3, 50.4, 50.5 and 50.6.

SCOPE

The Compliance Department performed the investigation in the following operational areas:

- Medical Services - Utilization Management

Meetings were held with the following operational areas in Medical Services:

- Utilization Management's leadership team
- Utilization Management NOA team (5 staff members)
- Utilization Management's Delegation Oversight team (1 staff member)

SUMMARY OF FINDINGS

The Compliance investigation determined that SynerMed's UM department is significantly out of compliance with the requirement to provide member, and provider notifications, and the requirement that necessitates such notices be made in a timely manner. In addition, the department is also in violation of SynerMed's Standards of Conduct, and in violation of the UM delegation oversight contractual requirements as it pertains to: member & provider notifications, the timeliness of such notices & falsification of member & provider notices.

This violation results in members being unaware of the status of their organization determinations, which could result in members potentially experiencing lapse in coverage, delay in access to care, and or financial hardship.

In addition, the use of the Medical Directors signature for the falsification of member notices, places the Medical Directors medical license at risk.

In many instances, the audit documents created for audits are never mailed to members, this means that members are never aware of the organization determination, and their right to file an appeal should they disagree with SynerMed's decision.

The interviews also revealed a significant gap in regulatory knowledge in the area of work that the NOA staff are involved in. The interviews also revealed the lack of clinical oversight, and the risk associated with the NOA team who are non-clinical, creating denial verbiage rationale that

could significantly alter the reviewing Medical Director's original intent. Which could create further delay in care, & potential financial hardship for all impacted members.

VIOLATIONS DETAILS

The Compliance Department concluded that SynerMed's UM department substantially failed to comply with regulatory requirements surrounding timely review and notification of all organization determination decisions. Members and treating physicians may make a request for an organization determination. 42 C.F.R. §§ 422.566(c) and 423.566(c). The first level of review is conducted by SynerMed, and is also the point at which members or their physicians submit justification for services or benefit. 42 C.F.R. §§ 422.566(d) and 423.568, 423.570(b), 423.578(a). If the organization determination is adverse (not in favor of the member), the member has the right to file an appeal. 42 C.F.R. §§ 422.580 and 423.580. The first level of appeal is handled by the health plan.

The violation of this regulatory requirement has resulted in thousands of members unaware of their appeal rights going back years past. As such, members may experience delays in care, lapse in coverage, delay in access to care, and or financial hardship.

It is important to note that, appeals filed may and have in many instances resulted to overturns, and the original care denied is approved. In such cases, the absence of member/provider notifications or delay in sending notices out could significantly hinder the member's health condition, and create financial hardships on the member, also may result in delay in care.

In addition, the submission of falsified audit documents has resulted in the violation of its SynerMed's delegated UM contractual duties, and created a false representation of SynerMed's Compliance standing.

VIOLATIONS

Failure to timely and correctly notify members or providers, as appropriate, of organization determination decisions for services on a standard or expedited basis within the allowed regulatory timeframes. This is in violation of 42 C.F.R. §§ 422.568(b), 422.572(a); IOM Pub. 100-16 Medicare Managed Care Manual Chapter 13, Sections 40.1, 40.2, 50.1, 50.4 and State laws.

- In many instances, notifications sent to members and providers, are modified to meet audit requirements, hence different from those submitted for health plan audits.
- Notifications created for the purposes of audits that were never mailed to members or providers, are in many instances never mailed to the members. However, the faxes go out to providers even when months behind.
- The NOA team create false provider fax confirmations using Adobe, and create false member notices that are within the allowed regulatory timeframes.
    - Both types of false documents created have at the time not been sent to members or providers. They are created and submitted to Compliance in response to a health plan audit request.

Failure to provide members with services and benefits in accordance with State & Federal healthcare regulations, as well as contractual obligations. The UM departments central mission is to provide members with medical services, within a framework of Medicare, Medicaid & Commercial health benefit requirements that provide members with a number of protections.

The Compliance investigation determined that the UM department compliance performance issues are widespread, systemic in nature as well as a significant labor deficiency that significantly hinders compliance with regulatory and contractual requirements.

The investigation determined that the NOA team demonstrate a significant gap in regulatory knowledge that pertain to their job duties. In addition, the NOA team is tasked with completing tasks that are clinical in nature, with no clinical supervision.

The UM department is experiencing widespread and system failures impacting SynerMed's members' ability to access healthcare services. Members access to services is the most fundamental aspect of the UM program, because it most directly affects clinical care. The severity of the conduct is magnified by the fact that a large number of SynerMed's 1.2 Million and over members are low income, and are likely unable to afford to cover medical services not covered by their insurance in instances when the denial would have resulted in an overturn if appealed.

The nature of this non-compliance provides sufficient basis for the Compliance Department to find the presence of a serious threat to members' health and safety, supporting the Immediate request for a Corrective Action Plan (ICAR).

- An ICAR is the result of non-compliance with specific requirements that has the potential to cause significant member harm in the areas of organization determinations. Significant member harm exists if the non-compliance results in the failure to provide medical services, causing financial distress, or posing a threat to a members' health and safety due to non-existent or inadequate policies & procedures, systems, operations or staffing.

CORRECTIVE ACTION REQUIRED

The UM's NOA team must:

- UM must ensure that the member and provider, as appropriate, are notified of its standard or expedited organization determination timely. This should be done by hiring additional staff members to bring the backlog to a current status, and maintain that current status going forward
    - The backlog must be cleared within 30 days of receipt of this report
    - Additional staff must also be hired within 30 – 45 days of receipt of this report
- UM must ensure that the creation of false documents is stopped, by each member of the UM staff attesting to not doing this going forward.

    - The attestations must be completed within 3 days of the receipt of this report
    - In addition, any staff member identified as continuing to participate in the creation of false documents to be immediately terminated
- UM must ensure that provider and member notices submitted for health plan audits, are similar in nature to what is mailed to the member and provider. The altering of audit documents must immediately stop.
- The UM leadership team must provide Compliance with a breakdown of the backlog with denial notices, and the plan to bring all member and provider notifications current within 2 days of the receipt of this report.
- The UM leadership team must ensure that their NOA Management team and all staff undergo ethical training
- In addition, all the non-compliant files sent to Health Net (Alpha & Adventist) for the annual audit to be retracted & self-disclosure of this issue sent to all health plans. The DMHC files sent for the Adventist audit should also be self-disclosed.

RECOMMENDATIONS

Due to the nature of this non-compliance, the Compliance department recommends the immediate termination of the NOA Manager, and the immediate demotion of the NOA Lead. In addition, the Compliance department recommends that all leaders within UM that have been identified as having knowledge of this unethical practice, and encouraging its existence be immediately terminated as well.

The Compliance department also recommends that all employees in the NOA team written up for production, be exempt of such findings, as they were involved in the creation of false documents, which consumed majority of their time.

Sincerely,

Sr. Director of Compliance

cc:

Renee Rodriguez, General Counsel & Chief Compliance Officer

Dr. Jorge Weingarten, Chief Medical Officer

Mary Curry, Associate Vice President Medical Services

OTHER INVESTIGATION DETAILS

This is the account of events as experienced by the Sr. Compliance Director while investigating this case. This account of events is provided as a crucial part of the evidence and violations identified in this case. It is also provided as a reference point should the details of this investigation be required by other external entities and regulatory bodies.

On Friday September 29th, 2017 while working from home, the Sr. Director of Compliance received a call from the Chief Compliance Officer who is also the Legal Counsel of SynerMed. The Sr. Director of Compliance returned her call at 10:48 using her work phone number 213.406.8209

- In the conversation, the Chief Compliance Officer indicated that the Sr. Vice President had contacted her regarding the ongoing case, and indicated that the fraudulent activities were only taking place on Medical Necessity type cases.
- According to the Chief Compliance Officer, the Sr. VP informed her that the Sr. Director of Compliance is still asking questions regarding the case, and asked that she inform the Sr. Director of Compliance to stop asking questions. At which point the Chief Compliance Officer indicated that she had informed the Sr. VP that the Sr. Director of Compliance has been directed to stop asking question.
- The Chief Compliance Officer informed me that she would be speaking with the Chief Medical Officer that day regarding the case, and would get back to me.

At 4:38pm the same day, the Chief Compliance Officer sent me a text message asking if I had a moment to talk. I called her back at 4:52pm on her cell phone

- In the conversation, the Chief Compliance Officer indicated that she had spoken to the Chief Medical Officer and he had informed her that the version of the case details she had provided him, differed from what he had been told by the leaders in his department.
- I informed the Chief Compliance Officer that I had all the evidence to support all the details of the case. The Chief Compliance Officer also asked if I had taken notes with everyone that I spoke to, and I indicated yes. She then asked me to send her my notes, to which I agreed. She also informed me that both her and the Chief Medical Officer had agreed that there was no justification to what had happened, and all parties involved would face disciplinary actions.
- She also asked if I had spoken to the Associate VP, to which I indicated that I had attempted to communicate to her, and had not been successful. My intention was to communicate to her preliminary findings that had come out of the investigation thus far. The Chief Compliance Officer indicated that I should not speak to the AVP as she

was terrified of the Sr. VP. I informed the Chief Compliance Officer that I had noticed that the AVP had started keeping her distance from me, almost avoiding me and that I was not surprised that she was terrified of the Sr. VP.

- On Saturday September 3oth 2017, I sent a preliminary draft report of the investigation to the Chief Compliance Officer. **See Attachment 29**

On Monday October 2nd, 2018 I went to the Chief Compliance Officers office to inform her that the attestation we had received from the Director of Medical Services was not accurate. She had attested that all the files sent to Health Net for Adventist and Alpha with regards to denials were ok. **See Attachment 27**. **Attachment 26** indicates otherwise. Alpha files had the same issues of non-compliance.

- The Chief Compliance Officer immediately sent an email to the leadership in UM See Attachment 28 indicating that we would not be sending any denial files to Health Net until they speak further.
- In the meeting with the Chief Compliance Officer she informed me that she would also be speaking with the NOA Manager regarding the case. I suggested she speak to other team members and the Chief Compliance Officer indicated that she would like to distance herself from the case.

On the afternoon of Tuesday October 3rd, 2017 the Chief Compliance officer came to my office. With the door shut she seemed very uneasy and it seemed as if she was trying to convince me to drop the case. We spoke about a file she had sent me. **Refer to Attachment 31.** After which we experienced moments of awkward silence, and I eventually indicated that we must do right by these members. She agreed and indicated that she would speak with the Sr. VP and the CMO

In the morning of Wednesday October 4th, 2017 at 11:34am, I received a text from the Chief Compliance Officer asking if I had a company laptop. To which I responded yes.

Throughout this investigation, my team and I have not had the support of the Chief Compliance Officer. She has acted in the legal counsel role vs. the Compliance role. Examples include **Attachment 30** where it seems that the Chief Compliance Officer is looking for possible ways to justify the non-compliance. Her text message asking if I had a company laptop was intended to bring fear in me to drop the case or risk losing my job.

In the evening of October 4th, 2017, via text message, I informed 2 of the NOA staff members that had come forward that I was feeling threatened, and there is a likelihood that they (leadership of SynerMed), would terminate me. In my text message to the NOA staff members, I indicated that I would not stop fighting for what is just, and that I was prepared to involve the authorities as I now felt uneasy about everything.