

**CORPORATE INTEGRITY AGREEMENT
BETWEEN THE
OFFICE OF INSPECTOR GENERAL
OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
LIFEWATCH SERVICES, INC.**

I. PREAMBLE

LifeWatch Services, Inc. (LifeWatch) hereby enters into this Corporate Integrity Agreement (CIA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance with the statutes, regulations, and written directives of Medicare, Medicaid, and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) (Federal health care program requirements). Contemporaneously with this CIA, LifeWatch is entering into a Settlement Agreement with the United States.

II. TERM AND SCOPE OF THE CIA

A. The period of the compliance obligations assumed by LifeWatch under this CIA shall be five years from the effective date of this CIA. The “Effective Date” shall be the date on which the final signatory of this CIA executes this CIA. Each one-year period, beginning with the one-year period following the Effective Date, shall be referred to as a “Reporting Period.”

B. Sections VII, X, and XI shall expire no later than 120 days after OIG’s receipt of: (1) LifeWatch’s final annual report; or (2) any additional materials submitted by LifeWatch pursuant to OIG’s request, whichever is later.

C. The scope of this CIA shall be governed by the following definitions:

1. “Arrangements” shall mean every arrangement or transaction that:
 - a. involves, directly or indirectly, the offer, payment, solicitation, or receipt of anything of value; and is between LifeWatch and any actual or potential source of health care business or referrals to LifeWatch or any actual or potential recipient of health care

business or referrals from LifeWatch. The term “source of health care business or referrals” shall mean any individual or entity that refers, recommends, arranges for, orders, leases, or purchases any good, facility, item, or service for which payment may be made in whole or in part by a Federal health care program and the term “recipient of health care business or referrals” shall mean any individual or entity (1) to whom LifeWatch refers an individual for the furnishing or arranging for the furnishing of any item or service, or (2) from whom LifeWatch purchases, leases or orders or arranges for or recommends the purchasing, leasing, or ordering of any good, facility, item, or service for which payment may be made in whole or in part by a Federal health care program; or

- b. is between LifeWatch and a physician (or a physician’s immediate family member (as defined at 42 C.F.R. § 411.351)) who makes a referral (as defined at 42 U.S.C. § 1395nn(h)(5)) to LifeWatch for designated health services (as defined at 42 U.S.C. § 1395nn(h)(6)).

2. “Arrangements Covered Persons” includes each Covered Person who is involved with the development, approval, management, or review of LifeWatch’s Arrangements.

3. “Covered Persons” includes:

- a. all owners who are natural persons (other than shareholders who: (1) have an ownership interest of less than 5% and (2) acquired the ownership interest through public trading, officers, directors, and employees of LifeWatch; and
- b. all contractors, subcontractors, agents, and other persons who provide patient care items or services or who perform billing or coding functions, arrangements functions, or contracting functions on behalf of LifeWatch excluding vendors whose sole connection with LifeWatch is selling or otherwise providing medical supplies or equipment to LifeWatch and who do not bill the Federal health care programs for such medical supplies or equipment.

Notwithstanding the above, this term does not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than 160 hours per year, except that any such individuals shall become “Covered Persons” at the point when they work more than 160 hours during the calendar year.

4. “Focus Arrangements” means every Arrangement that:
 - a. is between LifeWatch and any actual source of health care business or referrals to LifeWatch and involves, directly or indirectly, the offer, payment, or provision of anything of value; or
 - b. is between LifeWatch and any physician (or a physician’s immediate family member) (as defined at 42 C.F.R. § 411.351)) who makes a referral (as defined at 42 U.S.C. § 1395nn(h)(5)) to LifeWatch for designated health services (as defined at 42 U.S.C. §1395nn(h))(6)).

Notwithstanding the foregoing provisions of Section II.C.2, any Arrangement that satisfies the requirements of 42 C.F.R. § 411.356 (ownership or investment interests), 42 C.F.R. § 411.357(g) (remuneration unrelated to the provision of designated health services); 42 C.F.R. § 411.357(i) (payments by a physician for items and services); 42 C.F.R. § 411.357(k) (non-monetary compensation); 42 C.F.R. § 411.357(m) (medical staff incidental benefits), 42 C.F.R. § 411.357(o) (compliance training), 42 C.F.R. § 411.357(q) (referral services), 42 C.F.R. § 411.357(s) (professional courtesy), 42 C.F.R. § 357(u) (community-wide health information systems), or any exception to the prohibitions of 42 U.S.C. § 1395nn enacted following the Effective Date that does not require a written agreement shall not be considered a Focus Arrangement for purposes of this CIA.

5. “Relevant Covered Persons” includes all Covered Persons whose job responsibilities relate to preparation or submission of claims for reimbursement from any Federal health care program.

III. CORPORATE INTEGRITY OBLIGATIONS

LifeWatch shall establish and maintain a Compliance Program that includes the following elements:

A. Compliance Officer and Committee

1. *Compliance Officer.* Prior to the Effective Date, LifeWatch appointed a Compliance Officer. LifeWatch shall maintain a Compliance Officer for the term of the CIA. The Compliance Officer shall be responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with Federal health care program requirements. The Compliance Officer shall be a member of senior management of LifeWatch, shall report directly to the Chief Executive Officer of LifeWatch, shall make periodic (at least quarterly) reports regarding compliance matters directly to the Board of Directors of LifeWatch, and shall be authorized to report on such matters to the Board of Directors at any time. The Compliance Officer shall not be or be subordinate to the General Counsel or Chief Financial Officer. The Compliance Officer shall be responsible for monitoring the day-to-day compliance activities engaged in by LifeWatch as well as for any reporting obligations created under this CIA. Any noncompliance job responsibilities of the Compliance Officer shall be limited and must not interfere with the Compliance Officer's ability to perform the duties outlined in this CIA.

LifeWatch shall report to OIG, in writing, any change in the identity of the Compliance Officer, or any actions or changes that would affect the Compliance Officer's ability to perform the duties necessary to meet the obligations in this CIA, within five days after such a change.

2. *Compliance Committee.* Prior to the Effective Date LifeWatch established a Compliance Committee. The Compliance Committee shall, at a minimum, include the Compliance Officer and other members of senior management necessary to meet the requirements of this CIA (e.g., senior executives of relevant departments, such as billing, clinical, human resources, audit, and operations). The Compliance Officer shall chair the Compliance Committee and the Committee shall support the Compliance Officer in fulfilling his/her responsibilities (e.g., shall assist in the analysis of the LifeWatch's risk areas and shall oversee monitoring of internal and external audits and investigations). The Compliance Committee shall meet at least quarterly.

LifeWatch shall report to OIG, in writing, any changes in the composition of the Compliance Committee, or any actions or changes that would affect the Compliance Committee's ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

3. *Board of Directors Compliance Obligations.* The Board of Directors (Board) shall be responsible for the review and oversight of matters related to compliance with Federal health care program requirements and the obligations of this CIA.

The Board shall, at a minimum, be responsible for the following:

- a. meeting at least quarterly to review and oversee LifeWatch's Compliance Program, including but not limited to the performance of the Compliance Officer and Compliance Committee; and
- b. for each Reporting Period of the CIA, adopting a resolution, signed by each member of the Board summarizing its review and oversight of LifeWatch's compliance with Federal health care program requirements and the obligations of this CIA.

At minimum, the resolution shall include the following language:

“The Board of Directors has made a reasonable inquiry into the operations of LifeWatch’s Compliance Program including the performance of the Compliance Officer and the Compliance Committee. Based on its inquiry and review, the Board has concluded that, to the best of its knowledge, LifeWatch has implemented an effective Compliance Program to meet Federal health care program requirements and the obligations of the CIA.”

If the Board is unable to provide such a conclusion in the resolution, the Board shall include in the resolution a written explanation of the reasons why it is unable to provide the conclusion and the steps it is taking to implement an effective Compliance Program at LifeWatch.

LifeWatch shall report to OIG, in writing, any changes in the composition of the Board, or any actions or changes that would affect the Board’s ability to perform the duties necessary to meet the obligations in this CIA, within 15 days after such a change.

4. *Management Accountability and Certifications:* In addition to the responsibilities set forth in this CIA for all Covered Persons, certain LifeWatch officers or employees (“Certifying Employees”) are specifically expected to monitor and oversee activities within their areas of authority and shall annually certify that the applicable LifeWatch business unit, department, or functional area is compliant with applicable Federal health care program and FDA requirements, and with the obligations of this CIA. These Certifying Employees shall include, at a minimum, the following: LifeWatch’s Chief Executive Officer, Chief Financial Officer, Director of Marketing and Communications, Chief

Compliance Officer & Senior Vice President of Regulatory, Vice President of Operations, Vice President(s) of Sales, and Executive Sales Leader(s), and, to the extent that a LifeWatch business unit, department, or functional area performs functions related to government reimbursement, promotion, marketing, sales, contracting, Arrangements, or compliance and is not covered by one of the above certifications, such other appropriate executives, vice-presidents, and directors, as would be necessary to ensure that there is a certifying officer or employee covering each such business unit, department, or functional area.

For each Reporting Period, each Certifying Employee shall sign a certification that states:

“I have been trained on and understand the compliance requirements and responsibilities as they relate to [department or functional area], an area under my supervision. My job responsibilities include ensuring compliance with regard to the _____ [insert name of the department or functional area.] To the best of my knowledge, except as otherwise described herein, the _____ [insert name of department or functional area] of LifeWatch is in compliance with all applicable Federal health care program requirements, and the obligations of the CIA.”

If any Certifying Employee is unable to provide such a conclusion in the certification, the Certifying Employee shall provide a written explanation of the reasons why he or she is unable to provide the certification outlined above and the steps being taken to address the issue(s) identified in the certification.

B. Written Standards

1. *Code of Conduct.* Prior to the Effective Date, LifeWatch developed and implemented a written Code of Conduct. Within 90 days after the Effective Date, LifeWatch shall distribute the written Code of Conduct to all Covered Persons. LifeWatch shall make the promotion of, and adherence to, the Code of Conduct an element in evaluating the performance of all employees. The Code of Conduct shall, at a minimum, set forth:

- a. LifeWatch’s commitment to full compliance with all Federal health care program requirements, including its commitment to prepare and submit accurate claims consistent with such requirements;

- b. LifeWatch's requirement that all of its Covered Persons shall be expected to comply with all Federal health care program requirements and with LifeWatch's own Policies and Procedures;
- c. the requirement that all of LifeWatch's Covered Persons shall be expected to report to the Compliance Officer, or other appropriate individual designated by LifeWatch, suspected violations of any Federal health care program requirements or of LifeWatch's own Policies and Procedures; and
- d. the right of all individuals to use the Disclosure Program described in Section III.E, and LifeWatch's commitment to nonretaliation and to maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

Within 90 days after the Effective Date, each Covered Person shall certify, in writing or in electronic form, that he or she has received, read, understood, and shall abide by LifeWatch's Code of Conduct. New Covered Persons shall receive the Code of Conduct and shall complete the required certification within 30 days after becoming a Covered Person or within 90 days after the Effective Date, whichever is later.

LifeWatch shall periodically review the Code of Conduct to determine if revisions are appropriate and shall make any necessary revisions based on such review. Any revised Code of Conduct shall be distributed within 30 days after any revisions are finalized. Each Covered Person shall certify, in writing, that he or she has received, read, understood, and shall abide by the revised Code of Conduct within 30 days after the distribution of the revised Code of Conduct.

2. *Policies and Procedures.* Prior to the Effective Date, LifeWatch developed and implemented Policies and Procedures. Within 90 days after the Effective Date LifeWatch shall amend and implement, as needed, written Policies and Procedures regarding the operation of its compliance program, including the compliance program requirements outlined in this CIA and Provider's compliance with Federal health care program requirements. The Policies and Procedures also shall address:

- a. the Federal health care program requirements regarding the accurate submission of claims;

- b. 42 U.S.C. § 1320a-7b(b) (Anti-Kickback Statute) and 42 U.S.C. § 1395nn (Stark Law), and the regulations and other guidance documents related to these statutes, and business or financial arrangements or contracts that generate unlawful Federal health care program business in violation of the Anti-Kickback Statute or the Stark Law;
- c. the requirements set forth in Section III.D (Compliance with the Anti-Kickback Statute and Stark Law);
- d. programs to educate marketers and sales representatives. These programs shall be designed to ensure that all marketers' and sales representatives' actions are consistent with all applicable Federal health care program and FDA requirements;
- e. compensation (including salaries and bonuses) for marketers and sales representatives. These Policies and Procedures shall be designed to ensure that financial incentives do not inappropriately motivate such individuals to engage in improper promotion, sales, and marketing of LifeWatch's products;
- f. the subjects relating to the Code of Conduct identified in Section III.B.1; and
- g. disciplinary policies and procedures for violations of LifeWatch's Policies and Procedures, including policies relating to Federal health care program requirements.

Within 90 days after the Effective Date, the Policies and Procedures shall be made available to all Covered Persons. Appropriate and knowledgeable staff shall be available to explain the Policies and Procedures.

At least annually (and more frequently, if appropriate), LifeWatch shall assess and update, as necessary, the Policies and Procedures. Within 30 days after the effective date of any revisions, any such revised Policies and Procedures shall be made available to all Covered Persons.

C. Training and Education

1. *General Training.* Within 120 days after the Effective Date, LifeWatch shall provide at least two hours of General Training to each Covered Person. This training, at a minimum, shall explain LifeWatch's:

- a. CIA requirements; and
- b. Compliance Program, including the Code of Conduct.

New Covered Persons shall receive the General Training described above within 30 days after becoming a Covered Person or within 90 days after the Effective Date, whichever is later. After receiving the initial General Training described above, each Covered Person shall receive at least one hour of General Training in each subsequent Reporting Period.

2. *Specific Training.* Within 120 days after the Effective Date, each Relevant Covered Person shall receive at least four hours of Specific Training in addition to the General Training required above. This Specific Training shall include a discussion of:

- a. the Federal health care program requirements regarding the accurate coding and submission of claims;
- b. policies, procedures, and other requirements applicable to the documentation of medical records;
- c. the personal obligation of each individual involved in the claims submission process to ensure that such claims are accurate;
- d. applicable reimbursement statutes, regulations, and program requirements and directives;
- e. the legal sanctions for violations of the Federal health care program requirements; and
- f. examples of proper and improper claims submission practices.

New Relevant Covered Persons shall receive this training within 30 days after the beginning of their employment or becoming Relevant Covered Persons, or within 90 days after the Effective Date, whichever is later.

After receiving the initial Specific Training described in this section, each Relevant Covered Person shall receive at least three hours of Specific Training, in addition to the General Training, in each subsequent Reporting Period.

3. *Arrangements Training.* Within 120 days after the Effective Date, each Arrangements Covered Person shall receive at least three hours of Arrangements Training, in addition to the General Training required above. The Arrangements Training shall include a discussion of:

- a. Arrangements that potentially implicate the Anti-Kickback Statute or the Stark Law, as well as the regulations and other guidance documents related to these statutes;
- b. LifeWatch's policies, procedures, and other requirements relating to Arrangements and Focus Arrangements, including but not limited to the Focus Arrangements Tracking System, the internal review and approval process, and the tracking of remuneration to and from sources of health care business or referrals required by Section III.D of the CIA;
- c. the personal obligation of each individual involved in the development, approval, management, or review of LifeWatch's Arrangements to know the applicable legal requirements and the LifeWatch's policies and procedures;
- d. the legal sanctions under the Anti-Kickback Statute and the Stark Law; and
- e. examples of violations of the Anti-Kickback Statute and the Stark Law.

New Arrangements Covered Persons shall receive this training within 30 days after the beginning of their employment or becoming Arrangements Covered Persons, or within 90 days after the Effective Date, whichever is later.

After receiving the initial Arrangements Training described in this Section, each Arrangements Covered Person shall receive at least two hours of Arrangements Training, in addition to the General Training, in each subsequent Reporting Period.

4. *Board Member Training.* Within 120 days after the Effective Date, LifeWatch shall provide at least two hours of training to each member of the Board of Directors, in addition to the General Training. This training shall address the responsibilities of board members and corporate governance.

New members of the Board of Directors shall receive the Board Member Training described above within 30 days after becoming a member or within 90 days after the Effective Date, whichever is later.

5. *Certification.* Each individual who is required to attend training shall certify, in writing or in electronic form, that he or she has received the required training. The certification shall specify the type of training received and the date received. The Compliance Officer (or designee) shall retain the certifications, along with all course materials.

6. *Qualifications of Trainer.* Persons providing the training shall be knowledgeable about the subject area.

7. *Update of Training.* LifeWatch shall review the training annually, and, where appropriate, update the training to reflect changes in Federal health care program requirements, any issues discovered during internal audits, the Claims Review, the Arrangements Review, and any other relevant information.

8. *Computer-based Training.* LifeWatch may provide the training required under this CIA through appropriate computer-based training approaches. If LifeWatch chooses to provide computer-based training, it shall make available appropriately qualified and knowledgeable staff or trainers to answer questions or provide additional information to the individuals receiving such training.

D. Review Procedures

1. *General Description.*

- a. *Engagement of Independent Review Organization.* Within 90 days after the Effective Date, LifeWatch shall engage an individual (or individuals) or entity (or entities), such as an accounting, auditing, law, or consulting firm (hereinafter “Independent Review Organization” or “IRO”), to perform the reviews listed in Section III.D. The applicable requirements relating to the IRO(s) are outlined below and in Appendices A and C to this CIA, which are incorporated by reference.
 - i. *Arrangements Review.* An IRO shall perform an Arrangements Review and prepare an Arrangements Review Report as outlined in Appendix D to this CIA, which is incorporated by reference.
 - ii. *Claims Review.* An IRO shall review LifeWatch’s billing, coding, and claims submission to the Federal health care programs and the reimbursement received (Claims Review) and shall prepare a Claims Review Report, as outlined in Appendix B to this CIA, which is incorporated by reference.
- b. *Retention of Records.* The IRO(s) and LifeWatch shall retain and make available to OIG, upon request, all work papers, supporting documentation, correspondence, and draft reports (those exchanged between the IRO and LifeWatch) related to the reviews.
- c. *Responsibilities and Liabilities.* Nothing in this Section III.D affects LifeWatch’s responsibilities or liabilities under any criminal, civil, or administrative laws or regulations applicable to any Federal health care program including, but not limited to, the Anti-Kickback Statute and/or the Stark Law.
- d. *Validation Review(s).* In the event OIG has reason to believe that: (a) Arrangements Review or Claims Review fails to conform to the requirements of this CIA; or (b) the IRO’s

findings or Arrangements Review or Claims Review results are inaccurate, OIG may, at its sole discretion, conduct its own review to determine whether the Arrangements Review or Claims Review complied with the requirements of the CIA and/or the findings or Arrangements Review or Claims Review results are inaccurate (Validation Review(s)). LifeWatch shall pay for the reasonable cost of any such review performed by OIG or any of its designated agents. Any Validation Review of Reports submitted as part of LifeWatch's final Annual Report shall be initiated no later than one year after LifeWatch's final submission (as described in Section II) is received by OIG.

Prior to initiating a Validation Review, OIG shall notify LifeWatch of its intent to do so and provide a written explanation of why OIG believes such a review is necessary. To resolve any concerns raised by OIG, LifeWatch may request a meeting with OIG to: (a) discuss the results of any Arrangements Review or Claims Review submissions or findings; (b) present any additional information to clarify the results of the Arrangements Review or Claims Review or to correct the inaccuracy of the Arrangements Review or Claims Review; and/or (c) propose alternatives to the proposed Validation Review(s). LifeWatch agrees to provide any additional information as may be requested by OIG under this Section III.D.1.d in an expedited manner. OIG will attempt in good faith to resolve any Arrangements Review or Claims Review issues with LifeWatch prior to conducting a Validation Review. However, the final determination as to whether or not to proceed with a Validation Review shall be made at the sole discretion of OIG.

- e. *Independence and Objectivity Certification.* The IRO(s) shall include in its (their) report(s) to LifeWatch a certification or sworn affidavit that it has evaluated its professional independence and objectivity and has concluded that it is, in fact, independent and objective.

2. *Compliance with the Anti-Kickback Statute and Stark Law; Focus Arrangements Procedures.*

Within 90 days after the Effective Date, LifeWatch shall create procedures reasonably designed to ensure that each existing and new or renewed Focus Arrangement does not violate the Anti-Kickback Statute and/or the Stark Law or the regulations, directives, and guidance related to these statutes (Focus Arrangements Procedures). These procedures shall include the following:

- a. creating and maintaining a centralized tracking system for all existing and new or renewed Focus Arrangements (Focus Arrangements Tracking System);
- b. tracking remuneration to and from all parties to Focus Arrangements;
- c. tracking service and activity logs to ensure that parties to the Focus Arrangement are performing the services required under the applicable Focus Arrangement(s) (if applicable);
- d. monitoring the use of leased space, medical supplies, medical devices, equipment, or other patient care items to ensure that such use is consistent with the terms of the applicable Focus Arrangement(s) (if applicable);
- e. establishing and implementing a written review and approval process for all Focus Arrangements, the purpose of which is to ensure that all new and existing or renewed Focus Arrangements do not violate the Anti-Kickback Statute and Stark Law, and that includes at least the following: (i) a legal review of all Focus Arrangements by counsel with expertise in the Anti-Kickback Statute and Stark Law, (ii) a process for specifying the business need or business rationale for all Focus Arrangements, and (iii) a process for determining and documenting the fair market value of the remuneration specified in the Focus Arrangement;

- f. requiring the Compliance Officer to review the Focus Arrangements Tracking System, internal review and approval process, and other Focus Arrangements Procedures on at least an annual basis and to provide a report on the results of such review to the Compliance Committee; and
- g. implementing effective responses when suspected violations of the Anti-Kickback Statute and Stark Law are discovered, including disclosing Reportable Events and quantifying and repaying Overpayments pursuant to Sections III.H- and III.I when appropriate.

3. *New or Renewed Arrangements.* Prior to entering into new Focus Arrangements or renewing existing Focus Arrangements, in addition to complying with the Focus Arrangements Procedures set forth above, LifeWatch shall comply with the following requirements (Focus Arrangements Requirements):

- a. Ensure that each Focus Arrangement is set forth in writing and signed by LifeWatch and the other parties to the Focus Arrangement;
- b. Include in the written agreement a requirement that each party to a Focus Arrangement who meets the definition of a Covered Person shall complete the Arrangements Training required by Section III.C.3 of this CIA. Additionally, LifeWatch shall provide each party to the Focus Arrangement with a copy of its Code of Conduct;
- c. Include in the written agreement a certification by the parties to the Focus Arrangement that the parties shall not violate the Anti-Kickback Statute and the Stark Law with respect to the performance of the Arrangement.

E. Disclosure Program

Prior to the Effective Date, LifeWatch developed and implemented a Disclosure Program. Within 90 days after the Effective Date LifeWatch shall amend and implement, as needed, a Disclosure Program that includes a mechanism (e.g., a toll-free compliance

telephone line) to enable individuals to disclose, to the Compliance Officer or some other person who is not in the disclosing individual's chain of command, any identified issues or questions associated with LifeWatch's policies, conduct, practices, or procedures with respect to a Federal health care program believed by the individual to be a potential violation of criminal, civil, or administrative law. LifeWatch shall appropriately publicize the existence of the disclosure mechanism (e.g., via periodic e-mails to employees or by posting the information in prominent common areas).

The Disclosure Program shall emphasize a nonretribution, nonretaliation policy, and shall include a reporting mechanism for anonymous communications for which appropriate confidentiality shall be maintained. Upon receipt of a disclosure, the Compliance Officer (or designee) shall gather all relevant information from the disclosing individual. The Compliance Officer (or designee) shall make a preliminary, good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice; and (2) provides an opportunity for taking corrective action, LifeWatch shall conduct an internal review of the allegations set forth in the disclosure and ensure that proper follow-up is conducted.

The Compliance Officer (or designee) shall maintain a disclosure log, which shall include a record and summary of each disclosure received (whether anonymous or not), the status of the respective internal reviews, and any corrective action taken in response to the internal reviews.

F. Ineligible Persons

1. *Definitions.* For purposes of this CIA:
 - a. an "Ineligible Person" shall include an individual or entity who:
 - i. is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal health care programs or in Federal procurement or nonprocurement programs; or

ii. has been convicted of a criminal offense that falls within the scope of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

b. “Exclusion Lists” include:

i. the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.oig.hhs.gov>); and

ii. the General Services Administration’s List of Parties Excluded from Federal Programs (available through the Internet at <http://www.epls.gov>).

2. *Screening Requirements.* LifeWatch shall ensure that all prospective and current Covered Persons are not Ineligible Persons, by implementing the following screening requirements.

- a. LifeWatch shall screen all prospective Covered Persons against the Exclusion Lists prior to engaging their services and, as part of the hiring or contracting process, shall require such Covered Persons to disclose whether they are Ineligible Persons.
- b. LifeWatch shall screen all Covered Persons against the Exclusion Lists within 90 days after the Effective Date and on an annual basis thereafter.
- c. LifeWatch shall implement a policy requiring all Covered Persons to disclose immediately any debarment, exclusion, suspension, or other event that makes that person an Ineligible Person.

Nothing in Section III.F affects LifeWatch’s responsibility to refrain from (and liability for) billing Federal health care programs for items or services furnished, ordered, or prescribed by excluded persons. LifeWatch understands that items or services furnished by excluded persons are not payable by Federal health care programs and that

LifeWatch may be liable for overpayments and/or criminal, civil, and administrative sanctions for employing or contracting with an excluded person regardless of whether LifeWatch meets the requirements of Section III.F.

3. *Removal Requirement.* If LifeWatch has actual notice that a Covered Person has become an Ineligible Person, LifeWatch shall remove such Covered Person from responsibility for, or involvement with, LifeWatch's business operations related to the Federal health care programs and shall remove such Covered Person from any position for which the Covered Person's compensation or the items or services furnished, ordered, or prescribed by the Covered Person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds at least until such time as the Covered Person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If LifeWatch has actual notice that a Covered Person is charged with a criminal offense that falls within the scope of 42 U.S.C. §§ 1320a-7(a), 1320a-7(b)(1)-(3), or is proposed for exclusion during the Covered Person's employment or contract term or, LifeWatch shall take all appropriate actions to ensure that the responsibilities of that Covered Person have not and shall not adversely affect the quality of care rendered to any beneficiary, patient, or resident, or any claims submitted to any Federal health care program.

G. Notification of Government Investigation or Legal Proceedings

Within 30 days after discovery, LifeWatch shall notify OIG, in writing, of any ongoing investigation or legal proceeding known to LifeWatch conducted or brought by a governmental entity or its agents involving an allegation that LifeWatch has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. LifeWatch shall also provide written notice to OIG within 30 days after the resolution of the matter, and shall provide OIG with a description of the findings and/or results of the investigation or proceedings, if any.

H. Repayment of Overpayments

1. *Definition of Overpayments.* For purposes of this CIA, an "Overpayment" shall mean the amount of money LifeWatch has received in excess of the amount due and payable under any Federal health care program requirements.

2. *Repayment of Overpayments*

- a. If, at any time, LifeWatch identifies or learns of any Overpayment, LifeWatch shall repay the Overpayment to the appropriate payor (e.g., Medicare fiscal intermediary or carrier) within 30 days after identification of the Overpayment and take remedial steps within 60 days after identification (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the Overpayment from recurring. If not yet quantified, within 30 days after identification, LifeWatch shall notify the payor of its efforts to quantify the Overpayment amount along with a schedule of when such work is expected to be completed. Notification and repayment to the payor shall be done in accordance with the payor's policies.
- b. Notwithstanding the above, notification and repayment of any Overpayment amount that routinely is reconciled or adjusted pursuant to policies and procedures established by the payor should be handled in accordance with such policies and procedures.

I. Reportable Events

1. *Definition of Reportable Event.* For purposes of this CIA, a "Reportable Event" means anything that involves:

- a. a substantial Overpayment;
- b. a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized;
- c. the employment of or contracting with a Covered Person who is an Ineligible Person as defined by Section III.F.1.a; or

- d. the filing of a bankruptcy petition by LifeWatch.

A Reportable Event may be the result of an isolated event or a series of occurrences.

2. *Reporting of Reportable Events.* If LifeWatch determines (after a reasonable opportunity to conduct an appropriate review or investigation of the allegations) through any means that there is a Reportable Event, LifeWatch shall notify OIG, in writing, within 30 days after making the determination that the Reportable Event exists.

3. *Reportable Events under Section III.I.1.a.* For Reportable Events under Section III.I.1.a, the report to OIG shall be made at the same time as the repayment to the payor required in Section III.H, and shall include:

- a. a copy of the notification and repayment to the payor required in Section III.H.2;
- b. a description of the steps taken by LifeWatch to identify and quantify the Overpayment;
- c. a complete description of the Reportable Event, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;
- d. a description of LifeWatch's actions taken to correct the Reportable Event; and
- e. any further steps LifeWatch plans to take to address the Reportable Event and prevent it from recurring.

4. *Reportable Events under Section III.I.1.b and c.* For Reportable Events under Section III.I.1.b and III.I.1.c, the report to OIG shall include:

- a. a complete description of the Reportable Event, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;
- b. a description of LifeWatch's actions taken to correct the Reportable Event;

- c. any further steps LifeWatch plans to take to address the Reportable Event and prevent it from recurring; and
- d. if the Reportable Event has resulted in an Overpayment, a description of the steps taken by LifeWatch to identify and quantify the Overpayment.

5. *Reportable Events under Section III.I.1.d.* For Reportable Events under Section III.I.1.d, the report to the OIG shall include documentation of the bankruptcy filing and a description of any Federal health care program authorities implicated.

6. *Reportable Events Involving the Stark Law.* Notwithstanding the reporting requirements outlined above, any Reportable Event that involves only a probable violation of section 1877 of the Social Security Act, 42 U.S.C. §1395nn (the Stark Law) should be submitted by LifeWatch to the Centers for Medicare & Medicaid Services (CMS) through the self-referral disclosure protocol (SRDP), with a copy to the OIG. The requirements of Section III.H.2 that require repayment to the payor of any identified Overpayment within 30 days shall not apply to any Overpayment that may result from a probable violation of only the Stark Law that is disclosed to CMS pursuant to the SRDP.

J. Internal Monitoring Program

1. *Observations.*

Within 90 days after the Effective Date, LifeWatch shall establish an Internal Monitoring Program (IMP) to evaluate and monitor various aspects of LifeWatch's interactions with and health care professionals (HCPs) and health care institutions (HCIs) including interactions between LifeWatch's sales and marketing personnel, HCPs, and HCIs.

a. *Compliance Review Program.* LifeWatch's managers shall conduct direct field observations (Compliance Reviews) of their non-executive sales and marketing personnel and management, and sales support personnel to assess whether those employees know, understand, and comply with the Policies and Procedures required by the CIA. Each Compliance Review shall consist of directly observing at least four hours of meetings between the reviewed employee and HCPs and other representatives of HCIs.

LifeWatch shall conduct at least 25 Compliance Reviews annually. The compliance reviews shall be scheduled throughout the year. LifeWatch compliance personnel shall select the employees to be observed by utilizing a selection method that is randomized but provides for a distribution of Compliance Reviews across the United States in a manner proportionate to the size of each business division, across business divisions. LifeWatch compliance personnel shall accompany managers on each Compliance Review.

At the completion of each Compliance Review, the reviewing manager and the accompanying compliance personnel shall each prepare a report which includes:

- 1) the identity of the reviewed employee;
- 2) the identity of the manager/reviewer;
- 3) the date and duration of the Compliance Review;
- 4) an overall assessment of compliance with and understanding of the Policies and Procedures;
- 5) the identification of any potential non-compliance with the Policies or Procedures; and
- 6) such other elements as LifeWatch's Compliance Office may require.

Personnel conducting the Compliance Reviews shall have access to all relevant records and information of LifeWatch necessary to assess LifeWatch's interactions with HCPs and HCIs and to identify potential or actual compliance violations. Results from the Compliance Reviews shall be compiled and reported to the Compliance Officer for review and remediation as appropriate. Potential violations of Federal health care program requirements shall be reported to the Compliance Office for appropriate follow-up activity.

b. *Reporting and Follow-up.* In the event that a compliance issue is identified during any Compliance Review, LifeWatch shall investigate the incident consistent with established Policies and Procedures for the handling of investigations. As part of the formal investigation procedures, findings shall be made and all necessary and appropriate responsive action (including disciplinary action) and corrective action shall be taken. The Compliance Officer shall disclose Reportable Events pursuant to Section III.I above, if applicable. The Compliance Office shall maintain records of any compliance issues identified during an Observation and any corrective action.

LifeWatch shall include a summary of the IMP and its results as part of each Annual Report. LifeWatch shall make the reports for all IMP activities available to the OIG upon request.

IV. CHANGES TO BUSINESS UNITS OR LOCATIONS

A. Change or Closure of Unit or Location

In the event that, after the Effective Date, LifeWatch changes locations or closes a business unit or location related to the furnishing of items or services that may be reimbursed by Federal health care programs, LifeWatch shall notify OIG of this fact as soon as possible, but no later than within 30 days after the date of change or closure of the location.

B. Purchase or Establishment of New Unit or Location

In the event that, after the Effective Date, LifeWatch purchases or establishes a new business unit or location related to the furnishing of items or services that may be reimbursed by Federal health care programs, LifeWatch shall notify OIG at least 30 days prior to such purchase or the operation of the new business unit or location. This notification shall include the address of the new business unit or location, phone number, fax number, the location's Medicare and state Medicaid program provider number and/or supplier number(s); and the name and address of each Medicare and state Medicaid program contractor to which LifeWatch currently submits claims. Each new business unit or location and all Covered Persons at each new business unit or location shall be subject to the applicable requirements of this CIA.

C. Sale of Unit or Location

In the event that, after the Effective Date, LifeWatch proposes to sell any or all of its business units or locations that are subject to this CIA, LifeWatch shall notify OIG of the proposed sale at least 30 days prior to the sale of such business unit or location. This notification shall include a description of the business unit or location to be sold, a brief description of the terms of the sale, and the name and contact information of the prospective purchaser. This CIA shall be binding on the purchaser of such business unit or location, unless otherwise determined and agreed to in writing by the OIG.

V. IMPLEMENTATION AND ANNUAL REPORTS

A. Implementation Report

Within 120 days after the Effective Date, LifeWatch shall submit a written report to OIG summarizing the status of its implementation of the requirements of this CIA (Implementation Report). The Implementation Report shall, at a minimum, include:

1. the name, address, phone number, and position description of the Compliance Officer required by Section III.A, and a summary of other noncompliance job responsibilities the Compliance Officer may have;
2. the names and positions of the members of the Compliance Committee required by Section III.A;
3. a copy of LifeWatch's Code of Conduct required by Section III.B.1;
4. the number of individuals required to complete the Code of Conduct certification required by Section III.B.1, the percentage of individuals who have completed such certification, and an explanation of any exceptions (the documentation supporting this information shall be available to OIG upon request);
5. a summary of all Policies and Procedures required by Section III.B (copies of the Policies and Procedures shall be made available to OIG upon request);
6. the following information regarding each type of training required by Section III.C:
 - a. a description of such training, including a summary of the topics covered, the length of sessions, and a schedule of training sessions; and
 - b. the number of individuals required to be trained, percentage of individuals actually trained, and an explanation of any exceptions.

A copy of all training materials and the documentation supporting this information shall be made available to OIG upon request.

7. a description of the Disclosure Program required by Section III.E;
8. a description of (a) the Focus Arrangements Tracking System required by Section III.D.2.a, (b) the internal review and approval process required by Section III.D.2.e; and (c) the tracking and monitoring procedures and other Focus Arrangements Procedures required by Sections III.D.2 and 3;
9. the following information regarding the IRO(s): (a) identity, address, and phone number; (b) a copy of the engagement letter(s); (c) information to demonstrate that the IRO has the qualifications outlined in Appendices A and C to this CIA; (d) a summary and description of any and all current and prior engagements and agreements between LifeWatch and the IRO; and (e) a certification from the IRO regarding its professional independence and objectivity with respect to LifeWatch;
10. a description of the process by which LifeWatch fulfills the requirements of Section III.F regarding Ineligible Persons;
11. a description of the IMP required by Section III.J;
12. a list of all of LifeWatch's locations (including locations and mailing addresses); the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers; each location's Medicare and state Medicaid program provider number and/or supplier number(s); and the name and address of each Medicare and state Medicaid program contractor to which LifeWatch currently submits claims;
13. a description of LifeWatch's corporate structure, including identification of any parent and sister companies, individual owners, subsidiaries, and their respective lines of business; and
14. the certifications required by Sections III.A.4 and V.C.

B. Annual Reports

LifeWatch shall submit to OIG annually a report with respect to the status of, and findings regarding, LifeWatch's compliance activities for each of the five Reporting Periods (Annual Report). Each Annual Report shall include, at a minimum:

1. any change in the identity, position description, or other noncompliance job responsibilities of the Compliance Officer and any change in the membership of the Compliance Committee described in Section III.A;
2. the Board resolution required by Section III.A.3;
3. a summary of any changes or amendments to LifeWatch's Code of Conduct required by Section III.B.1 and the reason for such changes, along with a copy of the revised Code of Conduct;
4. the number of individuals required to complete the Code of Conduct certification required by Section III.B.1, the percentage of individuals who have completed such certification, and an explanation of any exceptions (the documentation supporting this information shall be made available to OIG upon request);
5. a summary of any significant changes or amendments to the Policies and Procedures required by Section III.B and the reasons for such changes (e.g., change in contractor policy);
6. the following information regarding each type of training required by Section III.C:
 - a. a description of the initial and annual training, including a summary of the topics covered, the length of sessions, and a schedule of training sessions; and
 - b. the number of individuals required to complete the initial and annual training, the percentage of individuals who actually completed the initial and annual training, and an explanation of any exceptions.

A copy of all training materials and the documentation to support this information shall be made available to OIG upon request.

7. a description of (a) any changes to the Focus Arrangements Tracking System required by Section III.D.2.a; (b) any changes to the internal review and approval process required by Section III.D.2.e; and (c) any changes to the tracking and monitoring procedures and other Arrangements Procedures required by Sections III.D.2 and 3;

8. a complete copy of all reports prepared pursuant to Section III.D, along with a copy of the IRO's engagement letter;
9. LifeWatch's response to the reports prepared pursuant to Section III.D, along with corrective action plan(s) related to any issues raised by the reports;
10. a summary and description of any and all current and prior engagements and agreements between LifeWatch and the IRO (if different from what was submitted as part of the Implementation Report);
11. a certification from the IRO regarding its professional independence and objectivity with respect to LifeWatch;
12. a summary of Reportable Events (as defined in Section III.I) identified during the Reporting Period and the status of any corrective action relating to all such Reportable Events;
13. a report of the aggregate Overpayments that have been returned to the Federal health care programs. Overpayment amounts shall be broken down into the following categories: inpatient Medicare, outpatient Medicare, Medicaid (report each applicable state separately, if applicable), and other Federal health care programs. Overpayment amounts that are routinely reconciled or adjusted pursuant to policies and procedures established by the payor do not need to be included in this aggregate Overpayment report;
14. a summary of the disclosures in the disclosure log required by Section III.E that: (a) relate to Federal health care programs; or (b) involve allegations of conduct that may involve illegal remunerations or inappropriate referrals in violation of the Anti-Kickback Statute or Stark law (the complete disclosure log shall be made available to OIG upon request);
15. a summary of the IMP and its results (as defined in section III.J). LifeWatch shall make the reports for all IMP activities available to the OIG upon request.
16. any changes to the process by which LifeWatch fulfills the requirements of Section III.F regarding Ineligible Persons;

17. a summary describing any ongoing investigation or legal proceeding required to have been reported pursuant to Section III.G. The summary shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding;

18. a description of all changes to the most recently provided list of LifeWatch's locations (including addresses) as required by Section V.A.13; the corresponding name under which each location is doing business; the corresponding phone numbers and fax numbers; each location's Medicare and state Medicaid program provider number(s) and/or supplier number(s); and the name and address of each Medicare and state Medicaid program contractor to which LifeWatch currently submits claims; and

19. the certifications required by Sections III.A.4 and V.C.

The first Annual Report shall be received by OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by OIG no later than the anniversary date of the due date of the first Annual Report.

C. Certifications

The Implementation Report and Annual Reports shall include a certification by the Compliance Officer that:

1. to the best of his or her knowledge, except as otherwise described in the applicable report, LifeWatch is in compliance with all of the requirements of this CIA;

2. to the best of his or her knowledge, LifeWatch has implemented procedures reasonably designed to ensure that all Focus Arrangements do not violate the Anti-Kickback Statute and Stark Law, including the Focus Arrangements Procedures required in Section III.D of the CIA;

3. to the best of his or her knowledge, LifeWatch has fulfilled the requirements for New and Renewed Focus Arrangements under Section III.D.3 of the CIA;

4. he or she has reviewed the Report and has made reasonable inquiry regarding its content and believes that the information in the Report is accurate and truthful; and

5. to the best of his or her knowledge, LifeWatch has complied with its obligations under the Settlement Agreement: (a) not to resubmit to any Federal health care program payors any previously denied claims related to the Covered Conduct addressed in the Settlement Agreement, and not to appeal any such denials of claims; (b) not to charge to or otherwise seek payment from federal or state payors for unallowable costs (as defined in the Settlement Agreement); and (c) to identify and adjust any past charges or claims for unallowable costs;

D. Designation of Information

LifeWatch shall clearly identify any portions of its submissions that it believes are trade secrets, or information that is commercial or financial and privileged or confidential, and therefore potentially exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. LifeWatch shall refrain from identifying any information as exempt from disclosure if that information does not meet the criteria for exemption from disclosure under FOIA.

VI. NOTIFICATIONS AND SUBMISSION OF REPORTS

Unless otherwise stated in writing after the Effective Date, all notifications and reports required under this CIA shall be submitted to the following entities:

OIG:
Administrative and Civil Remedies Branch
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building, Room 5527
330 Independence Avenue, S.W.
Washington, DC 20201
Telephone: 202.619.2078
Facsimile: 202.205.0604

LifeWatch:
Lee Ehrlichman
Senior Vice President
LifeWatch Services
10255 W. Higgins Rd, Suite 100
Rosemont, Illinois 60018
Telephone: 847.813.4258
Facsimile: 847.720.2111

Unless otherwise specified, all notifications and reports required by this CIA may be made by certified mail, overnight mail, hand delivery, or other means, provided that there is proof that such notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt. Upon request by OIG, LifeWatch may be required to provide OIG with an electronic copy of each notification or report required by this CIA in searchable portable document format (pdf), in addition to a paper copy.

VII. OIG INSPECTION, AUDIT, AND REVIEW RIGHTS

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s) may examine or request copies of LifeWatch's books, records, and other documents and supporting materials and/or conduct on-site reviews of any of LifeWatch's locations for the purpose of verifying and evaluating: (a) LifeWatch's compliance with the terms of this CIA; and (b) LifeWatch's compliance with the requirements of the Federal health care programs. The documentation described above shall be made available by LifeWatch to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit, or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of LifeWatch's employees, contractors, or agents who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and OIG. LifeWatch shall assist OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon OIG's request. LifeWatch's employees may elect to be interviewed with or without a representative of LifeWatch present.

VIII. DOCUMENT AND RECORD RETENTION

LifeWatch shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs and to compliance with this CIA for six years (or longer if otherwise required by law) from the Effective Date.

IX. DISCLOSURES

Consistent with HHS's FOIA procedures, set forth in 45 C.F.R. Part 5, OIG shall make a reasonable effort to notify LifeWatch prior to any release by OIG of information submitted by LifeWatch pursuant to its obligations under this CIA and identified upon submission by LifeWatch as trade secrets, or information that is commercial or financial and privileged or confidential, under the FOIA rules. With respect to such releases, LifeWatch shall have the rights set forth at 45 C.F.R. § 5.65(d).

X. BREACH AND DEFAULT PROVISIONS

LifeWatch is expected to fully and timely comply with all of its CIA obligations.

A. Stipulated Penalties for Failure to Comply with Certain Obligations

As a contractual remedy, LifeWatch and OIG hereby agree that failure to comply with certain obligations as set forth in this CIA may lead to the imposition of the following monetary penalties (hereinafter referred to as "Stipulated Penalties") in accordance with the following provisions.

1. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day LifeWatch fails to establish and implement any of the following obligations as described in Section III:

- a. a Compliance Officer;
- b. a Compliance Committee;
- c. the Board of Directors compliance obligations;
- d. the Certifying Employees certifications;
- e. a written Code of Conduct;

- f. written Policies and Procedures;
- g. the training of Covered Persons, Arrangements Covered Persons, Relevant Covered Persons, and Board Members;
- h. the Focus Arrangements Procedures and/or Focus Arrangements Requirements described in Sections III.D.2 and III.D.3;
- i. a Disclosure Program;
- j. Ineligible Persons screening and removal requirements;
- k. notification of Government investigations or legal proceedings;
- l. reporting of Reportable Events; and
- m. an IMP.

2. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day LifeWatch fails to engage and use an IRO(s), as required in Section III.D, and Appendices A-D.

3. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day LifeWatch fails to submit the Implementation Report or any Annual Reports to OIG in accordance with the requirements of Section V by the deadlines for submission.

4. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day LifeWatch fails to submit any Arrangements Review Report or Claims Review Report in accordance with the requirements of Section III.D and Appendices B and D.

5. A Stipulated Penalty of \$1,500 for each day LifeWatch fails to grant access as required in Section VII. (This Stipulated Penalty shall begin to accrue on the date LifeWatch fails to grant access.)

6. A Stipulated Penalty of \$5,000 for each false certification submitted by or on behalf of LifeWatch as part of its Implementation Report, Annual Report, additional documentation to a report (as requested by the OIG), or otherwise required by this CIA.

7. A Stipulated Penalty of \$1,000 for each day LifeWatch fails to comply fully and adequately with any obligation of this CIA. OIG shall provide notice to LifeWatch stating the specific grounds for its determination that LifeWatch has failed to comply fully and adequately with the CIA obligation(s) at issue and steps LifeWatch shall take to comply with the CIA. (This Stipulated Penalty shall begin to accrue 10 days after LifeWatch receives this notice from OIG of the failure to comply.) A Stipulated Penalty as described in this Subsection shall not be demanded for any violation for which OIG has sought a Stipulated Penalty under Subsections 1- 6 of this Section.

B. Timely Written Requests for Extensions

LifeWatch may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CIA. Notwithstanding any other provision in this Section, if OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after LifeWatch fails to meet the revised deadline set by OIG. Notwithstanding any other provision in this Section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until three business days after LifeWatch receives OIG's written denial of such request or the original due date, whichever is later. A "timely written request" is defined as a request in writing received by OIG at least five business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

C. Payment of Stipulated Penalties

1. *Demand Letter.* Upon a finding that LifeWatch has failed to comply with any of the obligations described in Section X.A and after determining that Stipulated Penalties are appropriate, OIG shall notify LifeWatch of: (a) LifeWatch's failure to comply; and (b) OIG's exercise of its contractual right to demand payment of the Stipulated Penalties. (This notification shall be referred to as the "Demand Letter.")

2. *Response to Demand Letter.* Within 10 days after the receipt of the Demand Letter, LifeWatch shall either: (a) cure the breach to OIG's satisfaction and pay the applicable Stipulated Penalties or (b) request a hearing before an HHS administrative law judge (ALJ) to dispute OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section X.E. In the event LifeWatch elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until LifeWatch cures, to OIG's satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under Section X.D.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by electronic funds transfer to an account specified by OIG in the Demand Letter.

4. *Independence from Material Breach Determination.* Except as set forth in Section X.D.1.c, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for OIG's decision that LifeWatch has materially breached this CIA, which decision shall be made at OIG's discretion and shall be governed by the provisions in Section X.D, below.

D. Exclusion for Material Breach of this CIA

1. *Definition of Material Breach.* A material breach of this CIA means:
 - a. a repeated or flagrant violation of the obligations under this CIA, including, but not limited to, the obligations addressed in Section X.A;
 - b. a failure by LifeWatch to report a Reportable Event, take corrective action, and make the appropriate refunds, as required in Section III.I;
 - c. a failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with Section X.C; or
 - d. a failure to engage and use an IRO in accordance with Section III.D and Appendices A-D.

2. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CIA by LifeWatch constitutes an independent basis for LifeWatch's exclusion from participation in the Federal health care programs. Upon a determination by OIG that LifeWatch has materially breached this CIA and that exclusion is the appropriate remedy, OIG shall notify LifeWatch of: (a) LifeWatch's material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion. (This notification shall be referred to as the "Notice of Material Breach and Intent to Exclude.")

3. *Opportunity to Cure.* LifeWatch shall have 30 days from the date of receipt of the Notice of Material Breach and Intent to Exclude to demonstrate to OIG's satisfaction that:

- a. LifeWatch is in compliance with the obligations of the CIA cited by OIG as being the basis for the material breach;
- b. the alleged material breach has been cured; or
- c. the alleged material breach cannot be cured within the 30 day period, but that: (i) LifeWatch has begun to take action to cure the material breach; (ii) LifeWatch is pursuing such action with due diligence; and (iii) LifeWatch has provided to OIG a reasonable timetable for curing the material breach.

4. *Exclusion Letter.* If, at the conclusion of the 30 day period, LifeWatch fails to satisfy the requirements of Section X.D.3, OIG may exclude LifeWatch from participation in the Federal health care programs. OIG shall notify LifeWatch in writing of its determination to exclude LifeWatch. (This letter shall be referred to as the "Exclusion Letter.") Subject to the Dispute Resolution provisions in Section X.E, below, the exclusion shall go into effect 30 days after the date of LifeWatch's receipt of the Exclusion Letter. The exclusion shall have national effect and shall also apply to all other Federal procurement and nonprocurement programs. Reinstatement to program participation is not automatic. After the end of the period of exclusion, LifeWatch may apply for reinstatement by submitting a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

E. Dispute Resolution

1. *Review Rights.* Upon OIG's delivery to LifeWatch of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under this CIA, LifeWatch shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the HHS Departmental Appeals Board (DAB), in a manner consistent with the provisions in 42 C.F.R. § 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving Stipulated Penalties shall be made within 10 days after receipt of the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days after receipt of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CIA shall be: (a) whether LifeWatch was in full and timely compliance with the obligations of this CIA for which OIG demands payment; and (b) the period of noncompliance. LifeWatch shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. OIG shall not have the right to appeal to the DAB an adverse ALJ decision related to Stipulated Penalties. If the ALJ agrees with OIG with regard to a finding of a breach of this CIA and orders LifeWatch to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision unless LifeWatch requests review of the ALJ decision by the DAB. If the ALJ decision is properly appealed to the DAB and the DAB upholds the determination of OIG, the Stipulated Penalties shall become due and payable 20 days after the DAB issues its decision.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be:

- a. whether LifeWatch was in material breach of this CIA;
- b. whether such breach was continuing on the date of the Exclusion Letter; and

- c. whether the alleged material breach could not have been cured within the 30-day period, but that: (i) LifeWatch had begun to take action to cure the material breach within that period; (ii) LifeWatch has pursued and is pursuing such action with due diligence; and (iii) LifeWatch provided to OIG within that period a reasonable timetable for curing the material breach and LifeWatch has followed the timetable.

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision favorable to OIG, or, if the ALJ rules for LifeWatch, only after a DAB decision in favor of OIG. LifeWatch's election of its contractual right to appeal to the DAB shall not abrogate OIG's authority to exclude LifeWatch upon the issuance of an ALJ's decision in favor of OIG. If the ALJ sustains the determination of OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that LifeWatch may request review of the ALJ decision by the DAB. If the DAB finds in favor of OIG after an ALJ decision adverse to OIG, the exclusion shall take effect 20 days after the DAB decision. LifeWatch shall waive its right to any notice of such an exclusion if a decision upholding the exclusion is rendered by the ALJ or DAB. If the DAB finds in favor of LifeWatch, LifeWatch shall be reinstated effective on the date of the original exclusion.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA.

XI. EFFECTIVE AND BINDING AGREEMENT

LifeWatch and OIG agree as follows:

A. This CIA shall be binding on the successors, assigns, and transferees of LifeWatch.

B. This CIA shall become final and binding on the date the final signature is obtained on the CIA.

C. This CIA constitutes the complete agreement between the parties and may not be amended except by written consent of the parties to this CIA.

Corporate Integrity Agreement
LifeWatch Services, Inc.

D. OIG may agree to a suspension of LifeWatch's obligations under this CIA based on a certification by LifeWatch that it is no longer providing health care items or services that will be billed to any Federal health care program and that it does not have any ownership or control interest, as defined in 42 U.S.C. §1320a-3, in any entity that bills any Federal health care program. If LifeWatch is relieved of its CIA obligations, LifeWatch will be required to notify OIG in writing at least 30 days in advance if LifeWatch plans to resume providing health care items or services that are billed to any Federal health care program or to obtain an ownership or control interest in any entity that bills any Federal health care program. At such time, OIG shall evaluate whether the CIA will be reactivated or modified.

E. The undersigned LifeWatch signatories represent and warrant that they are authorized to execute this CIA. The undersigned OIG signatory represents that he is signing this CIA in his official capacity and that he is authorized to execute this CIA.

F. This CIA may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same CIA. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this CIA.

ON BEHALF OF LIFEWATCH

/Lee Ehrlichman/

3/15/2012

LEE EHRLICHMAN
Senior Vice President
LifeWatch Services
10255 W. Higgins Rd, Suite 100
Rosemont, Illinois 60018

DATE

Edward S. Kornreich/

3/16/2012

EDWARD S. KORNREICH
Partner
Proskauer
Eleven Times Square, Room 2554
New York, NY 10036-8299

DATE

**ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

/Robert K. DeConti/ Acting for

3/19/2012

GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Inspector General
U. S. Department of Health and Human Services

DATE

/Andrea L. Treese Berlin/

3/19/2012

ANDREA L. TREESE BERLIN
Senior Counsel
Office of Inspector General
U. S. Department of Health and Human Services

DATE

APPENDIX A

INDEPENDENT REVIEW ORGANIZATION

This Appendix contains the requirements relating to the Independent Review Organization (IRO) required by Section III.D of the CIA.

A. IRO Engagement

1. LifeWatch shall engage an IRO that possesses the qualifications set forth in Paragraph B, below, to perform the responsibilities in Paragraph C, below. The IRO shall conduct the review in a professionally independent and objective fashion, as set forth in Paragraph D. Within 30 days after OIG receives the information identified in Section V.A.10 of the CIA or any additional information submitted by LifeWatch in response to a request by OIG, whichever is later, OIG will notify LifeWatch if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, LifeWatch may continue to engage the IRO.

2. If LifeWatch engages a new IRO during the term of the CIA, this IRO shall also meet the requirements of this Appendix. If a new IRO is engaged, LifeWatch shall submit the information identified in Section V.A.10 of the CIA to OIG within 30 days of engagement of the IRO. Within 30 days after OIG receives this information or any additional information submitted by LifeWatch at the request of OIG, whichever is later, OIG will notify LifeWatch if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, LifeWatch may continue to engage the IRO.

B. IRO Qualifications

The IRO shall:

1. assign individuals to conduct the Claims Review and Unallowable Cost Review, if applicable, who have expertise in the billing, coding, reporting, and other requirements of the Medicare program and in the general requirements of the Federal health care program(s) from which LifeWatch seeks reimbursement;

2. assign individuals to design and select the Claims Review sample who are knowledgeable about the appropriate statistical sampling techniques;

3. assign individuals to conduct the coding review portions of the Claims Review who have a nationally recognized coding certification and who have maintained this certification (e.g., completed applicable continuing education requirements); and

4. have sufficient staff and resources to conduct the reviews required by the CIA on a timely basis.

C. IRO Responsibilities

The IRO shall:

1. perform each Claims Review [and Unallowable Cost review, if applicable] in accordance with the specific requirements of the CIA;
2. follow all applicable Medicare, Medicaid, and other Federal health care program rules and reimbursement guidelines in making assessments in the Claims Review;
3. if in doubt of the application of a particular Medicare, Medicaid, or Federal health care program policy or regulation, request clarification from the appropriate authority (e.g., fiscal intermediary or carrier);
4. respond to all OIG inquiries in a prompt, objective, and factual manner; and
5. prepare timely, clear, well-written reports that include all the information required by Appendix B to the CIA.

D. IRO Independence and Objectivity

The IRO must perform the Claims Review in a professionally independent and objective fashion, as defined in the Government Auditing Standards (July 2007 Revision) issued by the United States Government Accountability Office.

E. IRO Removal/Termination

1. *Provider and IRO.* If LifeWatch terminates its IRO or if the IRO withdraws from the engagement during the term of the CIA, LifeWatch must submit a notice explaining its reasons for termination or the reason for withdrawal to OIG no later than 30 days after termination or withdrawal. LifeWatch must engage a new IRO in accordance with Paragraph A of this Appendix and within 60 days of termination or withdrawal of the prior IRO or at least 60 days prior to the end of the current Reporting Period, whichever is earlier.

2. *OIG Removal of IRO.* In the event OIG has reason to believe the IRO does not possess the qualifications described in Paragraph B, is not independent and

objective as set forth in Paragraph D, or has failed to carry out its responsibilities as described in Paragraph C, OIG may, at its sole discretion, require LifeWatch to engage a new IRO in accordance with Paragraph A of this Appendix. LifeWatch must engage a new IRO within 60 days of termination of the prior IRO or at least 60 days prior to the end of the current Reporting Period, whichever is earlier.

Prior to requiring LifeWatch to engage a new IRO, OIG shall notify LifeWatch of its intent to do so and provide a written explanation of why OIG believes such a step is necessary. To resolve any concerns raised by OIG, LifeWatch may present additional information regarding the IRO's qualifications, independence or performance of its responsibilities. OIG will attempt in good faith to resolve any differences regarding the IRO with LifeWatch prior to requiring LifeWatch to terminate the IRO. However, the final determination as to whether or not to require LifeWatch to engage a new IRO shall be made at the sole discretion of OIG.

APPENDIX B

CLAIMS REVIEW

A. Claims Review. The IRO shall perform the Claims Review annually to cover each of the five Reporting Periods. The IRO shall perform all components of each Claims Review.

1. *Definitions*. For the purposes of the Claims Review, the following definitions shall be used:

- a. Overpayment: The amount of money LifeWatch has received in excess of the amount due and payable under any Federal health care program requirements.
- b. Paid Claim: A claim submitted by LifeWatch and for which LifeWatch has received reimbursement from the Medicare or TRICARE program.
- c. Population: The Population shall be defined as all Paid Claims during the 12-month period covered by the Claims Review.
- d. Error Rate: The Error Rate shall be the percentage of net Overpayments identified in the sample. The net Overpayments shall be calculated by subtracting all underpayments identified in the sample from all gross Overpayments identified in the sample. (Note: Any potential cost settlements or other supplemental payments should not be included in the net Overpayment calculation. Rather, only underpayments identified as part of the Discovery Sample shall be included as part of the net Overpayment calculation.)

The Error Rate is calculated by dividing the net Overpayment identified in the sample by the total dollar amount associated with the Paid Claims in the sample.

2. *Discovery Sample*. The IRO shall randomly select and review a sample of 50 Paid Claims (Discovery Sample). The Paid Claims shall be reviewed based on the supporting documentation available at LifeWatch's office or under LifeWatch's control and applicable billing and coding regulations and guidance to determine whether the claim was correctly coded, submitted, and reimbursed.

If the Error Rate (as defined above) for the Discovery Sample is less than 5%, no additional sampling is required, nor is the Systems Review required. (Note: The guidelines listed above do not imply that this is an acceptable error rate. Accordingly, LifeWatch should, as appropriate, further analyze any errors identified in the Discovery Sample. LifeWatch recognizes that OIG or other HHS component, in its discretion and as authorized by statute, regulation, or other appropriate authority may also analyze or review Paid Claims included, or errors identified, in the Discovery Sample or any other segment of the universe.)

3. *Full Sample.* If the Discovery Sample indicates that the Error Rate is 5% or greater, the IRO shall select an additional sample of Paid Claims (Full Sample) using commonly accepted sampling methods. The Full Sample shall be designed to: (1) estimate the actual Overpayment in the population with a 90% confidence level and with a maximum relative precision of 25% of the point estimate; and (2) conform with the Centers for Medicare and Medicaid Services' statistical sampling for overpayment estimation guidelines. The Paid Claims selected for the Full Sample shall be reviewed based on supporting documentation available at LifeWatch or under LifeWatch's control and applicable billing and coding regulations and guidance to determine whether the claim was correctly coded, submitted, and reimbursed. For purposes of calculating the size of the Full Sample, the Discovery Sample may serve as the probe sample, if statistically appropriate. Additionally, the IRO may use the Paid Claims sampled as part of the Discovery Sample, and the corresponding findings for those Paid Claims, as part of its Full Sample, if: (1) statistically appropriate and (2) the IRO selects the Full Sample Paid Claims using the seed number generated by the Discovery Sample. OIG, in its sole discretion, may refer the findings of the Full Sample (and any related workpapers) received from LifeWatch to the appropriate Federal health care program payor, including the Medicare contractor (e.g., carrier, fiscal intermediary, or DMERC), for appropriate follow-up by that payor.

4. *Systems Review.* If LifeWatch's Discovery Sample identifies an Error Rate of 5% or greater, LifeWatch's IRO shall also conduct a Systems Review. The Systems Review shall consist of the following:

- a. a review of LifeWatch's billing and coding systems and processes relating to claims submitted to Federal health care programs (including, but not limited to, the operation of the billing system, the process by which claims are coded, safeguards to ensure proper coding, claims submission and billing; and procedures to identify and correct inaccurate coding and billing);
- b. for each claim in the Discovery Sample and Full Sample that resulted in an Overpayment, the IRO shall review the

system(s) and process(es) that generated the claim and identify any problems or weaknesses that may have resulted in the identified Overpayments. The IRO shall provide its observations and recommendations on suggested improvements to the system(s) and the process(es) that generated the claim.

5. *Other Requirements*

- a. Supplemental Materials. The IRO shall request all documentation and materials required for its review of the Paid Claims selected as part of the Discovery Sample or Full Sample (if applicable), and LifeWatch shall furnish such documentation and materials to the IRO prior to the IRO initiating its review of the Discovery Sample or Full Sample (if applicable). If the IRO accepts any supplemental documentation or materials from LifeWatch after the IRO has completed its initial review of the Discovery Sample or Full Sample (if applicable) (Supplemental Materials), the IRO shall identify in the Claims Review Report the Supplemental Materials, the date the Supplemental Materials were accepted, and the relative weight the IRO gave to the Supplemental Materials in its review. In addition, the IRO shall include a narrative in the Claims Review Report describing the process by which the Supplemental Materials were accepted and the IRO's reasons for accepting the Supplemental Materials.
- b. Paid Claims without Supporting Documentation. Any Paid Claim for which LifeWatch cannot produce documentation sufficient to support the Paid Claim shall be considered an error and the total reimbursement received by LifeWatch for such Paid Claim shall be deemed an Overpayment. Replacement sampling for Paid Claims with missing documentation is not permitted.
- c. Use of First Samples Drawn. For the purposes of all samples (Discovery Sample(s) and Full Sample(s)) discussed in this Appendix, the Paid Claims selected in each first sample shall be used (i.e., it is not permissible to generate more than one list of random samples and then select one for use with the Discovery Sample or Full Sample).

6. *Repayment of Identified Overpayments.* LifeWatch shall repay within 30 days any Overpayment(s) identified in the Discovery Sample or the Full Sample (if applicable), regardless of the Error Rate, to the appropriate payor and in accordance with payor refund policies. LifeWatch shall make available to OIG all documentation that reflects the refund of the Overpayment(s) to the payor.

B. Claims Review Report. The IRO shall prepare a Claims Review Report as described in this Appendix for each Claims Review performed. The following information shall be included in the Claims Review Report for each Discovery Sample and Full Sample (if applicable).

1. *Claims Review Methodology*

- a. Claims Review Population. A description of the Population subject to the Claims Review.
- b. Claims Review Objective. A clear statement of the objective intended to be achieved by the Claims Review.
- c. Source of Data. A description of the specific documentation relied upon by the IRO when performing the Claims Review (e.g., medical records, physician orders, certificates of medical necessity, requisition forms, local medical review policies (including title and policy number), CMS program memoranda (including title and issuance number), Medicare carrier or intermediary manual or bulletins (including issue and date), other policies, regulations, or directives).
- d. Review Protocol. A narrative description of how the Claims Review was conducted and what was evaluated.
- e. Supplemental Materials. A description of any Supplemental Materials as required by A.5.a., above.

2. *Statistical Sampling Documentation*

- a. A copy of the printout of the random numbers generated by the “Random Numbers” function of the statistical sampling software used by the IRO.
- b. A copy of the statistical software printout(s) estimating how many Paid Claims are to be included in the Full Sample, if applicable.

- c. A description or identification of the statistical sampling software package used to select the sample and determine the Full Sample size, if applicable.

3. *Claims Review Findings*

a. Narrative Results

- i. A description of LifeWatch's billing and coding system(s), including the identification, by position description, of the personnel involved in coding and billing.
- ii. A narrative explanation of the IRO's findings and supporting rationale (including reasons for errors, patterns noted, etc.) regarding the Claims Review, including the results of the Discovery Sample, and the results of the Full Sample (if any).

b. Quantitative Results

- i. Total number and percentage of instances in which the IRO determined that the Paid Claims submitted by LifeWatch (Claim Submitted) differed from what should have been the correct claim (Correct Claim), regardless of the effect on the payment.
- ii. Total number and percentage of instances in which the Claim Submitted differed from the Correct Claim and in which such difference resulted in an Overpayment to LifeWatch.
- iii. Total dollar amount of all Overpayments in the sample.
- iv. Total dollar amount of Paid Claims included in the sample and the net Overpayment associated with the sample.
- v. Error Rate in the sample.
- vi. A spreadsheet of the Claims Review results that includes the following information for each Paid Claim: Federal health care program billed, beneficiary health

insurance claim number, date of service, code submitted (e.g., DRG, CPT code, etc.), code reimbursed, allowed amount reimbursed by payor, correct code (as determined by the IRO), correct allowed amount (as determined by the IRO), dollar difference between allowed amount reimbursed by payor and the correct allowed amount.

- c. Recommendations. The IRO's report shall include any recommendations for improvements to LifeWatch's billing and coding system based on the findings of the Claims Review

4. *Systems Review Findings*. The IRO shall prepare a Systems Review Report based on the Systems Review performed (if applicable) that shall include the IRO's observations, findings, and recommendations regarding:

- a. the strengths and weaknesses in LifeWatch's billing systems and processes;
- b. the strengths and weaknesses in LifeWatch's coding systems and processes; and
- c. possible improvements to LifeWatch's billing and coding systems and processes to address the specific problems or weaknesses that resulted in the identified Overpayments.

5. *Credentials*. The names and credentials of the individuals who: (1) designed the statistical sampling procedures and the review methodology utilized for the Claims Review and (2) performed the Claims Review.

APPENDIX C

INDEPENDENT REVIEW ORGANIZATION

This Appendix contains the requirements relating to the Independent Review Organization (IRO) required by Section III.D of the CIA.

A. IRO Engagement

1. LifeWatch shall engage an IRO that possesses the qualifications set forth in Paragraph B, below, to perform the responsibilities in Paragraph C, below. The IRO shall conduct the review in a professionally independent and objective fashion, as set forth in Paragraph D. Within 30 days after OIG receives the information identified in Section V.A.10 of the CIA or any additional information submitted by LifeWatch in response to a request by OIG, whichever is later, OIG will notify LifeWatch if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, LifeWatch may continue to engage the IRO.

2. If LifeWatch engages a new IRO during the term of the CIA, this IRO shall also meet the requirements of this Appendix. If a new IRO is engaged, LifeWatch shall submit the information identified in Section V.A.10 of the CIA to OIG within 30 days of engagement of the IRO. Within 30 days after OIG receives this information or any additional information submitted by LifeWatch at the request of OIG, whichever is later, OIG will notify LifeWatch if the IRO is unacceptable. Absent notification from OIG that the IRO is unacceptable, LifeWatch may continue to engage the IRO.

B. IRO Qualifications

The IRO shall:

1. assign individuals to conduct the Arrangements Review who are knowledgeable in the requirements of the Anti-Kickback Statute and the Stark Law and the regulations and other guidance documents related to these statutes; and

2. have sufficient staff and resources to conduct the reviews required by the CIA on a timely basis.

C. IRO Responsibilities

The IRO shall:

1. perform each Arrangements Review in accordance with the specific requirements of the CIA;
2. respond to all OIG inquiries in a prompt, objective, and factual manner; and
3. prepare timely, clear, well-written reports that include all the information required by Appendix D to the CIA.

D. IRO Independence and Objectivity

The IRO must perform the Arrangements Review in a professionally independent and objective fashion, as defined in the Government Auditing Standards (July 2007 Revision) issued by the United States Government Accountability Office.

E. IRO Removal/Termination

1. *Provider and IRO.* If LifeWatch terminates its IRO or if the IRO withdraws from the engagement during the term of the CIA, LifeWatch must submit a notice explaining its reasons for termination or the reason for withdrawal to OIG no later than 30 days after termination or withdrawal. LifeWatch must engage a new IRO in accordance with Paragraph A of this Appendix and within 60 days of termination or withdrawal of the prior IRO or at least 60 days prior to the end of the current Reporting Period, whichever is earlier.

2. *OIG Removal of IRO.* In the event OIG has reason to believe that the IRO does not possess the qualifications described in Paragraph B, is not independent and objective as set forth in Paragraph D, or has failed to carry out its responsibilities as described in Paragraph C, OIG may, at its sole discretion, require LifeWatch to engage a new IRO in accordance with Paragraph A of this Appendix. LifeWatch must engage a new IRO within 60 days of termination of the prior IRO or at least 60 days prior to the end of the current Reporting Period, whichever is earlier.

Prior to requiring LifeWatch to engage a new IRO, OIG shall notify LifeWatch of its intent to do so and provide a written explanation of why OIG believes such a step is necessary. To resolve any concerns raised by OIG, LifeWatch may present additional information regarding the IRO's qualifications, independence or performance of its responsibilities. OIG will attempt in good faith to resolve any differences regarding the IRO with LifeWatch prior to requiring LifeWatch to terminate the IRO. However, the final determination as to whether or not to require LifeWatch to engage a new IRO shall be made at the sole discretion of OIG.

APPENDIX D

ARRANGEMENTS REVIEW

The Arrangements Review shall consist of two components: a systems review and a transactions review. The IRO shall perform all components of each Arrangements Review. If there are no material changes to LifeWatch's systems, processes, policies, and procedures relating to Arrangements, the Arrangements Systems Review shall be performed for the first and fourth Reporting Periods. If LifeWatch materially changes the Arrangements systems, processes, policies and procedures, the IRO shall perform an Arrangements Systems Review for the Reporting Period in which such changes were made in addition to conducting the systems review for the first and fourth Reporting Periods. The Arrangements Transactions Review shall be performed annually and shall cover each of the five Reporting Periods.

A. Arrangements Systems Review. The Arrangements Systems Review shall be a review of LifeWatch's systems, processes, policies, and procedures relating to the initiation, review, approval, and tracking of Arrangements. Specifically, the IRO shall review the following:

1. LifeWatch's systems, policies, processes, and procedures with respect to creating and maintaining a centralized tracking system for all existing and new and renewed Focus Arrangements (Focus Arrangements Tracking System), including a detailed description of the information captured in the Focus Arrangements Tracking System;
2. LifeWatch's systems, policies, processes, and procedures for tracking remuneration to and from all parties to Focus Arrangements;
3. LifeWatch's systems, policies, processes, and procedures for tracking service and activity logs to ensure that parties to the Focus Arrangement are performing the services required under the applicable Focus Arrangement(s) (if applicable);
4. LifeWatch's systems, policies, processes, and procedures for monitoring the use of leased space, medical supplies, medical devices, equipment, or other patient care items to ensure that such use is consistent with the terms of the applicable Focus Arrangement(s) (if applicable);
5. LifeWatch's systems, policies, processes, and procedures for initiating Arrangements, including those policies that identify the individuals with

authority to initiate an Arrangement and that specify the business need or business rationale required to initiate an Arrangement;

6. LifeWatch's systems, policies, processes, and procedures for the internal review and approval of all Arrangements, including those policies that identify the individuals required to approve each type or category of Arrangement entered into by LifeWatch, the internal controls designed to ensure that all required approvals are obtained, and the processes for ensuring that all Focus Arrangements are subject to a legal review by counsel with expertise in the Anti-Kickback Statute and Stark Law;

7. the Compliance Officer's annual review of and reporting to the Compliance Committee on the Focus Arrangements Tracking System, LifeWatch's internal review and approval process, and other Arrangements systems, process, policies, and procedures;

8. LifeWatch's systems, policies, processes, and procedures for implementing effective responses when suspected violations of the Anti-Kickback Statute and Stark Law are discovered, including disclosing Reportable Events and quantifying and repaying Overpayments when appropriate; and

9. LifeWatch's systems, policies, processes, and procedures for ensuring that all new and renewed Focus Arrangements comply with the Focus Arrangements Requirements set forth in Section III.D.2 of the CIA.

B. Arrangements Systems Review Report. The IRO shall prepare a report based upon each Arrangements Systems Review performed. The Arrangements Systems Review Report shall include the following information:

1. a description of the documentation (including policies) reviewed and personnel interviewed;
2. a detailed description of LifeWatch's systems, policies, processes, and procedures relating to the items identified in Section A.1-9 above;
3. findings and supporting rationale regarding weaknesses in LifeWatch's systems, processes, policies, and procedures relating to Arrangements described in Section A.1-9 above; and
4. recommendations to improve LifeWatch's systems, policies, processes, or procedures relating to Arrangements described in Section A.1-9 above.

C. Arrangements Transactions Review. The Arrangements Transactions Review shall consist of a review by the IRO of 50 randomly selected Focus Arrangements that were entered into or renewed by LifeWatch during the Reporting Period. The IRO shall assess whether LifeWatch has complied with the Focus Arrangements Procedures and the Focus Arrangements Requirements described in Sections III.D.1, III.D.2, and III.D.3 of the CIA, with respect to the selected Focus Arrangements.

The IRO's assessment with respect to each Focus Arrangement that is subject to review shall include:

1. verifying that the Focus Arrangement is maintained in LifeWatch's centralized tracking system in a manner that permits the IRO to identify the parties to the Focus Arrangement and the relevant terms of the Focus Arrangement (*i.e.*, the items/services/equipment/space to be provided, the amount of compensation, the effective date, the expiration date, etc.)

2. verifying that the Focus Arrangement was subject to the internal review and approval process (including both a legal and business review) and obtained the necessary approvals and that such review and approval is appropriately documented;

3. verifying that the remuneration related to the Focus Arrangement is properly tracked;

4. verifying that the service and activity logs are properly completed and reviewed (if applicable);

5. verifying that leased space, medical supplies, medical devices, and equipment, and other patient care items are properly monitored (if applicable); and

6. verifying that the Focus Arrangement satisfies the Focus Arrangements Requirements of Section III.D.2 of the CIA.

D. Arrangements Transaction Review Report. The IRO shall prepare a report based on each Arrangements Transactions Review performed. The Arrangements Transaction Review Report shall include the following information:

1. *Review Methodology*

a. Review Protocol: A detailed narrative description of the procedures performed and a description of the

sampling unit and universe utilized in performing the procedures for the sample reviewed.

- b. Sources of Data: A full description of the documentation and other information, if applicable, relied upon by the IRO in performing the Arrangements Transaction Review.
- c. Supplemental Materials. The IRO shall request all documentation and materials required for its review of the Focus Arrangements selected as part of the Arrangements Transaction Review and LifeWatch shall furnish such documentation and materials to the IRO, prior to the IRO initiating its review of the Focus Arrangements. If the IRO accepts any supplemental documentation or materials from LifeWatch after the IRO has completed its initial review of the Focus Arrangements (Supplemental Materials), the IRO shall identify in the Arrangements Transaction Review Report the Supplemental Materials, the date the Supplemental Materials were accepted, and the relative weight the IRO gave to the Supplemental Materials in its review. In addition, the IRO shall include a narrative in the Arrangements Transaction Review Report describing the process by which the Supplemental Materials were accepted and the IRO's reasons for accepting the Supplemental Materials.

2. *Review Findings*. The IRO's findings with respect to whether LifeWatch has complied with the Focus Arrangements Procedures and Focus Arrangements Requirements with respect to each of the randomly selected Focus Arrangements reviewed by the IRO. In addition, the Arrangements Transactions Review Report shall include observations, findings and recommendations on possible improvements to LifeWatch's policies, procedures, and systems in place to ensure that all Focus Arrangements comply with the Focus Arrangements Procedures and Focus Arrangements Requirements.