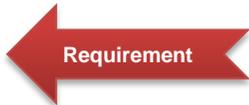


## 9. NON-COMPLIANCE, FRAUD, AND ABUSE

By submitting a Site Contract in imMTrax and accepting shipment of VFC vaccine, you agree to abide by the statutory requirements of the VFC program. These requirements are federal law, and as the administrator of the VFC Program in Montana, the Immunization Program is charged with enforcement.



Requirement

Non-compliance, fraud, and abuse is typically discovered during VFC site visits but may also be self-reported, reported by third parties, or revealed through vaccine ordering and accountability processes. All circumstances are unique, making it difficult to develop a set of rules for handling all situations. VFC providers may be required to replace vaccine lost due to negligence, non-compliance, fraud, or abuse; or incur the cost of re-vaccination due to negligence (see Section 17 for details).

### ***Policy***

When responding to non-compliance issues, the Immunization Program considers the seriousness of the issue, whether it is repetitive, intentional, negligent, an error due to lack of knowledge, and whether extenuating circumstances are involved. We reserve the right to escalate any non-compliance issue that is repetitive, serious, or substantiated instances of fraud and abuse.

**Typical Non-Compliance Follow-Up** – The Immunization Program uses the online CDC program PEAR (Provider Education, Assessment, and Reporting) to report and track VFC non-compliance. PEAR prescribes corrective actions for one-time, non-serious incidences of non-compliance. PEAR prescribes two types of corrective actions:

- On-Site Actions can be completed at the time of the visit with no additional follow-up.
- Follow-Up Actions require the provider to correct the non-compliance issue and then perform additional tasks by a deadline in the future. Some follow-up actions may require a return visit from the Immunization Program.

**Escalated Follow-Up** – Providers enter escalated follow-up if their non-compliance issue is repetitive (i.e., same issue occurred within the past two site visits), serious, or if a typical follow-up action is not completed within a given time frame. Escalated follow-up puts the provider on probation and involves agreed-upon, written corrective actions with firm deadlines and increased Immunization Program oversight. The provider is also added to the Immunization Program Allegation and Referral Database. Failure to complete an escalated follow up plan results in termination from the VFC Program.

**Termination** – Termination is the permanent removal of a provider from the program due to uncorrected, non-compliance issues; substantiated instances fraud or abuse; or a permanent condition such as being listed on the “List of Excluded Individuals and Entities.”

Terminated providers must account for all VFC vaccine and return State-supplied equipment within 30 days of termination. Once all vaccine and equipment has been accounted for, the Immunization Program issues a memo to the provider finalizing the termination.

Termination from the VFC Program is considered permanent. However, a terminated provider may be allowed to re-enroll if they demonstrate full compliance and complete the enrollment process, including an enrollment site visit.

**Referral to Centers for Medicare and Medicaid Services (CMS) for Fraud and Abuse Investigation** – The Immunization Program is required to refer to CMS any instances of fraud and abuse (see definitions below) or any non-compliance that appears intentional and results in financial benefits to the provider.

### ***Definitions:***

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

**Abuse:** provider practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the Medicaid program, (and/or including actions that result in an unnecessary cost to the immunization program, a health insurance company, or a patient); or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid program.

### **Examples of Fraud and Abuse**

- Providing VFC vaccine to non-VFC-eligible children
- Selling or otherwise misdirecting VFC vaccine
- Billing a patient or third party for VFC-funded vaccine
- Charging more than the established maximum regional charge for administration of a VFC-funded vaccine to a federally vaccine-eligible child
- Denying VFC-eligible children VFC-funded vaccine because of parents' inability to pay for the administration fee
- Failing to implement provider enrollment requirements of the VFC program
- Failing to screen for and document eligibility status at every visit
- Failing to maintain VFC records and comply with other requirements of the VFC program
- Failing to fully account for VFC-funded vaccine
- Failing to properly store and handle VFC vaccine
- Ordering VFC vaccine in quantities or patterns that do not match the provider's profile or otherwise over-ordering VFC vaccine
- Waste of VFC vaccine.