2013 Medicare Advantage and Part D Fraud, Waste, and Abuse Training

First Tier, Downstream and Related Entities

February, 2013
Training Objectives

1. Why is Fraud, Waste, and Abuse (FWA) Training So Important?

2. What is FWA?

3. What Does CMS Expect and Require?

4. How Can I Prevent, Detect, and Correct FWA?

5. Where Can I Go if I Want More Information?
Why is Fraud, Waste, and Abuse (FWA) Training So Important?
Why is FWA Important?

Why is Fraud, Waste, and Abuse (FWA) Training So Important?

Why Is FWA Training Important?

- Every Year Millions of Dollars Are Improperly Spent Because of Fraud, Waste, and Abuse
- It Affects Everyone Including You
- This Training Will Help You Detect, Correct, and Prevent Fraud, Waste, and Abuse
- You Are Part Of The Solution
Why is FWA Training Important?

• Although there is no exact measure of health care fraud, those who are intent on abusing the system can cost taxpayers billions of dollars and put beneficiaries health and welfare at risk.

• To combat fraud and abuse, you need to know what to watch for to protect your organization and WellPoint from potential abusive practices, civil liability, and perhaps criminal activity.
What Are My Roles And Responsibilities as an FDR?

• First Tier, Downstream and Related entities provide health care services or assist in the administration of the Medicare program on behalf of WellPoint

• As an FDR for WellPoint, you are required to comply with all applicable statutory, regulatory, and other Part C and/or Part D requirements

• You have a duty and obligation to both WellPoint and the Medicare Program to detect, prevent, and correct fraud, waste, and abuse in the Medicare Part C and Part D programs
What is a FDR?

First Tier Entity

• Any party that enters into a written agreement, acceptable to CMS, with a MAO/Part D Sponsor or applicant to provide administrative services or health care services for a Medicare eligible individual under Part C or Part D

Downstream Entity

• Any party that enters into a written agreement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.

Related Entity

• Any entity that is related to the MAO/Part D Sponsor by common ownership or control and:
  • Performs some of the MAO/Part D Sponsor’s management functions under contract or delegation;
  • Furnishes services to Medicare enrollees under an oral or written agreement; or
  • Leases real estate property or sells materials to the MAO/Part D Sponsor at a cost of more than $2500 during a contract period
What Does it Mean to be an FDR?
Examples of Parent Organization Relationship

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What is FWA?
## What’s the Difference Between Fraud, Waste, and Abuse?

### Intentional

**Fraud**
- Defined: Intentionally submitting false information to the government or a government contractor in order to get money or a benefit

**Examples**
- Billing for services not furnished
- Billing for services at a higher rate than is actually justified
- Soliciting offering or receiving a kickback, bribe, or rebate

### Not Intentional

**Waste**
- Defined: Requesting a payment for items and services when there is no legal entitlement to payment. Unlike fraud, there is no knowledge and/or intentionally misrepresented facts in order to obtain payment

**Examples**
- Over-utilization of services
- Misuse of resources
- Charging in excess for services or supplies
- Providing medically unnecessary services
- Providing services that do not meet professionally recognized standards
- Unknowingly billing Medicare for services that are the responsibility of another insurer
What is FWA?

FWA-Statutes and Regulatory Guidance

The False Claims Act, Anti-Kickback Statute, Physician Self-Referral Law (Stark Law), and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) are used to address fraud and abuse.
## FWA-Statutes and Regulatory Guidance

### False Claims Act

<table>
<thead>
<tr>
<th>Prohibits</th>
<th>Penalties</th>
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<tbody>
<tr>
<td>• Knowingly presenting a false claims for payment or approval;</td>
<td>• The damages may be tripled. Civil Money Penalty between $5,000 and $10,000 for each claim</td>
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<tr>
<td>• Knowingly making or using a false record or statement in support of a false claim;</td>
<td>• Exclusion from the Medicare program</td>
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<td>• Knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay the Government;</td>
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<tr>
<td>• Conspiring to violate the False Claims Act</td>
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</table>
## FWA-Statutes and Regulatory Guidance

### Anti-Kickback Statute

<table>
<thead>
<tr>
<th>Prohibits</th>
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<tbody>
<tr>
<td>• Knowingly and willfully soliciting, receiving, offering or paying remuneration (including any kickback, bribe, or rebate) for referrals for services paid for in whole or in part under a federal health care program</td>
<td>• Fine of up to $25,000</td>
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<td>• Imprisonment up to five (5) years, or</td>
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<td>• Both a fine and imprisonment (civil and criminal penalties)</td>
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<td></td>
<td>• Exclusion from the Medicare program</td>
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What is FWA?

**FWA-Statutes and Regulatory Guidance**

<table>
<thead>
<tr>
<th>Stark Statute (Physician Self-Referral Law)</th>
<th>Prohibits</th>
<th>Penalties</th>
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<tr>
<td></td>
<td>• Prohibits a physician from making a referral for certain designated health services to an entity in which the physician (or a member of his or her family) has an ownership/investment interest or with which he or she has a compensation arrangement</td>
<td>• Medicare claims confirmed to have an arrangement that does not comply with Stark are not payable</td>
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<td>• Up to a $15,000 fine for each service provided</td>
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<td>• Up to a $100,000 fine for entering into an arrangement or scheme</td>
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# FWA-Statutes and Regulatory Guidance

## Health Insurance Portability and Accountability Act of 1996 (HIPAA)

<table>
<thead>
<tr>
<th>Prohibits</th>
<th>Penalties</th>
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<tbody>
<tr>
<td>• Unauthorized access, use or disclosure to protected health care information</td>
<td>The following are potential penalties. The actual consequences depends on the violation</td>
</tr>
<tr>
<td></td>
<td>• Civil Money Penalties</td>
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<td>• Criminal Conviction/Fines</td>
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<td></td>
<td>• Civil Prosecution</td>
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<td>• Imprisonment</td>
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<td></td>
<td>• Loss of Provider License</td>
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<td></td>
<td>• Exclusion from Federal Health Care programs</td>
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# OIG/SAM Exclusion Lists

## REMINDER

WellPoint and FDRs are required to check the **Office of Inspector General (OIG) and the System for Award Management (SAM)** exclusion lists prior to hire of new employees (including the governing board, senior administration and managers) and monthly thereafter, to validate that those who assist in the administration or delivery of services to Medicare beneficiaries are not included on the lists.

<table>
<thead>
<tr>
<th>OIG list of excluded individuals/entities:</th>
<th>SAM list of excluded individuals/entities:</th>
</tr>
</thead>
</table>
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5. Where Can I Go if I Want More Information?
What Does CMS Expect and Require?
What Does CMS Expect and Require?

An Effective Compliance Program

• The program must include measures to **prevent, detect, and correct fraud, waste and abuse** (FWA)

Annual Training and Education

• It must also be a **part of the orientation** for all employees of FDRs who support WellPoint Medicare Advantage and Part D business
FDR employees who have met the FWA certification requirements through enrollment into the Medicare program or accreditation as a supplier of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) are deemed to have met the Training requirements of FWA.

However this credit **does not apply** even if deemed to have met FWA Training requirements. FDRs must still complete the general and specialized Compliance Training requirements.
# Training Requirements - Required Documentation

- WellPoint requires FDRs formally attest that all employees supporting WellPoint Medicare Programs complete Fraud, Waste and Abuse (FWA) Training within 90 days of hire and annually thereafter. FDRs are also required to attest to the distribution of WellPoint’s Standards of Ethical Business Conduct and/or Compliance Plan to all employees.

- FDRs must have a process in place to train their associates within 90 days of hire and annually thereafter. Written policies describing this process must be made available upon request, as well as specific training documentation including:
  - Copies of sign-in sheets
  - Training objectives and any provided material
  - Completed assessments (if applicable)
  - Completion certificates from each employee (if generated)
Training Objectives

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How Can I Prevent, Detect, and Correct FWA?
How Can I Prevent FWA?

Make sure you are up-to-date with laws, regulations, policies

Ensure data/billing is both accurate and timely

Verify information provided to you

Be on the lookout for suspicious activity

Be familiar with your policies and procedures
## How Can I Detect FWA?

### FWA Beneficiary Examples

- **Does a prescription look altered or possibly forged?**
- **Have numerous identical prescriptions been filled for this beneficiary, possibly from different doctors?**
- **Is the person receiving the service/picking up the prescription the actual beneficiary (identity theft)?**
- **Is the prescription appropriate based on beneficiary’s other prescriptions?**
- **Does the beneficiary’s medical history support the services being requested?**
### How Can I Detect FWA?

#### FWA Provider Examples

<table>
<thead>
<tr>
<th>Question</th>
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<tbody>
<tr>
<td>Does the provider write for diverse drugs or primarily only for controlled substances?</td>
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<tr>
<td>Are the provider’s prescriptions appropriate for the member’s health condition (medically necessary)?</td>
</tr>
<tr>
<td>Is the provider writing for a higher quantity than medically necessary for the condition?</td>
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<tr>
<td>Is the provider performing unnecessary services for the member?</td>
</tr>
<tr>
<td>Is the provider’s diagnosis for the member supported in the medical record?</td>
</tr>
<tr>
<td>Does the provider bill the sponsor for services not provided?</td>
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</tbody>
</table>
How Can I Detect FWA?

FWA Pharmacy Examples

- Are the dispensed drugs expired, fake, diluted, or illegal?
- Does the prescription appear to have been altered (changing the quantities or Dispense As Written)?
- Are proper provisions made if the entire prescription cannot be filled (no additional dispensing fees for split prescriptions)?
- Are generics provided when the prescription requires that brand be dispensed?
- Are PBMs being billed for prescriptions that are not filled or picked up?
- Are drugs meant for nursing homes, hospice, etc. being sent elsewhere?
How Can I Detect FWA?

FWA Wholesaler/Manufacturer Examples

<table>
<thead>
<tr>
<th>Question</th>
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<tbody>
<tr>
<td>Is the wholesaler distributing fake, diluted, expired, or illegally imported drugs?</td>
</tr>
<tr>
<td>Is the wholesaler diverting drugs meant for nursing homes, hospices, and AIDS clinics and then marking up the prices and sending to other smaller wholesalers or to pharmacies?</td>
</tr>
<tr>
<td>Does the manufacturer promote off label drug usage?</td>
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<tr>
<td>Does the manufacturer provide samples, knowing that the samples will be billed to a federal health care program?</td>
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</table>
### How Can I Detect FWA?

**FWA Parent Organization/Sponsor Examples**

<table>
<thead>
<tr>
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<tr>
<td>Does the sponsor (example: sales agents/brokers) offer cash inducements for beneficiaries to join the plan?</td>
</tr>
<tr>
<td>Does the sponsor lead the beneficiary to believe that the cost of benefits are one price, only for the beneficiary to find out that the actual costs are higher?</td>
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<tr>
<td>Does the sponsor use unlicensed agents?</td>
</tr>
<tr>
<td>Does the sponsor encourage/support inappropriate risk adjustment submissions (example: health plan associate push for adjustments not in alignment with the record of member’s health)?</td>
</tr>
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</table>
What do I do if I Identify or Suspect FWA?

REPORT IT!

• Call the WellPoint Helpline at 877.725.2702

• Do not worry about whether it is fraud, waste, or abuse

• Report any concerns to your Compliance Department, to your WellPoint business partner, or directly to WellPoint’s Compliance Department.
  
  • **By Phone:** 513.336.2541; or
  
  • **Email:** SrBusComplOfficer@wellpoint.com

• WellPoint’s Compliance Department area will investigate and make the proper determination
How Can I Correct FWA?

Once issues have been identified, a plan to correct the issue needs to be developed. Individual assistance with the plan to correct FWA is expected. The actual plan is going to vary, depending on the specific circumstances.
How Do I Report an Issue?

FDRs can easily and confidentially report a known or suspected violation by:

• Calling the WellPoint Helpline at 877.725.2702 (all compliance issues)

• Calling the WellPoint Fraud Hotline at 866.847.8247 (FWA issues related to WellPoint)

• Sending an email to ethicsandcompliance@wellpoint.com (all compliance issues)

• Contacting WellPoint’s Ethics & Compliance Department at P.O. Box 791, Indianapolis, IN 469206 (all compliance issues)

• Calling the WellPoint Medicare Programs Compliance Officer, Edward Stubbers (all compliance issues):
  • By Phone: 513.336.2541
  • By Email: SrBusComplOfficer@wellpoint.com
  • By Mail: 4241 Irwin Simpson Rd, Mason OH 45040

• Calling or emailing your WellPoint point of contact (all compliance issues)

• Calling or emailing your Compliance Officer (Internal Compliance Officer/Contact)
Am I Protected if I Report an Issue?

**YES!!**

WellPoint maintains a strong policy where retaliation is strictly prohibited for any compliance or FWA concern reported in good faith **including** all reports received from our FDRs.
Scenarios of FWA
Scenario 1

Based on what you have reviewed so far, read the following scenario, then choose the answer that best fits the example.

The Attorney General of Pennsylvania filed criminal charges against two pharmacists for billing insurance claims for nearly $1 million worth of prescription drugs that were not prescribed by any doctors and were not dispensed to any customers. The pharmacists were also accused of creating drug prescriptions (Levitra, Marinol, Restoril, and Pexeva) and submitting the claims to CMS for more than $155,000 in reimbursements. They also submitted more than $180,000 in claims by using the names of employees who worked for businesses near the pharmacy.

The law or statute that is violated in this example would be the:

A. False Claims Act
B. Beneficiary Inducement Statute
C. Anti-Kickback Statute
Scenario 1-Answer

The law or statute that is violated in this example would be the:

A. False Claims Act (correct) – The pharmacists knowingly filed the false claims to be reimbursed by the government. These claims were not prescribed by any doctor and were not dispensed to any customers.

B. Beneficiary Inducement Statute (incorrect) – The pharmacists were not providing any type of incentives that would have influenced a beneficiary to select their pharmacy for their prescriptions. These prescriptions were written fraudulently therefore no beneficiaries were involved.

C. Anti-Kickback Statute (incorrect) – The pharmacists were providing fraudulent prescriptions for their benefit to the government. There was no payment in return for their referral recommendations to any outside the government.
## Scenario 2

Based on what you have reviewed so far, read the following scenario, then choose the answer that best fits the example.

Your job is to submit risk diagnosis to CMS for purposes of payment. As part of this job you are to verify, through a certain process, that the data is accurate. Your immediate supervisor tells you to ignore the sponsor’s process and adjust/add risk diagnosis codes for certain individuals.

### What do you do?

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<tr>
<td>A</td>
<td>Do what is asked of your immediate supervisor</td>
</tr>
<tr>
<td>B</td>
<td>Report the incident to the Compliance Department (via the compliance hotline or other mechanism)</td>
</tr>
<tr>
<td>C</td>
<td>Discuss concerns with your immediate supervisor</td>
</tr>
<tr>
<td>D</td>
<td>Contact law enforcement</td>
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</table>
Scenario 2-Answer

You should do the following:

B. Report the incident to the Compliance Department (via the compliance hotline or other mechanism) (correct)

- The Compliance Department is responsible for investigating and taking appropriate action
- Your sponsor/supervisor may NOT intimidate or take retaliatory action against you for good faith reporting concerning a potential compliance, fraud, waste, or abuse issue
Scenario 3

Based on what you have reviewed so far, read the following scenario, then choose the answer that best fits the example.

You are in charge of payment of claims submitted for providers. You notice a certain diagnostic provider (“Doe Diagnostics”) has requested a substantial payment for a large number of members. Many of these claims are for a certain procedure. You review the same type of procedure for other diagnostic providers and realize that Doe Diagnostics’ claims far exceed any other provider that you reviewed.

What do you do?

A. Call Doe Diagnostics and request additional information for the claims
B. Consult with your immediate supervisor or next steps
C. Contact the Compliance Department
D. Reject the claims
E. Pay the claims
## Scenario 3 - Answer

You should do the following:

### B. Consult with your immediate supervisor for next steps and/or

### C. Contact the Compliance Department

- Either of these answers would be acceptable
- You do not want to contact the provider because this may jeopardize a current or future investigation
- You do not want to pay or reject the claims until further discussions with your supervisor and/or the Compliance Department have occurred, including whether additional documentation is necessary
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## Where Can I Go if I Want More Information?

<table>
<thead>
<tr>
<th>Resource</th>
<th>Link</th>
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<tbody>
<tr>
<td>HIPAA</td>
<td><a href="#">HIPAA Education Materials</a></td>
</tr>
<tr>
<td>Medicare Fraud and Abuse Brochure</td>
<td><a href="#">Fraud &amp; Abuse Brochure</a></td>
</tr>
<tr>
<td>Medicare Managed Care Manual</td>
<td><a href="#">CMS Online Manuals</a></td>
</tr>
<tr>
<td>Medicare Learning Network- FWA Training</td>
<td><a href="#">CMS FWA Training</a></td>
</tr>
<tr>
<td>Medicare Fraud &amp; Abuse, Fact Sheet</td>
<td><a href="#">Medicare Fraud &amp; Abuse Fact Sheet</a></td>
</tr>
<tr>
<td>Office of Inspector General Department of Health and Human Services</td>
<td><a href="#">https://oig.hhs.gov/</a></td>
</tr>
<tr>
<td>Health Care Fraud Prevention and Enforcement Action Team (HEAT) Task Force</td>
<td><a href="#">http://stopmedicarefraud.gov/index.html</a></td>
</tr>
</tbody>
</table>
**Attestation of Training Completion**

**Congratulations!**

You have completed the FWA Training requirement for this year.

**What should you do next?**

- Please report to your Compliance Officer that you have completed your training.

- It is important that this training is documented and tracked for each employee. Your organization must be able to submit records of training logs or employee attestations documenting employee participation in the training upon request.

- An authorized representative of your organization must attest to the completion of this FWA training as a part of WellPoint’s FDR Annual Monitoring Report. Failure to do so could result in the loss of the organization’s contract to provide Medicare Part C & Part D services.

- The attestation within the FDR Annual Monitoring Report is critical for WellPoint to ensure that all of its first tier, downstream and delegated entities are completing FWA training upon hire and annually thereafter.
Resources - 2013 Training Presentation

• This 2013 FWA Training presentation was created by WellPoint to be used by any FDR to meet their annual FWA training requirement

• This FWA training presentation may not be altered in any way without WellPoint Medicare Program Compliance and Legal’s approval.