



FRAUD, WASTE & ABUSE

Training for First Tier, Downstream
and Related Entities

Purpose of this Program

On December 5, 2007, the Centers for Medicare and Medicaid Services (“CMS”) published a final rule requiring Medicare Advantage Organizations (“MAOs”) and Medicare Part D prescription drug plan sponsors (“PDPs”) to incorporate fraud, waste and abuse prevention measures into their compliance plan and provide training on fraud, waste and abuse to first tier, downstream, and related entities on an annual basis beginning in calendar year 2009.

This Program Will Cover:

- ▶ Laws and regulations related to fraud, waste and abuse (“FWA”)
- ▶ Obligations of first tier, downstream, and related entities to have appropriate policies and procedures in place to address FWA
- ▶ The process for reporting FWA
- ▶ Protections for employees who report suspected FWA
- ▶ Types of FWA that can occur in first tier, downstream and related entities

Compliance Plan Elements

CMS requires MAOs and PDPs to have a compliance plan that includes the following elements and related recommended measures for a fraud and abuse program:

- ▶ Written policies, procedures and standards of conduct.
- ▶ Designation of a compliance officer and a compliance committee that are accountable to senior management.
- ▶ Effective training and education pertaining to fraud, waste and abuse for the organization's employees and contractors.
- ▶ Effective lines of communication that should include a confidential or anonymous mechanism, such as a hotline, to receive compliance questions and reports of fraud, waste or abuse.
- ▶ Well-publicized disciplinary guidelines through which MAOs and PDPs must enforce standards.

HealthSpring's Commitment

- ▶ The Company intends to comply with all applicable state and federal laws, including applicable laws and regulations relating to healthcare service companies and health maintenance organizations in particular, and to require that all Directors, employees and contractors comply with these laws and regulations.
- ▶ The Company's **Code of Business Conduct and Ethics** establishes HealthSpring's commitment to conducting business in an ethical way and, together with a set of policies and procedures designed to detect, prevent and correct fraud, waste, and abuse, is a key component of the Company's Compliance Program.

Healthcare Fraud Laws and Regulations

Definitions

- ▶ **Fraud**

Intentional misrepresentation that could result in some unauthorized benefit or payment.

- ▶ **Waste**

Mismanagement of resources, including incurring unnecessary costs because of inefficient or ineffective practices or systems.

- ▶ **Abuse**

Improper behaviors or billing practices that result in non-permitted payment.

Anti-Kickback Statute

The **Anti-Kickback Statute** makes it a criminal offense to knowingly and willfully offer, pay, solicit, or receive any **remuneration** to induce or reward referrals of items or services reimbursable by a Federal health care program.

- ▶ **The statute** ascribes criminal liability to parties on both sides of an impermissible “kickback” transaction.
- ▶ **“Remuneration”** includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind.

Anti-Kickback Safe Harbors

The government has approved a limited number of financial arrangements that the administration considers are unlikely to result in fraud and abuse. These arrangements are referred to as Safe Harbors.

Medicare Advantage Safe Harbors

- ▶ Risk-based HMOs may offer Medicare beneficiaries increased coverage, reduced cost-sharing amounts or reduced premium amounts.
 - Plan must offer same benefits to all Medicare/Medicaid enrollees.
 - Plan must not claim the costs of these benefits as a bad debt or otherwise shift the costs.

Physician Self-Referral Prohibition Statute

- ▶ Commonly referred to as the “**Stark Law.**”
- ▶ Prohibits physicians from referring Medicare patients for certain designated health services to an entity with which the physician or a member of the physician’s immediate family has a financial relationship – unless an exception applies.
- ▶ Prohibits an entity from presenting or causing to be presented a bill or claim to anyone for a designated health service furnished as a result of a prohibited referral.

False Claims Act (“FCA”)

- ▶ It is a crime for any person or organization to:
 - Knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval by the federal government; or
 - Knowingly make, use, or cause to be made or used a false record or statement to influence the payment of a false or fraudulent claim.

NOTE:

Unlike the Anti-Kickback Statute, no proof of specific intent to defraud is required by the False Claims Act. The person submitting a claim does not need to have actual knowledge that the claim is false. Anyone who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information can also be found liable under the False Claims Act.

Qui Tam Provision of the FCA

- ▶ Authorizes a person alleging a violation of the FCA, also known as a “**whistleblower**” or “**relator**,” to file a case in federal court and sue, on behalf of the government, those engaged in fraud.
- ▶ Relator’s incentive to sue is the potential to share in the recovery of any monies received if the case is successful.
- ▶ Provides protection to relators who are discharged, demoted, suspended, threatened, harassed, or discriminated against in any manner for prosecuting or participating in an investigation.

Fraud Enforcement & Recovery Act of 2009 (“FERA”)

- ▶ Signed into law May 20, 2009.
- ▶ Amends the FCA.
- ▶ Makes it illegal to “*knowingly conceal or knowingly and improperly avoid*” an obligation to ***repay federal funds that have been paid in error***, even if the erroneous payment was not caused by the submission of a false record or statement.

FERA (cont.)

- ▶ Expands the definition of “**claim**” to include:
 - Demands for payments made by subcontractors to companies receiving federal funds.
 - Any request or demand for money or property, whether or not the United States has title to the money or property.
 - Any request for money made to any “**recipient**” of funds provided, in whole or in part, by the government, “to advance a Government program or interest.”

Examples of Fraud, Waste and Abuse

Some Examples of FWA

Part D Sponsors and Medicare Advantage Organizations

- ▶ Failure to provide medically necessary services
- ▶ Use of unlicensed sales agents
- ▶ Improperly reporting enrollment/disenrollment data to CMS to inflate prospective payments
- ▶ Incorrect calculation of a beneficiary's **TrOOP** (true out of pocket expenses)
- ▶ Submitting bills to Medicare that are the responsibility of other insurers under the Medicare Secondary Payer regulations

Pharmacy Benefit Managers/ Other Contractors

- ▶ Providing less than the prescribed quantity of drugs
- ▶ Dispensing expired drugs
- ▶ Billing for brand-name drugs when generics are dispensed
- ▶ Receiving a payment to switch a beneficiary from one drug to another

Some Examples of FWA (cont.)

Physicians

- ▶ After a routine exam, improperly prescribing large quantities of a controlled substance to an individual known to abuse drugs or sell them to others
- ▶ Certifying or falsifying information to obtain Medicare payment
- ▶ Charging for excess services or supplies
- ▶ Providing services that do not meet professionally recognized standards
- ▶ Billing for services not rendered
- ▶ Altering medical records
- ▶ Soliciting/accepting kickbacks or bribes

Medicare Beneficiaries

- ▶ Faking medical conditions to obtain drugs
- ▶ Altering a legitimate prescription
- ▶ Altering the number of refills on a prescription
- ▶ Forging prescriptions from scratch
- ▶ Selling prescription drugs to others
- ▶ Using transportation benefit for non-medical related business
- ▶ "Loaning" or using another person's insurance card

Reporting Fraud, Waste and Abuse

Duty to Report

- ▶ Every employee, Director, and contractor has a duty to comply with all laws and regulations and to report violations.
- ▶ You do not have to be certain that a violation has occurred in order to report suspected wrongdoing.
- ▶ Retaliating against anyone who reports a suspected violation is prohibited by Company policy.

Reporting Suspected Non-Compliance

- ▶ Contractors may discuss the issue with the manager of his/her HealthSpring department; or
- ▶ Contact the Chief Compliance Officer at (615) 236-6137.
- ▶ If you wish to remain anonymous, you can call the Compliance and Ethics Hotline at (800) 826-6762 which is answered by an independent company.

FWA Resources

Federal government web sites are sources of information regarding detection, correction, and prevention of fraud, waste, and abuse:

- ▶ Department of Health and Human Services Office of Inspector General: <http://oig.hhs.gov/fraud.asp>
- ▶ Centers for Medicare and Medicaid Services (CMS): <http://www.cms.hhs.gov/MDFraudAbuseGenInfo/>
- ▶ CMS Information about the Physician Self Referral Law: <http://www.cms.hhs.gov/PhysicanSelfReferral>

Your Responsibility

You are accountable and you are responsible for ensuring Compliance

Your Responsibility

Companies like HealthSpring that have contracts with the federal government must ensure that their employees, Directors, and contractors are knowledgeable about all laws and regulations that apply to their business in order to ensure that no documentation or certification prepared by those employees and provided to the government is considered to be knowingly false.

COMPLIANCE IS EVERYONE'S RESPONSIBILITY

Training Completed

- ▶ Thank you for completing HealthSpring's Fraud, Waste and Abuse Training.
- ▶ The link below will take you to the attestation form. It contains instructions on how to complete and send the form to HealthSpring.

[Click Here](#)