



## Medicare Prescription Drug Plan, Medicare Advantage- Prescription Drug Plan, and Medicare Advantage Plan

# Fraud, Waste, and Abuse Compliance Training





## Learning Objectives

By the end of the training you will be able to:

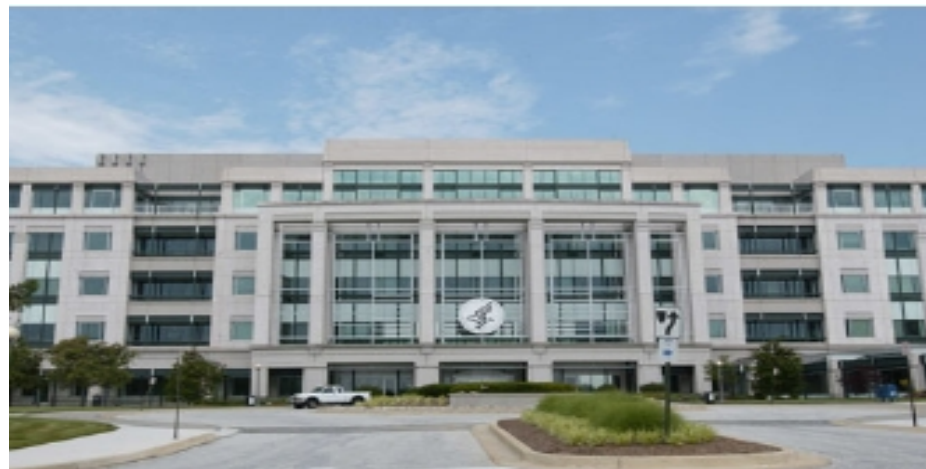
- Recognize general health care fraud, waste and abuse
- Identify various types of health care fraud
- Identify who is responsible for combating fraud, waste and abuse
- Understand how to report suspected health care fraud, waste and abuse
- Understand protections when reporting suspected fraud, waste and abuse
- Recognize relevant laws related to fraud, waste and abuse



# Coventry Health Care, Inc.



**The Centers for Medicare & Medicaid Services (CMS) requires all Medicare Prescription Drug Plans, Medicare Advantage - Prescription Drug Plans and Medicare Advantage Plans to ensure that their contracted brokers and agents complete Fraud, Waste and Abuse (FWA) training no later than December 31, 2009 and annually thereafter.**



CMS national headquarters in Baltimore, Maryland.





## Fraud, Waste and Abuse (FWA) Training Requirement

FWA training is required for all employees who work for or contract with Medicare Part C Medicare Advantage Programs (MA) or Part D Medicare Prescription Drug Programs (PDP)

- Ø Pharmacy Benefit Managers (PBMs)
- Ø Pharmacies and pharmacists
- Ø Brokers and agents
- Ø Vendors and Subcontractors such as claims processing firms

- Ø Hospitals
- Ø Primary care providers
- Ø Specialists
- Ø Ancillary providers
- Ø Dentists

*Note: This list is not all-inclusive.*





## Recognizing Fraud, Waste and Abuse





## Health Care Fraud

***Health Care Fraud** is intentionally, or knowingly and willfully attempting to execute a scheme to falsely obtain money from any health care benefit program<sup>1</sup>*

<sup>1</sup>Defined in Title 18, US Code § 1347

**Medicare Fraud:** Purposefully billing Medicare for services that were never provided or received





## Abuse in the Health Care System

***Abuse involves actions that are inconsistent with accepted, sound medical, business or fiscal practices. Abuse directly or indirectly results in unnecessary costs to the Medicare program through improper payments.<sup>1</sup>***

Fraud is distinguished from abuse in that, in the case of fraudulent acts, there is clear evidence that the acts were committed knowingly, willfully, and intentionally or with reckless disregard.

<sup>1</sup>Integriguard





## Waste in the Health Care System

***Waste: to use up or spend without real need, gain or purpose; squander<sup>1</sup>***

<sup>1</sup>*Websters New World Dictionary, Third College Edition*

“As much as one-third of our health care dollars are wasted,” said Brownlee, a visiting scholar at the NIH Clinical Center’s department of bioethics and the author of *Overtreated: Why Too Much Medicine Is Making Us Sicker and Poorer.* “

Presentation at the NIH Consensus Development Program March 27, 2009



Author Shannon Brownlee





## ***Be Encouraged -***

“Most Medicare payment errors are simple mistakes and are not the result of physicians, providers, or suppliers trying to take advantage of the Medicare system.

The vast majority of physicians, providers, and suppliers who serve people with Medicare are committed to providing high quality care to their patients and to billing the program only for the payments they have earned.

**However**, there are a few individuals who are intent on abusing or defrauding Medicare, cheating the program (and in some cases the people with Medicare who are liable for co-payments) out of millions of dollars annually. Medicare fraud takes a lot of money every year from the Medicare program. People with Medicare pay for it with higher premiums.”<sup>1</sup>

<sup>1</sup><http://www.medicare.gov/fraudabuse/Overview>





## Examples of Ways Fraud, Waste and Abuse Can Occur





## Examples of Ways Fraud, Waste and Abuse Can Occur

### For MAs and PDPs:

- Failure to provide medically necessary services
- Marketing schemes such as offering beneficiaries a cash payment as an inducement to enroll
- Selecting or denying beneficiaries based on their illness profile or other discriminating factors
- Inappropriate formulary decisions in which costs take priority over criteria such as clinical efficacy and appropriateness





## Examples of Ways Fraud, Waste and Abuse Can Occur

### For Providers:

- Bundling and unbundling
- Billing for services not rendered and/or supplies not provided
- Misrepresenting who rendered the service
- “Rent-a-patient” scheme
- Misrepresenting the date services were rendered or the individual who received the services
- Altering claim forms, electronic claim records or medical documentation
- Soliciting, offering or receiving a kickback, bribe or rebate





## Examples of Ways Fraud, Waste and Abuse Can Occur

### For Providers *continued*:

- Theft of a prescriber's Drug Enforcement Agency (DEA) number, prescription pad or e-prescribing log-in information
- Prescription drug switching
- Illegal remuneration schemes, such as selling prescriptions





## Examples of Ways Fraud, Waste and Abuse Can Occur

### For Brokers:

- Enrolling a beneficiary without their knowledge or consent
- Encouraging a member to disenroll
- Offering beneficiaries a cash payment as an inducement to enroll
- Stating the broker works for or is contracted with the Social Security Administration or CMS
- Misrepresenting the MA or Prescription Drug Plan being marketing (i.e. enrolling a beneficiary in a MA-PD plan when they wanted a PDP)





## Examples of Ways Fraud, Waste and Abuse Can Occur

### For Pharmacies:

- Prescription splitting
- Prescription drug shorting
- Dispensing expired or adulterated prescription drugs
- True Out-of-Pocket (TrOOP) manipulation
- Bait and switch pricing
- Prescription forging or altering
- Inappropriate billing practices such as:
  - Billing for brand when generics are dispensed
  - Billing for non-covered prescriptions as covered items
  - Billing for prescriptions that are never picked up





## Examples of Ways Fraud, Waste and Abuse Can Occur

### For Medicare Beneficiaries:

- ID card sharing
- Misrepresentation of status
- Doctor shopping
- Resale of drugs on the black market
- Prescription forging or altering
- Identity theft





## Who is Responsible for Combating Fraud, Waste and Abuse?





## Who is Responsible for Combating FWA?

- **CMS**

- Medicare is taking strong action to combat fraud and abuse of the system in key areas. Their goal is to make sure Medicare only does business with physicians, providers, and suppliers who will provide people with Medicare with high quality services.<sup>1</sup>
- CMS contracts with private organizations called Medicare Drug Integrity Contractors (MEDICs) to assist in the management of CMS audits, oversight, and anti-fraud and abuse efforts.
- The cooperative effort to prevent and detect fraud includes State and Federal Agencies such as, the Department of Health and Human Services Office of the Inspector General, the Federal Bureau of Investigation (FBI), and the Department of Justice.

<sup>1</sup><http://www.medicare.gov/fraudabuse/Overview>





## Who is Responsible for Combating FWA?

- **MA-PD plans and PDPs**
  - All plan sponsors are required to have a comprehensive plan to detect, correct and prevent fraud, waste and abuse.<sup>1</sup>
  - Medicare Advantage organizations and Part D Sponsors are required to provide FWA training and education to all first tier, downstream and related entities.<sup>2</sup>

<sup>1</sup>42 C.F.R. § 423.504(b)(4)(vi)(H)

<sup>2</sup>72 Fed. Reg. 233 (2007)





## Who is Responsible for Combating FWA?

- **Brokers and Agents**

- Brokers and agents are responsible for marketing products in accordance with applicable federal and state laws, including state licensing laws and CMS policy.

- **Providers and vendors**

- Providers and vendors are ultimately responsible for billing bearing their name.
- Providers and vendors and their employees are required to complete the FWA training and submit the attestation

- **Beneficiaries**

- Are encouraged by CMS to report suspected fraudulent activity





## Who is Responsible for Combating FWA?

All first tier, downstream and related entities are obligated to have appropriate policies and procedures to address fraud, waste and abuse.





## Reporting Fraud, Waste and Abuse





**The Coventry Special Investigation Unit (SIU) has a dedicated hotline for confidentially reporting suspected Fraud, Waste and Abuse.**

– The hotline number is **866-806-7020**

(You will be prompted to leave a message)

**Suspected Fraud, Waste and Abuse may also be:**

emailed to the SIU at: [CoventrySIU@cvtty.com](mailto:CoventrySIU@cvtty.com)

or

faxed to the SIU at: 724-778-6827





## Suspected Fraud, Waste and Abuse can also be reported to:

- The Office of the Inspector General
  - By Phone: 800-HHS-TIPS (800-447-8477)
  - BY TTY: 800-377-4950
  - By email: [HHSTips@oig.hhs.gov](mailto:HHSTips@oig.hhs.gov)
- The Centers for Medicare & Medicaid Services (CMS)
  - By Phone: 800-MEDICARE (800-633-4227)
  - By TTY: 877-486-2048





## Non-Retaliation for Reporting

- Good faith reporting of suspected fraud, waste and abuse is expected and accepted behavior.

**Anyone who in good faith reports a violation is referred to as a 'whistleblower' and is protected from any retaliation by the Company.<sup>1</sup>**

- A number of laws contain whistleblower protection, including the False Claims Act.

<sup>1</sup>Coventry Health Care Compliance and Ethics Program, Code of Business Conduct and Ethics





## Relevant Laws





## False Claims Act

The False Claims Act provides, in pertinent part, that:

(a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government; . . . or (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,





## False Claims Act, *continued*

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.





## False Claims Act, *continued*

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false.

- An example may be a physician who submits a bill to Medicare for medical services he or she knows has not been provided.

[www.cms.hhs.gov/smdl/downloads](http://www.cms.hhs.gov/smdl/downloads)





## Anti-Kickback Statute

The anti-kickback statute makes it a criminal offense to knowingly or willfully offer, pay, solicit, or receive any remuneration to induce or reward referral of items or services reimbursable by a Federal health care program.

For purposes of the anti-kickback statute “remuneration” includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind.

*Medicare Fraud & Abuse Resource Reference*





## Exclusions and Debarment

Individuals or entities that participate in or bill a Federal health care program may not employ or contract with an **excluded** or **debarred** individual or entity.

No payment will be made by any Federal health care program for any items or services furnished, ordered, or prescribed, directly or indirectly, by an excluded or debarred individual or entity.

Federal health care programs include Medicare, Medicaid, and all other plans and programs that provide health benefits funded directly or indirectly by the United States (other than the Federal Employees Health Benefits Plan).

- OIG List of Excluded Individuals/Entities (LEIE):  
<http://exclusions.oig.hhs.gov/search.html>
- General Services Administration (GSA) database of excluded individuals/entities:  
<http://epls.arnet.gov/>





## Additional Fraud, Waste and Abuse Resources

- CMS' Prescription Drug Benefit Manual
  - [http://www.cms.hhs.gov/PrescriptionDrugCovContra/12\\_PartDManuals.asp](http://www.cms.hhs.gov/PrescriptionDrugCovContra/12_PartDManuals.asp)
- Code of the Federal Regulation (see CFR 422.503 and CFR 423.504)
  - <http://www.cms.hhs.gov/quarterlyproviderupdates/downloads/cms4124fc.pdf>
- Office of the Inspector General
  - <http://www.oig.hhs.gov/fraud.asp>
- Medicare Learning Network (MLN) Fraud & Abuse Job Aid
  - [http://www.cms.hhs.gov/MLNProducts/downloads/081606\\_Medicare\\_Fraud\\_and\\_Abuse\\_brochure.pdf](http://www.cms.hhs.gov/MLNProducts/downloads/081606_Medicare_Fraud_and_Abuse_brochure.pdf)





## Thank You!

**!** Don't forget to complete the  
Attestation Form.

