GENERAL COMPLIANCE AND FRAUD, WASTE & ABUSE TRAINING

Promoting Excellence
Through Training
2024

DentaQuest®

Learning Objectives

- Recognize Non-Compliance and Fraud, Waste & Abuse (FWA)
- Identify the major laws and regulations pertaining to FWA
- Recognize potential consequences and penalties associated with violations
- Identify methods of preventing FWA
- Identify how to report FWA and potential compliance incidents
- Recognize how to correct FWA

Acronyms

CFR - Code of Federal Regulations

CMS – Centers for Medicare & Medicaid Services

EPLS – Excluded Parties List System

FCA – False Claims Act

FDRs – First-tier, Downstream, and Related Entities

FWA – Fraud, Waste, and Abuse

HIPAA – Health Insurance Portability and Accountability Act

LEIE – List of Excluded Individuals and Entities

MA – Medicare Advantage

MAC – Medicare Administrative Contractor

NPI – National Provider Identifier

OIG – Office of Inspector General

What Is an Effective Compliance Program?

An effective compliance program fosters a culture of compliance within an organization and, at a minimum:

- Prevents, detects, and corrects non-compliance;
- Is fully implemented and is tailored to an organization's unique operations and circumstances;
- Has adequate resources;
- Promotes the organization's Standards of Conduct; and
- Establishes clear lines of communication for reporting non-compliance.

An effective compliance program is essential to prevent, detect, and correct non-compliance as well as Fraud, Waste, and Abuse (FWA). It must, at a minimum, include the **seven** core compliance program requirements.

The Seven Elements of an Effective Compliance Program

1. Written Policies & Procedures
2. Compliance Committee
3. Effective Training & Education
4. Effective Lines of Communication
5. Disciplinary Standards
6. Auditing & Monitoring
7. Corrective Action Development

Seven Core Compliance Program Requirements

CMS requires that an effective compliance program must include seven core requirements:

1. **Written Policies, Procedures, and Standards of Conduct**
   These articulate the Sponsor's commitment to comply with all applicable Federal and State standards and describe compliance expectations according to the Standards of Conduct.

2. **Compliance Officer, Compliance Committee, and High-Level Oversight**
   The Sponsor must designate a compliance officer and a compliance committee that will be accountable and responsible for the activities and status of the compliance program, including issues identified, investigated, and resolved by the compliance program.
   The Sponsor's senior management and governing body must be engaged and exercise reasonable oversight of the Sponsor's compliance program.

Seven Core Compliance Program Requirements

3. **Effective Training and Education**
   This covers the elements of the compliance plan as well as prevention, detection, and reporting of FWA. This training and education should be tailored to the different responsibilities and job functions of employees.

4. **Effective Lines of Communication**
   Effective lines of communication must be accessible to all, ensure confidentiality, and provide methods for anonymous and good- faith reporting of compliance issues at Sponsor and First-Tier, Downstream, or Related Entity (FDR) levels.

5. **Well-Publicized Disciplinary Standards**
   Sponsor must enforce standards through well-publicized disciplinary guidelines.

Seven Core Compliance Program Requirements

6. **Effective System for Routine Monitoring, Auditing, and Identifying Compliance Risks**
   Conduct routine monitoring and auditing of Sponsor's and FDR's operations to evaluate compliance with CMS requirements as well as the overall effectiveness of the compliance program.
   Note: Sponsors must ensure that FDRs performing delegated administrative or health care service functions concerning the Sponsor's Medicare Parts C and D program comply with Medicare Program requirements.
7. **Procedures and System for Prompt Response to Compliance Issues**
   The Sponsor must use effective measures to respond promptly to non-compliance and undertake appropriate corrective action.

What is Non-Compliance?

Non-compliance is conduct that does not conform to the law, contract requirements, or our policies, procedures and standards of conduct.

Examples include:

- Improper use or disclosure of personal information
- Failing to provide required notification to individuals
- Engaging in or failing to disclose conflicts of interest
- Inaccurate documentation and timeliness requirements
- Intentional or negligent acts resulting in Fraud, Waste, or Abuse (FWA)
- Poor or substandard Quality of Care

Reporting Non-Compliance and FWA Outside Your Organization

HHS Office of Inspector General:	For Medicare Parts C and D:	For all other Federal health care programs:
Phone: 1-800-HHS-TIPS (1-800-447-8477) or TTY 1-800-377-4950	National Benefit Integrity Medicare Drug Integrity Contractor (NBI MEDIC) at 1-877-7SafeRx (1-877-772-3379)	CMS Hotline at 1-800-MEDICARE [1-800-633-4227] or TTY 1-877-486-2048
Fax: 1-800-223-8164		HHS and U.S. Department of Justice (DOJ): https://www.stopmedicarefraud.gov
Email: HHSTips@oig.hhs.gov		
Online: https://forms.oig.hhs.gov/hotlineoperations		

Ethics–Do the Right Thing!

You are receiving this training as a part of DentaQuest's requirements to comply with contractual obligations and Federal regulations specific to monitoring of First Tier, Downstream, and Related Entities (FDRs), and applicable oversight regulations required by the Centers for Medicare & Medicaid Services (CMS). As an FDR, you must conduct yourself in an ethical and legal manner. It's about doing the right thing!

- Act fairly and honestly;
- Adhere to high ethical standards in all you do;
- Comply with all applicable laws, regulations, and CMS requirements; and
- Report suspected violations.

What is FWA?

Fraud, waste and abuse occurs when a provider/office, member, patient or an employee knowingly submits/reports or helps someone else submit/report false information.

Fraud, Waste and Abuse is defined as:

- **Fraud**: includes any instances of waste or abuse if committed with intentional deception or misrepresentation
- **Waste**: includes over-utilization of services or practices that result in unnecessary costs to the healthcare system
- **Abuse**: actions are inconsistent with sound fiscal business or involve misappropriation of company funds. This results in unnecessary costs or reimbursement for services that:
  - Are not necessary
  - Fail to meet professionally recognized standards of care
  - Involve non-compliance with licensure standards, misuse of billing privileges, or any other behavior that results in unnecessary costs to the healthcare system

What is FWA?

Fraud	Waste	Abuse
Knowingly billing for services not furnished or supplies not provided, including billing Medicare/Medicaid for appointments that the patient failed to keep	Conducting excessive office visits or services	Unknowingly billing for unnecessary medical services
Non-approved use of company assets	Providing more services than necessary for the treatment of a specific condition	Unknowingly excessively charging for services or supplies
Knowingly altering claim forms, medical records, or receipts to receive a higher payment	Ordering excessive tests or supplies	Unknowingly misusing codes on a claim, such as upcoding or unbundling codes
Falsifying an expense report	Knowingly falsifying time sheets/PTO	Misappropriation of funds (use of company funds for personal use)

To detect FWA, you need to know the law!

- Civil False Claims Act, Health Care Fraud Statute, and Criminal Fraud
- Anti-Kickback Statute
- Stark Statute (Physician Self-Referral Law)
- Exclusion from all Federal health care programs
- Health Insurance Portability and Accountability Act (HIPAA)

Conflict of Interest and Disclosure

- As an employee, temporary workforce member, contractor, subcontractor vendor, provider, First Tier, Downstream, or Related Entity (FDR), board of director or executive team leader, you are required to report if you are involved in any situation that may be in conflict with the goals of our company
- The Code of Conduct emphasizes that we are committed to not putting our own personal interests ahead of the company, our client and or members, and avoid activities that can harm or reflect negatively on any of them.
- If you have a Conflict of Interest to report, you will be required to complete a Conflict of Interest Disclosure Form as part of your annual compliance training. You must provide any information related to an actual or potential conflict of interest.

Conflict of Interest Examples

- Are you accepting a position to serve, or serving as a director, trustee, officer, committee member, employee, independent contractor, consultant, advisor, agent or similar position for any outside entity or organization?
- Are you asking for or receiving anything from a supplier, competitor, or customer with a cash value greater than $75, such as cash, airline tickets, meals, tickets to sporting or other events, clothing, jewelry, and the like?
- Are you directly conducting business with a family member employed by a supplier or a provider that does business with our companies?
- Any of the above scenarios could be a conflict of interest.

Conflict of Interest – Course of Action

- If a situation arises any time during the year, please contact your Provider Engagement Representative. Your Provider Engagement Representative will provide with a Conflict of Interest form, as part of this training course. Also, more information on potential conflicts of interest can be found in our Code of Conduct, which can be made available upon request.
- If you are not certain if your situation could be a conflict, please submit the information, and the DentaQuest Compliance team will help you and your manager make the determination.

False Claims Act (FCA)

Any person who knowingly submits false claims to the Government is liable for three times the Government's damages caused by the violator plus a penalty. Liability occurs when an individual:

- Conspires to violate the FCA;
- Carries out other acts to obtain property from the Government by misrepresentation;
- Conceals or improperly avoids or decreases an obligation to pay the Government
- Makes or uses a false record or statement supporting a false claim
- Presents a false claim for payment or approval

See 31 United States Code (USC) Sections 3729–3733.

Health Care Fraud Statute

The Health Care Fraud statute imposes strict liability. Regardless of any knowledge or specific intent to violate the law, an individual who defrauds or attempts to defraud a federal health care program may face criminal liability.

- "Whoever knowingly and willfully executes, or attempts to execute, a scheme to … defraud any health care benefit program … shall be fined … or imprisoned not more than 10 years, or both."

See 18 USC Sections 1346–1347.

Anti-Kickback Statute

The Anti-Kickback Statute prohibits soliciting, receiving, offering, or paying remuneration (including any kickback, bribe, or rebate) for referrals for services that are paid under a Federal health care program (including CMS).

Violations are punishable by:

- A fine of up to $25,000
- Exclusion from participation in federally funded health care programs
- Imprisonment for up to 5 years
- All of the above.

See 42 USC Section 1320a-7b(b).

Stark Statute (Physician Self-Referral Law)

The Stark Law prohibits a physician from referring individuals to an entity with which the physician (or the physician's family member) has:

- An ownership/investment interest; or
- A compensation arrangement (exceptions apply).

Claims tainted by such an arrangement violate the Stark Law and are not payable. A penalty of around $24,250 can be imposed by CMS for each service provided. There may also be around a $161,000 fine for entering into an unlawful arrangement or scheme.

See the Physician Self-Referral webpage and refer to the Act, Section 1877.

Civil Monetary Penalties Law

The Office of Inspector General (OIG) may impose Civil Monetary Penalties (CMP) for several reasons, including:

- Arranging for services or items from an excluded individual or entity;
- Providing services or items while excluded;
- Failing to grant OIG timely access to records;
- Knowing of and failing to report and return an overpayment;
- Making false claims; and
- Paying to influence referrals.

CMPs range from $15,000 to $70,000 depending on the specific violation. Violators may also be subject to treble damages:

- Each service or item claimed; or
- The remuneration offered, paid, solicited, or received

See 42 USC 1320a-7a and the Act, Section 1128A(a).

State False Claims Act

Many states have FCAs that complement the federal law, relating to false or fraudulent claims for under the Medicaid program relating to some examples include (additional details can be found in COM10-ENT- False Claims):

- Tennessee (T.C.A. 71-5-182, 183): imposes fines of $5,000 to $25,000 and treble damages for false claims submitted to the state Medicaid Program
- New Jersey: imposes fines of $2,000 to $10,000 per offense; treble damages; suspension from the Medicaid program; and imprisonment of up to 3 years
- New Mexico: imposes fines of $5,000 to $10,000 and treble damages. The law allows for a right of private action if the state declines to prosecute
- Louisiana: the Medical Assistance Programs Integrity Law (“MAPIL”) imposes treble damages the amount that was defrauded, plus up to $11,000 per violation. The law provides for a private right of action and Whistleblower protections, including monetary damages for employers who retaliate.
- Michigan: A violator will be liable to the State for a felony punishable by imprisonment for not more than 4 years or a fine of not more than $50,000.00, or both. A violator who engaged in a conspiracy to violate the MMFCA will be liable to the State for a criminal penalty of $50,000, and imprisonment of up to 10 years. A recipient, knowingly and willfully, of the fraudulent activity will be liable to the state for a civil penalty of not less than $5,000.00 or more than $10,000.00 plus triple the number of damages suffered by the state as a result of the conduct by the violator. See Mich. Law Ann. §§ 400.606, 400.607, 400.612.

State False Claims Act, continued

Many states have FCAs that complement the federal law, relating to false or fraudulent claims for under the Medicaid program relating to (additional details can be found in COM10-ENT- False Claims):

- New Hampshire: A violator will be liable to the State of New Hampshire for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the number of damages sustained by the State because of the act of the person, and the costs of a civil action brought to recover the damages. The civil penalty may be waived if violator furnishes the State with all information known to the violator within thirty (30) days of receiving such information, and fully cooperates with any investigation, provided that the violator does not have knowledge of an investigation at the time the violator furnishes such information. See N.H. Rev. Stat. Ann. § 167:61-b.

Exclusion Screening

- No Federal health care program payment may be made for any item or service furnished, ordered, or prescribed by an individual or entity excluded or debarred from federal health care programs. The Office of the Inspector General maintains the List of Excluded Individuals and Entities (LEIE); and the General Services Administration administers the Excluded Parties List System (EPLS).
- The prohibition applies not just to DentaQuest but flows down to all individuals and entities we contract with, including providers. Just as DentaQuest screens all its employees and subcontracts, so too must our provider organizations and vendors.
- **Failure to appropriately screen can subject the individual or entity to a False Claims Act violation.**

See 42 USC Section 1320a-7 and 42 CFR Section 1001.1901.

What are your responsibilities?

Prevent, Detect & Report

Everyone plays a vital role in preventing and detecting and reporting FWA, and other non-compliance situations.

- **FIRST**, you must comply with all applicable statutory, regulatory, and other CMS requirements, including adopting and using an effective compliance program.
- **SECOND**, understand how to identify and who to report potential non-compliance and potential FWA.
- **THIRD**, follow your organization's standards of conduct and ethical rules of behavior.

How do you prevent FWA?

- Be Watchful - **Look** for suspicious activity
- Be Ethical - Conduct yourself in an **ethical** manner
- Be Accurate/Timely - Ensure **accurate and timely** data and billing
- Be Knowledgeable – **Familiarize** yourself with the Compliance policies and procedures
- Be a Fact Checker - **Verify** all information provided to you.
- Be Informed – **Review** the policies and procedures for your organization

Everyone is responsible for helping to detect, prevent, report and correct Non-Compliance and Fraud, Waste & Abuse.

How to Report Non-Compliance and Fraud, Waste & Abuse (FWA)

Office of Inspector General (OIG) :

- By phone: 800-HHS-Tips (1-800-447-8477)
- By email: **HHSTips@oig.hhs.gov**
- By Fax: 1-800-223-8164
- Online: https://forms.oig.hhs.gov/hotlineoperations/index.aspx

Whistleblower Protection

DentaQuest protects individuals who make good faith reports of potential instances of Non-Compliance or FWA. Federal and State "whistleblower" protection laws ensure that persons who expose information or activity that is deemed illegal, dishonest, or violates professional or clinical standards will not be retaliated against.

Whistleblowers are:

Protected: Persons who report false claims or bring legal actions to recover money paid on false claims are protected from retaliation.

Rewarded: Persons who bring a successful whistleblower lawsuit receive at least 15 percent, but not more than 30 percent of the money collected.

Resources

For providers that wish to complete additional FWA and General Compliance Training, there are several online resources, including trainings from the Centers of Medicare & Medicaid Services (https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/WebBasedTraining).


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