

HESSCO ELDER SERVICES

FRAUD WASTE ABUSE TRAINING

WHY DO I NEED TRAINING?

Every year *millions* of dollars are improperly spent because of FWA. It affects everyone.

Including **YOU**.

This training will help you detect, correct, and prevent FWA.

YOU are part of the solution.

OBJECTIVES

- Meet the regulatory requirement for training and education
- Provide information on the scope of FWA
- Explain obligation of everyone to detect, prevent, and correct FWA
- Provide information on how to report FWA
- Provide information on laws pertaining to FWA

REQUIREMENTS

The Social Security Act and CMS regulations and guidance govern the Medicare program, including parts C and D.

- Part C and Part D sponsors must have an effective compliance program which includes measures to prevent, detect and correct Medicare non-compliance as well as measures to prevent, detect and correct FWA.
- Sponsors must have an effective training for employees, managers and directors, as well as their first tier, downstream, and related entities. (42 C.F.R. §422.503 and 42 C.F.R. §423.504)

WHERE DO I FIT IN?

As a person who provides health or administrative services to a Part C or Part D enrollee you are either:

- **First Tier Entity**
 - Examples: Pharmacy Benefit Manager; Claims Processing Company; contracted Sales Agent
- **Downstream Entity**
 - Example: Pharmacy
- **Related Entity**
 - Example: Entity that has a common ownership or control of Tufts Health Plan

WHAT ARE MY RESPONSIBILITIES?

You are a vital part of the effort to prevent, detect, and report Medicare non-compliance as well as possible FWA.

- **FIRST** you are required to comply with all applicable statutory, regulatory, and other Part C or Part D requirements, including adopting and implementing an effective compliance program.
- **SECOND** you have a duty to the Medicare Program to report any potential violations of laws that you may be aware of.
- **THIRD** you have a duty to follow HESSCO's Code of Conduct that articulates your and our organization's commitment to standards of conduct and ethical rules of behavior.

AN EFFECTIVE COMPLIANCE PROGRAM

- Is essential to prevent, detect, and correct Medicare non-compliance as well as fraud, waste and abuse.
- Must, at a minimum, include the 7 core compliance program requirements. (42 C.F.R. §422.503 and 42 C.F.R. §423.504)

Prevention

HOW DO I PREVENT FWA?

- Make sure you are up to date with laws, regulations, policies.
- Ensure you coordinate with other payers, if applicable.
- Ensure data/billing is both accurate and timely, if applicable.
- Verify information provided to you.
- Be on the lookout for suspicious activity.

POLICIES AND PROCEDURES

Our organization must have policies and procedures in place to address FWA. These procedures should assist us in detecting, correcting, and preventing FWA.

Make sure you are familiar with our organization's policies and procedures.

Detection

UNDERSTANDING FRAUD, WASTE AND ABUSE

In order to detect FWA
you need to know the **Law**

CRIMINAL FRAUD

Knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program; or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

18 United States Code §1347

WHAT DOES THAT MEAN?

Intentionally submitting false information to the government or a government contractor in order to get money or a benefit.

Your role is to identify and refer potential fraud to your company's Senior Compliance Officer for investigation.

The Senior Compliance Officer for HESSCO is the Fiscal Director.

WASTE AND ABUSE

Waste: overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare Program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources.

Abuse: includes actions that may, directly or indirectly, result in unnecessary costs to the Medicare Program. Abuse involves payment for items or services when there is not legal entitlement to that payment and the provider has not knowingly and or/intentionally misrepresented facts to obtain payment.

DIFFERENCES BETWEEN FWA

There are differences between FWA. One of the primary differences is intent and knowledge.

Fraud requires the person to have an intent to obtain payment and the knowledge that their actions are wrong.

Waste and Abuse may involve obtaining an improper payment, but does not require the same intent and knowledge.

REPORT FWA

Do not be concerned about whether it is fraud, waste, or abuse. Just report any concerns to your compliance department. The compliance department will investigate and make the proper determination.

INDICATORS OF POTENTIAL FWA

Now that you know what FWA are, you need to be able to recognize the signs of someone committing fraud, waste, or abuse.

KEY INDICATORS: POTENTIAL SPONSOR ISSUES

- Does the sponsor offer cash inducements for beneficiaries to join the plan?
- 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?
- Does the sponsor use unlicensed agents?
- Does the sponsor encourage/support inappropriate risk adjustment submissions?

HOW DO I REPORT FRAUD, WASTE,
OR ABUSE?

REPORTING FWA

Everyone is required to report suspected instances of FWA. The standards of conduct that have been provided to you by your company should clearly state this obligation.

Agencies may not retaliate against you for making a good faith effort in reporting.

You are required to assist, if applicable, in the resolution of reported FWA issues.

REPORTING FWA

Every sponsor is required to have a mechanism in place in which potential fraud, waste, or abuse (FWA) may be reported by employees, first tier, downstream, and related entities. Agencies must be able to accept anonymous reports and cannot retaliate against you for reporting.

Reporting FWA:

Office of the Inspector General: <https://oig.hhs.gov>

Center for Medicare/Medicaid Services: <http://www.cms.gov>

Internally: Jim George, 781-784-4944 x 207

Correction

CORRECTION

Once fraud, waste, or abuse has been detected it must be promptly investigated and, if validated, must be corrected within a reasonable period.

Correcting the problem saves the government money and ensures you are in compliance with CMS' requirements.

HOW DO I CORRECT ISSUES?

Once issues have been identified, a plan to correct the issue needs to be developed. Consult your compliance officer to find out the process for the corrective action plan development.

The actual plan is going to vary, depending on the specific circumstances.

Laws You Need to Know About

LAWS

The following slides provide very high level information about specific laws. For details about the specific laws, such as safe harbor provisions, consult the applicable statute and regulations concerning the law.

CIVIL FRAUD

CIVIL FALSE CLAIMS ACT

Prohibits:

- Presenting a false claim for payment or approval;
- Making or using a false record or statement in support of a false claim;
- Conspiring to violate the False Claims Act;
- Falsely certifying the type/amount of property to be used by the Government;
- Certifying receipt of property without knowing if it's true;
- Buying property from an unauthorized Government officer; and
- Knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay the Government.

31 United States Code § 3729-3733

CIVIL FALSE CLAIMS ACT DAMAGES AND PENALTIES

The damages may be tripled.

Civil Money Penalty between \$5,000 and \$10,000 for each claim.

CRIMINAL FRAUD PENALTIES

If convicted, the individual shall be fined, imprisoned, or both. If the violations resulted in death, the individual may be imprisoned for any term of years or for life, or both.

18 United States Code §1347

ANTI-KICKBACK STATUTE

Prohibits:

Knowingly and willfully soliciting, receiving, offering or paying remuneration (including any kickback, bribe, or rebate) for referrals for services that are paid in whole or in part under a federal health care program (which includes the Medicare program).

42 United States Code § 1320a-7b(b)

ANTI-KICKBACK STATUTE PENALTIES

Fine of up to \$25,000, imprisonment up to five (5) years, or both fine and imprisonment.

STARK STATUTE (PHYSICIAN SELF-REFERRAL LAW)

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 (exceptions apply).

42 United States Code § 1395nn

STARK STATUTE DAMAGES AND PENALTIES

Medicare claims tainted by an arrangement that does not comply with Stark are not payable.

Up to a **\$15,000** fine for each service provided.

Up to a **\$100,000** fine for entering into an arrangement or scheme.

EXCLUSION

No Federal health care program payment may be made for any item or service furnished, ordered, or prescribed by an individual or entity excluded by the Office of Inspector General.

42 U.S.C. § 1395(e)(1)

42 C.F.R. § 1001.1901

HIPAA

Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191)

- Created greater access to health care insurance, protection of privacy of health care data, and promoted standardization and efficiency in the health care industry.
- Safeguards to prevent unauthorized access to protected health care information.
- As an individual who has access to protected health care information, you are responsible for adhering to HIPAA.

Consequences

CONSEQUENCES OF COMMITTING FRAUD, WASTE, OR ABUSE

The following are potential penalties. The actual consequence depends on the violation.

- Civil Money Penalties
- Criminal Conviction/Fines
- Civil Prosecution
- Imprisonment
- Loss of Provider License
- Exclusion from Federal Health Care programs

CONGRATULATIONS!

You have completed the HESSCO Elder Services Fraud, Waste and Abuse Training, adapted from the Centers for Medicare & Medicaid Services.