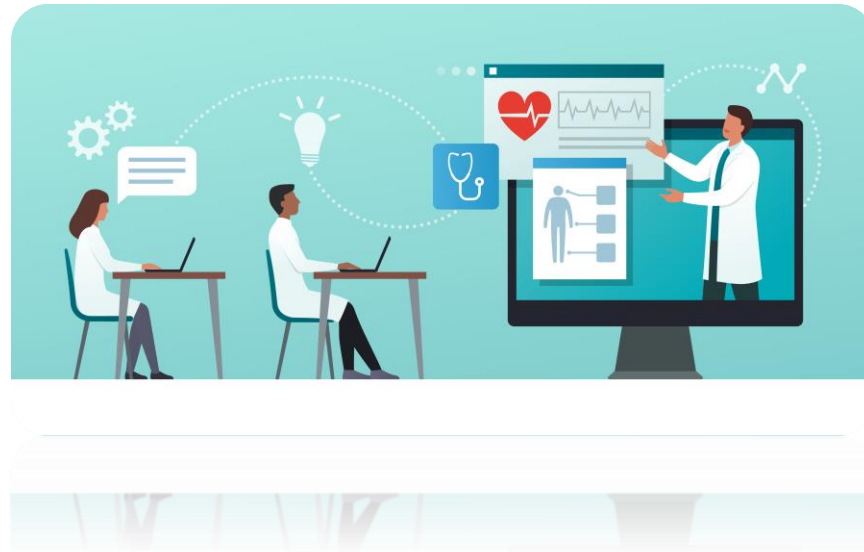


Medicare Part C and Part D: Fraud, Waste and Abuse Training

Argus Medical Management & ProHealth Partners Medical Group



CMS Final Rules



The Plan Sponsor Must:

- **Maintain appropriate oversight and develop a compliance plan that includes measures to detect, prevent and correct fraud, waste and abuse**
- **Establish fraud, waste and abuse training and effective lines of communication.**

What is a Compliance Plan?

Includes 7 Core Elements:



- 1. Written Standards of Conduct:** Development and distribution of written Standards of Conduct and Policies and Procedure that promote the Plan Sponsor's commitment to compliance and that address specific areas of potential fraud, waste and abuse.
- 2. Designation of a Compliance Officer:** Designation of an individual and a committee charged with the responsibility and authority of operating and monitoring the compliance program.
- 3. Compliance Training:** Development and implementation of regular, effective education and training, such as this training.
- 4. Internal Monitoring and Auditing:** Use of risk evaluation techniques and audits to monitor compliance and assist in the reduction of identified problem areas. .

Compliance Plan? (cont'd)



- 5. Disciplinary Mechanisms:** Policies to consistently enforce standards and address dealing with individuals or entities that are excluded from participating in CMS programs.

- 6. Effective Lines of Communication:** Between the compliance officer and the organization's employee's, managers and directors and members of the compliance committee, as well as first tier, downstream and related entities.

- 7. Procedures for Responding to Detected Offenses and Corrective Action:** Policies to respond to and initiate corrective action to prevent similar offenses including a timely, reasonable inquiry.

Definitions

Fraud: Fraud is the intentional misrepresentation of data for financial gain. Fraud occurs when an individual knows or should know that something is false and makes a knowing deception that could result in some unauthorized benefit to themselves or another person.

Examples of fraud:

- 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
- Deliberately misrepresenting services, resulting in unnecessary cost, improper payments or overpayment
- Violation of the physician self-referral (“Stark”) prohibition



Definitions (cont'd)



Waste: Waste is the extravagant, careless or needless expenditure of healthcare benefits or services that results from deficient practices or decisions.

Waste includes practices that, directly or indirectly, result in unnecessary costs to the Medicare Program, such as **overusing services** or **the misuse of resources**.

Abuse: Abuse involves payment for items or services where there was no intent to deceive or misrepresent but the outcome of poor insufficient methods results in unnecessary costs to the Medicare program.

Example of abuse:

- Charging in excess for services or supplies
- Providing unnecessary services
- Providing services that do not meet professionally recognized standards
- Billing Medicare based on a higher fee schedule than is used for patients not on Medicare

FWA Laws: False Claims Act



The False Claims Act, in part, prohibits any person from:

- Knowingly presenting, or causing to be presented, to an officer or employee of the United States Government a false or fraudulent claim for payment or approval
- Knowingly making, using, or causing to be made or used, a false record or statement to get false or fraudulent claim paid or approved by the Government
- Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid
- A violator may be liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person.

FWA Laws: Anti-Kickback Statute



- **The Anti-Kickback Statute makes it a criminal offense to knowingly and willfully solicit, receive, offer or pay remuneration (including any kickback, bribe, or rebate) in return for:**
 - Referrals for the furnishing or arranging of any items or service reimbursable by a Federal health care program
 - Purchasing, leasing, ordering or arranging for the purchasing or leasing of an item or service reimbursable by a Federal health care program
- **Remuneration is defined as the transfer of anything of value, directly or indirectly, overtly or covertly in cash or in kind. When this happens, both parties are held in criminal liability of the impermissible “Kickback” transaction.**
- **Penalties include up to \$25,000 or imprisonment of up to five years or both.**

FWA Laws: Physician Self-Referral Prohibition Statute (Stark Law)

The Physician Self-Referral Prohibition Statute, commonly referred to as the “Stark Law,” prohibits:

- A physician 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.
- 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.



Legal Actions



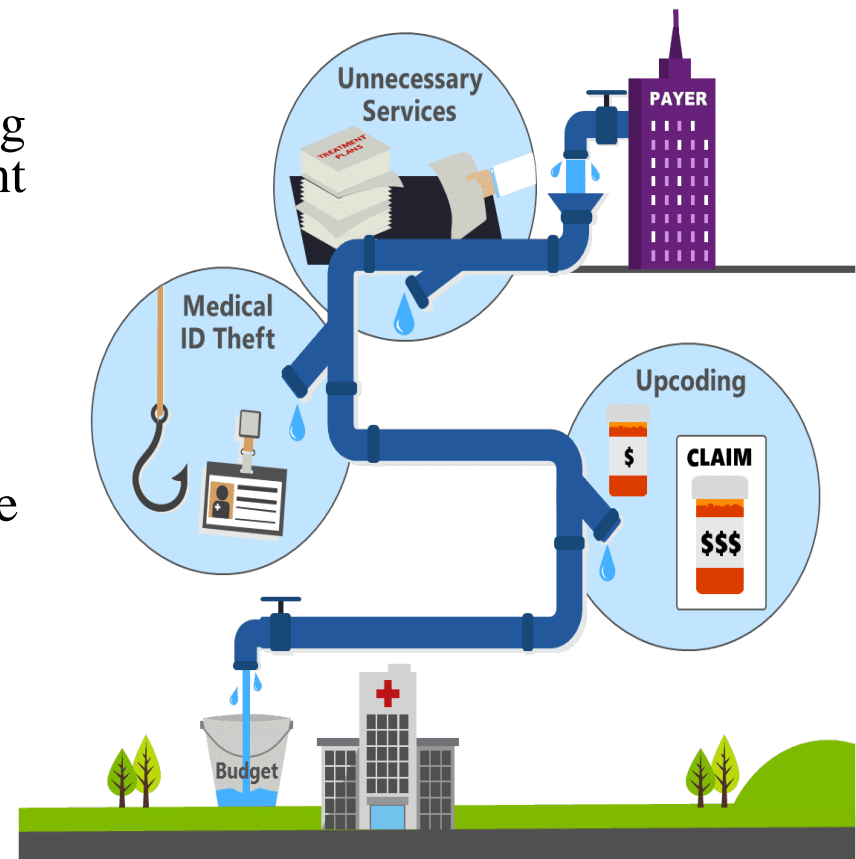
A provider, supplier or health care organization that has been convicted of fraud may receive a significant fine, prison sentence or be temporarily or permanently excluded from the Medicare program or other Federal health care programs, and in some states, lose their license. Failure to comply with fraud and abuse laws may result in:

- **Civil monetary penalties that can result in up to \$10,000 per violation and exclusion from the Medicare program**
- **Denial or revocation of a Medicare Provider Number**
- **Suspension of payment**

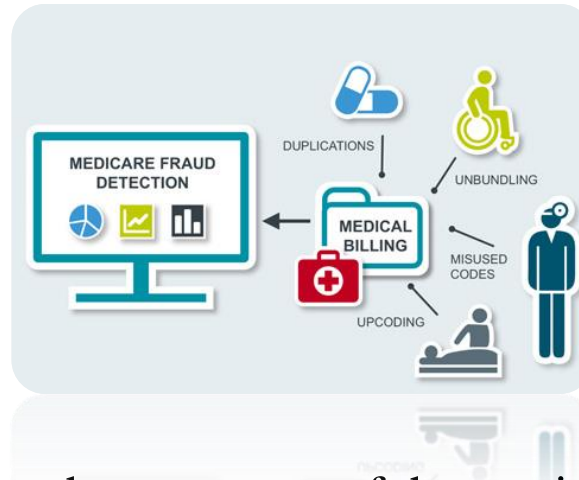
Examples of Potential FWA: Billing

Inappropriate Billing Practices

- Billing for services not furnished and/or supplies not provided; this includes billing Medicare for appointments that the patient failed to keep.
- Billing that appears to be a deliberate application for duplicate payment for the same services or supplies, billing both Medicare and the beneficiary for the same service or billing both Medicare and another insurer in an attempt to get paid twice.
- Altering claim forms, electronic claim records, medical documentation, etc., to obtain a higher payment amount.



Examples of Potential FWA: Billing Continued



- Unbundling (billing for each component of the service instead of billing or using all inclusive code)
- Billing based on “gang visits” such as a physician visiting a nursing home and billing for 20 nursing home visits without furnishing any specific service to individual patients.
- Misrepresentations of dates and descriptions of services furnished or the identity of the beneficiary or the individual who furnished the services.
- Billing Medicare Based on a higher fee schedule than is used for patients not on Medicare.

Examples of Potential FWA: Beneficiary



Identify Theft

- Using a member's I.D. card that does not belong to that person to obtain prescriptions, services, equipment, supplies, doctor visits, and/or hospital stays.

Doctor Shopping

- Visiting a number of doctors to obtain multiple prescriptions for painkillers or other drugs. Might point to an underlying scheme (stockpiling or black market resale).

Resale of Drugs or Black Market

- Falsely reporting loss or theft of drugs or feigns illness to obtain drugs for resale on the black market.

Improper Coordination of Benefits

- Beneficiary fails to disclose multiple coverage policies, or leverages various coverage policies to “game” the system.

Examples of Potential FWA: Prescriber



Illegal Payment Schemes

- Prescriber is offered, paid, solicits or receives unlawful payment to induce or reward the prescriber to write prescriptions for drugs or products

Script Mills

- Prescribers write prescriptions for drugs that are not medically necessary, often in mass quantities, and often for patients that are not theirs. These scripts are usually written, but not always, for controlled drugs for sale on the black market, and might include improper payments to the prescriber

Theft of Prescriber's Drug Enforcement Agency (DEA) Number or Prescription Pad

- Prescription pads and/or DEA numbers stolen from prescribers. This information could illegally be used to write prescriptions for controlled substances or other medications sold on the black market.

Partnership for FWA Prevention

Prevention and detection of fraud, waste, and abuse requires the involvement and collaboration between:

- Centers for Medicare & Medicaid Services
- Medicare beneficiaries
- Medicare contractors
- Physicians, suppliers, and other providers
- Quality Improvement Organizations (QIO's)
- State and Federal law enforcement agencies such as:
 - Office of Inspector General (OIG of the Department of Health and Human Services (HHS))
 - Federal Bureau of Investigation (FBI)
 - Department of Justice (DOJ)



Reporting Suspected FWA

Everyone has the right and responsibility to report suspected fraud, waste or abuse. You may report anonymously and retaliation is prohibited when you report a concern in good faith

To report suspected fraud, please contact:

compliance@prohealthpartners.com

