

FRAUD, WASTE, AND ABUSE FAQs

What are the Center for Medicare and Medicaid Services' (CMS) requirements for Medicare Advantage Organizations and Part D Plan Sponsors in regard to compliance plans?

Federal law requires Medicare Advantage Organizations (MAO) and Prescription Drug Plan (PDP) Sponsors to have a Compliance Plan. An MAO or PDP Sponsor must:

- Create a Compliance Plan that incorporates measures to detect, prevent, and correct fraud, waste and abuse
- Create a Compliance Plan that must consist of training, education and effective lines of communication
- Apply such training, education and communication requirements to all entities which provide benefits or services under MA or PDP programs
- Produce proof (e.g.; attestations and copies of training logs) from first-tier, downstream and related entities to show compliance with these requirements

What does CMS mean by first tier, downstream, and related entities?

- **First Tier Entity:** Any party that enters into a written arrangement, acceptable to CMS, with a Sponsor to provide administrative services or health care services for a Medicare eligible individual under the Medicare Advantage ("MA") or Part D programs. Examples include Pharmacy Benefits Manager (PBM), contracted hospitals, clinics and allied providers.
- **Downstream Entity:** Any party that enters into a written arrangement, acceptable to CMS, below the level of the arrangement between a Sponsor and a first tier entity. These written arrangements continue down to the level of ultimate provider of both health and administrative services. Examples include pharmacies, marketing firms, quality assurance companies, claims processing firms and billing agencies.
- **Related Entity:** Any entity that is related to the Sponsor by common ownership or control and 1. performs some of the Plan Sponsor's management functions under contract or delegation; 2. furnishes services to Medicare enrollees under an oral or written agreement; or 3. leases real property or sells materials to the Sponsor at a cost of more than \$2,500 during a contract period. An example of a related entity would be one where a Sponsor is the parent company of its own in-house PBM

If I am a first tier, downstream, or related entity that has met the fraud, waste, and abuse certification requirements through enrollment into the Medicare program, am I still required to take the MA-PDP FWA training?

- No, first tier, downstream, and related entities who have met the fraud, waste, and abuse certification requirements through enrollment into the Medicare program are deemed to have met the training and educational requirements for fraud, waste, and abuse.

What are the required elements of an effective compliance plan if I/my organization is a network provider or provides services (includes vendors and providers) for Coastal and its affiliated health plans?

An effective compliance program must include measures that prevent, detect, and correct non-compliance with CMS' program requirements as well as measures that prevent, detect, and

correct fraud, waste, and abuse. The compliance program must, at a minimum, include the following core requirements:

1. Written policies, procedures, and standards of conduct that—

- Articulate the organization’s commitment to comply with all applicable Federal and State standards;
- Describe compliance expectations as embodied in the standards of conduct;
- Implement the operation of the compliance program;
- Provide guidance to employees and others on dealing with potential compliance issues;
- Identify how to communicate compliance issues to appropriate compliance personnel;
- Describe how potential compliance issues are investigated and resolved by the organization; and
- Include a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, conducting self evaluations, audits and remedial actions, and reporting to appropriate officials.

2. Designation of a compliance officer and a compliance committee who report directly and are accountable to the organization’s chief executive or other senior management.

- The compliance officer, vested with the day-to-day operations of the compliance program, must be an employee of the MAO, parent organization or corporate affiliate. The compliance officer may not be an employee of the MA organization’s first tier, downstream or related entity.
- The compliance officer and the compliance committee must periodically report directly to the governing body of the MAO on the activities and status of the compliance program, including issues identified, investigated, and resolved by the compliance program.
- The governing body of the MAO must be knowledgeable about the content and operation of the compliance program and must exercise reasonable oversight with respect to the implementation and effectiveness of the compliance programs.

3. Establish and implement effective training and education between the compliance officer and organization employees, the MA organization’s chief executive or other senior administrator, managers and governing body members, and the MA organization’s first tier, downstream, and related entities.

- Such training and education must occur at a minimum annually, and must be made a part of the orientation for a new employee, new first tier, downstream and related entities, and new appointment to a chief executive, manager, or governing body member.

NOTE: First tier, downstream, and related entities who have met the fraud, waste, and abuse certification requirements through enrollment into the Medicare program are deemed to have met the training and educational requirements for fraud, waste, and abuse.

4. Establishment and implementation of effective lines of communication, ensuring confidentiality, between the compliance officer, members of the compliance committee, the MAO’s employees, managers and governing body, and the MA O’s first tier, downstream, and related entities. Such lines of communication must be accessible to all and allow compliance issues to be reported including a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified.

5. Well-publicized disciplinary standards through the implementation of procedures which encourage good faith participation in the compliance program by all affected individuals. These standards must include policies that—

- Articulate expectations for reporting compliance issues and assist in their resolution,
- Identify noncompliance or unethical behavior; and
- Provide for timely, consistent, and effective enforcement of the standards when noncompliance or unethical behavior is determined.

6. Establishment and implementation of an effective system for routine monitoring and identification of compliance risks. The system should include internal monitoring and audits and, as appropriate, external audits, to evaluate the MAO, including first tier entities', compliance with CMS requirements and the overall effectiveness of the compliance program.

7. Establishment and implementation of procedures and a system for promptly responding to compliance issues as they are raised, investigating potential compliance problems as identified in the course of self-evaluations and audits, correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensure ongoing compliance with CMS requirements.

- If the MAO discovers evidence of misconduct related to payment or delivery of items or services under the contract, it must conduct a timely, reasonable inquiry into that conduct.
- The MAO must conduct appropriate corrective actions (for example, repayment of overpayments, disciplinary actions against responsible employees) in response to the potential violation referenced in paragraph (b)(4)(vi)(G)(1) of this section.
- The MAO should have procedures to voluntarily self-report potential fraud or misconduct related to the MA program to CMS or its designee.

What are the definitions of fraud, waste and abuse (FWA)?

Fraud: an intentional act of deception, misrepresentation or concealment in order to gain something of value.

Examples include:

- billing for services that were never rendered
- billing for services at a higher rate than is actually justified
- deliberately misrepresenting services, resulting in unnecessary cost to the Medicare program, improper payments to providers or overpayments

Waste: over-utilization of services (not caused by criminally negligent actions) and the misuse of resources

Abuse: excessive or improper use of services or actions that are inconsistent with acceptable business or medical practice; incidents that, although not fraudulent, may directly or indirectly cause financial loss.

Examples include:

- charging in excess for services or supplies
- providing medically unnecessary services
- billing for items or services that should not be paid for by Medic

What should I/my organization do if I/it become(s) aware of or suspect FWA?

Everyone has the right and responsibility to report possible fraud, waste or abuse. Issues or concerns of FWA can be reported to:

- Your organization's compliance officer or compliance hotline;
- The compliance officer or compliance hotline of the applicable Plan Sponsor(s) with whom you participate or directly to their Special Investigations Unit (SIU);
- The MEDIC
- 1-800-MEDICARE

If I/my organization become aware of or suspect FWA, how can I/my organization report this to Coastal?

If you become aware of or suspect FWA, you can report it to Coastal's FWA Hot Line by calling 855-481-0202.