

Apria Healthcare

Medicare Parts C and D
Fraud, Waste, and Abuse
Compliance Training

Overview

- The Centers for Medicare and Medicaid Services (CMS) requires that all Medicare Advantage Part C organizations and Part D providers (collectively “MA/PDP organizations”) institute a compliance plan to combat fraud, waste, and abuse
- The plan must require a training program for the MA/PDP organization's employees, managers, and directors, and the MA/PDP organization's first tier, downstream, and related entities (including a downstream entity's subcontractors)
- The following training is designed to satisfy these CMS requirements

Objectives

- What are the overall objectives?
 - To familiarize you with key issues so that you may conduct your company's business operations while remaining in compliance with applicable laws, Apria Healthcare's policies, and CMS expectations that apply to Medicare Parts C and D
 - To remind you of the parameters of Apria Healthcare's Compliance Program and your obligations under it

Objectives (cont'd)

- How will this training meet these objectives?
 - Provide an overview of key laws and regulations related to Parts C and D fraud, waste, and abuse
 - Provide a description of the types of fraud, waste, and abuse that can occur
 - Provide an overview of Apria Healthcare's policies and procedures to address these issues
 - Provide a description of the process for reporting suspected problems

What Is Fraud, Waste, and Abuse?

- **Fraud**
 - The intentional act of deception, misrepresentation, or concealment to gain something of value
- **Waste**
 - Overutilization of services or the misuse of resources
- **Abuse**
 - Excessive or improper use of services that is inconsistent with acceptable business and medical practice

Examples of Fraud, Waste, and Abuse

- Illegal payment schemes
 - A Part D plan representative is offered, paid, solicits, or receives a benefit, such as money or a free trip, to encourage the establishment of a preferred provider relationship with a particular DME supplier or pharmacy
- Prescription drug switching
 - Paying cash or other benefits, such as free office equipment, to encourage a physician to prescribe certain medications rather than others

Examples of Fraud, Waste, and Abuse (cont'd)

- Inappropriate billing
 - Billing for services that are not provided or that are not supported by appropriate documentation
- Inappropriate manufacturer relationships
 - Participation in a manufacturer-sponsored contest in which a DME supplier employee may receive an award from the manufacturer for reaching certain goals related to the sale or use of the manufacturer's products

Selected Federal Laws Governing Fraud, Waste, and Abuse

The Anti-Kickback Statute

- Makes it a crime to give anything of value to a referral source in exchange for a referral or the purchase of certain items or services
 - Examples of prohibited items include:
 - Cash
 - Trips
 - Payment of seminar fees
 - An item of value includes expense relief
 - Expense relief is the payment of expenses, such as equipment or services, that are necessary for the operations of the referral source
 - E.g., providing fax machines or computer equipment

The Anti-Kickback Statute (cont'd)

- Other examples of prohibited activity include:
 - Inappropriate marketing and/or promotion of products reimbursable by Medicare Part C or D
 - Inducements to encourage use of a particular DME supplier or particular products
 - Examples include inappropriate discounts, inappropriate product support services, inappropriate educational grants, and inappropriate research funding.
 - Participation in manufacturer sales product training at exotic locations or in settings not conducive to education and training.

The Anti-Kickback Statute (cont'd)

- Penalties
 - Criminal conviction
 - Up to \$25,000 fine per violation
 - Potential exclusion from government programs

The Anti-Kickback Statute (cont'd)

- What is a referral source?
 - Any person who has the ability to influence a patient to select a particular provider
 - Any person who has the ability to influence the order or purchase of items or services that federal healthcare programs cover
 - Examples: Physicians, MA/PDP organization representatives, discharge planners, and even patients
- A proposed payment is enough to violate the law, including a mere offer

The Civil False Claims Act

- Generally prohibits any person from knowingly presenting or causing a fraudulent claim for payment
- Claims for payment include DME supplier claims to an MA/PDP organization and the claims that MA/PDP organizations submit to Parts C and D
 - So, if a DME supplier causes an MA/PDP organization to submit a false claim, the DME supplier also may be liable

The Civil False Claims Act (cont'd)

- Penalties
 - Up to 3 times the actual damages
 - Up to \$11,000 per claim
 - These values can add up quickly

The Civil False Claims Act (cont'd)

- Examples of activities which the government may allege ultimately caused the submission of a false claim
 - Products ordered due to inappropriate marketing efforts
 - Services that a physician ordered due to an illegal kickback
 - Drugs billed for that were not provided or were not furnished in accordance with the physician order

Stark Law

- Generally prohibits physicians from referring Medicare/Medicaid patients to an entity with which the physician or the physician's immediate family member has a financial relationship
- Thus, if an entity has a financial relationship with a physician (or his/her immediate family members), then the entity may be prohibited from accepting referrals of Medicare/Medicaid patients from that physician and may not bill MA/PDP organizations for services provided

Stark Law (cont'd)

- “Financial relationship” is defined very broadly
 - Any compensation arrangement or ownership interest can constitute a financial relationship
 - The dollar amount does NOT matter
 - Even compensation of \$5 can form a financial relationship
 - Examples include:
 - Real estate lease with a physician
 - Giving gifts or gift cards to a physician
- Penalties
 - Denial of payment
 - Refund of amounts in violation of the law
 - \$15,000 fine for each bill/claim submitted as a result of the improper referral

HIPAA

- The Health Insurance Portability and Accountability Act of 1996
 - Provides for privacy protections of individually identifiable health information (“PHI”)
- Regulates how a Covered Entity and its Business Associate may use and disclose PHI of existing or potential patients

HIPAA (cont'd)

- Violations may result in criminal and civil fines and penalties
- Both companies and individuals may be punished

HIPAA (cont'd)

- Maintaining patient confidentiality is very important to Apria Healthcare
- Apria Healthcare has comprehensive HIPAA policies and requires all employees to complete separate training courses related to HIPAA

Apria Healthcare's Compliance Program

- Compliance with all of these laws and regulations is important to Apria Healthcare
- Apria Healthcare has established a compliance program to assist in these efforts

Apria Healthcare's Compliance Program Elements

- Apria Healthcare's Compliance Program includes:
 - Written policies and procedures
 - Designation of a compliance officer and Compliance Committee
 - Education and training
 - Communication lines
 - Disciplinary guidelines
 - Auditing and monitoring
 - Investigation and corrective action processes

Reporting Problems

Please report any concerns about activities performed in connection with Apria Healthcare patients that may raise potential issues of fraud, waste, or abuse

Reporting Problems (cont'd)

Apria Healthcare will communicate with appropriate MA/PDP organizations regarding any fraud and abuse concerns that arose in administering or delivering benefits under Medicare Part C or D

Reporting Problems (cont'd)

- There are a number of ways to report a concern:
 - Speak to your supervisor, manager, director, etc.
 - Contact your Apria Healthcare/Coram branch
 - Email Apria Healthcare's Compliance Department at compliancedept@coramhc.com
- Apria Healthcare will not tolerate retaliation against anyone who has made a report in good faith

Discipline Guidelines

Apria Healthcare's Discipline Guidelines provide for the imposition of discipline in instances in which employees fail to abide by Apria Healthcare's fraud and abuse, HIPAA, and other company policies

Thank you!