



# 2021 Annual General Compliance & Fraud, Waste, and Abuse Training



Clever Care™  
HEALTH PLAN



# Learning Objectives

At the end of the training you will be able to:

- ✓ Recognize how a compliance program operates
- ✓ Recognize general healthcare FWA
- ✓ Familiarize yourself with applicable laws related to FWA
- ✓ Understand how to report suspected non-compliance & FWA
- ✓ Understand protections available to you when reporting non-compliance & FWA



# Effective Compliance Program

# 7 Core Compliance Program Requirements



# 7 Core Compliance Program Requirements



## 1. Written Policies, Procedures, and Standards of Conduct



- Compliance policies and procedures promote commitment to comply with all applicable Federal and State standards
- Code of Conduct
- FDRs are required to have P&Ps to address noncompliance and FWA

# 7 Core Compliance Program Requirements



## 2. Compliance Officer, Compliance Committee, and High-Level Oversight



- Compliance Officer must be full-time
- Compliance Committee responsible for activities of the compliance program
- High-level Oversight from the Board of Directors

# 7 Core Compliance Program Requirements



## 3. Effective Training and Education



- Mandatory Compliance & FWA Training
- Other trainings and educational events to promote compliance

# 7 Core Compliance Program Requirements



## 4. Effective Lines of Communication



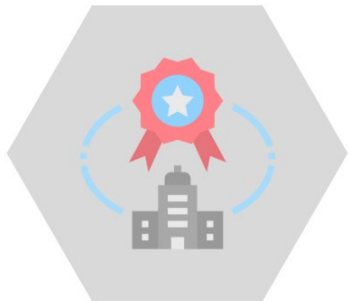
- Accessible to all, ensures confidentiality and provides methods for anonymous reporting
- Various methods of reporting available



# 7 Core Compliance Program Requirements



## 5. Well-Publicized Disciplinary Standards



- Disciplinary Standards Policy
- Disciplinary actions as a result of identified violations

# 7 Core Compliance Program Requirements



## 6. Effective System for Routine Monitoring, Auditing, and Identifying Compliance Risks



- Routine data analysis
- Risk Assessments
- Routine audits and monitoring of internal departments and FDRs

# 7 Core Compliance Program Requirements



## 7. Procedures and System for Prompt Response to Compliance Issues



- Prompt Response to Detected Offenses Policy
- Any misconduct detected may result in a corrective action plan (CAP) or forwarded to regulatory agency



# Ethical Guidelines

## It's about

# doing the right thing!

Comply with applicable laws, regulations, and CMS requirements





# What is non-compliance?

Conduct that does not conform to the law, Federal health care program requirements, or an organization's ethical and business policies.

Examples of reportable noncompliance issues:

- Routinely leaves protected health information (PHI) unattended
- Accessing PHI without a business purpose
- Conducting unethical or questionable behavior
- Conflicts of interest
- Agent/broker misrepresentations

# Knowledge Check



There are a total of seven (7) elements that makes an effective compliance program.

True

False



# Defining Fraud, Waste & Abuse





**Fraud** is 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.



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



**Abuse** includes actions that may, directly or indirectly, result in unnecessary costs to the Medicare Program. Abuse involves paying for items or services when there is no legal entitlement to that payment, and the provider has not knowingly or intentionally misrepresented facts to obtain payment.





# Examples of FWA

## Fraud

- Knowingly billing for services not furnished or supplies not provided, including billing Medicare for appointments the patient failed to keep
- Billing for nonexistent prescriptions
- Knowingly altering claim forms, medical records, or receipts to receive a higher payment

## Waste

- Conducting excessive office visits or writing excessive prescriptions
- Prescribing more medications than necessary for treating a specific condition
- Ordering excessive laboratory tests

## Abuse

- Unknowingly billing for unnecessary medical services
- Unknowingly billing for brand name drugs when generics are dispensed
- Unknowingly excessively charging for services or supplies
- Unknowingly misusing codes on a claim, such as upcoding or unbundling codes



# What is the main difference between fraud and waste/abuse?

Fraud requires **intent** to obtain payment and the **knowledge** the actions are wrong.



# FWA Laws





# Civil False Claims Act (FCA)

The civil provisions of the FCA make a person liable to pay damages to the Government if he or she knowingly:



- 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

**Damages and Penalties:** 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.



# Whistleblower Provision

To encourage individuals to come forward and report misconduct involving false claims, the FCA includes a “qui tam” or whistleblower provision.



This provision essentially allows any person with actual knowledge of false claims activity to file a lawsuit on behalf of the U.S. government.

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

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



# Anti-Kickback Statute

The **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 (including the Medicare Program).



## **Damages and Penalties:**

- A fine up to \$25,000
- Imprisonment up to 5 years



# Stark Statute (Physician Self-Referral Law)

The Stark Statute prohibits a physician from making referrals for certain designated health services to an entity when the physician (or a member of his or her family) has:



- An ownership/investment interest or
- A compensation arrangement

**Damages and Penalties:** Medicare claims tainted by an arrangement that does not comply with the Stark Statute are not payable. A penalty of around \$24,250 can be imposed for each service provided. There may also be around a \$161,000 fine for entering into an unlawful arrangement or scheme.



# Civil Monetary Penalties (CMP) Law

The Office of Inspector General (OIG) may impose civil penalties 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
- Paying to influence referrals



**Damages and Penalties:** The penalties can be around \$15,000 to \$70,000 depending on the specific violation. Violators are also subject to three times the amount:

- Claimed for each service or item or
- Of remuneration offered, paid, solicited, or received





# Exclusions

The OIG has authority to exclude individuals and entities from federally funded health care programs and maintains the List of Excluded Individuals and Entities (LEIE).



The U.S. General Services Administration (GSA) administers the Excluded Parties List System (EPLS), which contains debarment actions taken by various Federal agencies, including the OIG.

**NOTE:** You may access the EPLS on the System for Award Management (SAM) website.

# Health Insurance Portability and Accountability Act (HIPAA)



- Created greater access to health care insurance
- Strengthened the protection of privacy of health care data,
- Promoted standardization and efficiency in the health care industry.



HIPAA safeguards deter unauthorized access to protected health care information (PHI). As an individual with access to PHI, you must comply with HIPAA.

**Damages and Penalties:** Violations may result in Civil Monetary Penalties. In some cases, criminal penalties may apply.

# Knowledge Check



Fraud doesn't require intent to obtain payment and the knowledge the actions are wrong.

True

False



# Indicators of FWA



# Key Indicators: Member FWA



- Does prescription look altered or forged?
- Have we filled numerous prescriptions from different doctors?
- Is individual receiving service the actual member?



# Key Indicators: Provider FWA

- Does provider routinely bill for highest level of office visits?
- Is the provider performing medically unnecessary services?
- Is the provider's diagnosis supported in the medical record?





# Key Indicators: Pharmacy FWA

- Are the dispensed drugs expired, fake, diluted, or illegal?
- Are generic drugs provided when prescription requires dispensing brand drugs?
- Is PBM billed for unfilled or never picked up prescriptions?





# Key Indicators: *Manufacturer* FWA



- Does the manufacturer promote off-label drug usage?
- Does the manufacturer knowingly provide samples to entities that bill Federal health care programs for them?





# Key Indicators: Health Plan FWA



- Does the health plan encourage or support inappropriate risk adjustment submissions?
- Does the health plan lead members to believe the cost of benefit is one price?
- Does the health plan use unlicensed agents?



# Your role in the fight against non-compliance & FWA



# Your Responsibilities...

You play a vital part in preventing, detecting, and reporting potential Medicare noncompliance and/or FWA.

**FIRST**, you must comply with all applicable statutory, regulatory, and other Medicare Part C or Part D requirements, including adopting and using an effective compliance program.

**SECOND**, you have a duty to the Medicare Program to report any compliance concerns and suspected or actual violations of which you may be aware.

**THIRD**, you have a duty to follow Clever Care's Code of Conduct that articulates your and your organization's commitment to standards of conduct and ethical rules of behavior.



# How to Report Suspected Non-Compliance



- By toll-free Compliance Hotline at (833)217-8644
- Mailbox drop (Reception area at 8990 Westminster Blvd., Suite 300, Westminister, CA 92683)
- Face-to-face discussions with managers, directors, FDRs or staff.

NOTE: Each reporting mechanism listed above are available 24 hours a day, 7 days a week.

The False Claims/Whistleblower Policy enforces NO retaliation against you for reporting suspected non-compliance in good faith.



# How to Report Suspected FWA

- By email [fraudwastabuse@ccmapd.com](mailto:fraudwastabuse@ccmapd.com)
- By toll-free Fraud Hotline at (833)217-8645
- On-line Reporting Form
- Mailbox drop (Reception area at 8990 Westminster Blvd., Suite 300, Westminster, CA 92683)
- Face-to-face discussions with managers, directors, FDRs or staff.

NOTE: Each reporting mechanism listed above are available 24 hours a day, 7 days a week.

Clever Care **will not retaliate against you** if you inform us, the federal government, state government, or any other regulatory agency with oversight authority of any suspected FWA.



# FWA Policies & Procedures

SIU P&Ps are  
available on [SharePoint](#)

- SIU 001.0 – Effective Lines of Communication and Reporting Mechanisms
- SIU 002.0 Well Publicized Disciplinary Standards
- SIU 003.0 Effective System for Monitoring, Auditing and Identification of FWA
- SIU 004.0 Procedures and Systems for Prompt Response to FWA Issues
- SIU 005.0 Fraud, Waste and Abuse Investigation
- SIU 006.0 Auditing and Monitoring FDRs
- SIU 007.0 Cooperation with CMS Requests to Monitor FDRs
- SIU 008.0 Responding to CMS-Issued Fraud Alerts
- SIU 009.0 Negotiation, Settlement and Recovery of Improper Payment
- SIU 010.0 Identifying Excluded Individuals and Entities
- SIU 011.0 Request for Reconsideration of Disputed Audit Results

**Clever Care** requires all FDRs to have appropriate policies and procedures to address FWA



# Compliance Policies & Procedures

Compliance P&Ps are available on [SharePoint](#)

- CPL 001.0 Code of Conduct Policy
- CPL 002.0 Fraud, Waste and Abuse Policy
- CPL 003.0 Board of Directors Policy
- CPL 004.0 Compliance Officer and Compliance Committee
- CPL 005.0 Disciplinary Standards Policy
- CPL 006.0 Effective Lines of Communication Policy
- CPL 007.0 Effective Training and Education Standards Policy
- CPL 008.0 Auditing and Monitoring Policy
- CPL 009.0 Delegation Oversight FDR Policy
- CPL 010.0 Identifying Excluded Individuals and Entities
- CPL 011.0 Written Compliance Policies and Procedures
- CPL 012.0 CMS Reporting, Data Validation and Oversight
- CPL 013.0 Prompt Response to Detected Offenses
- CPL 014.0 Self Reporting Significant Non Compliance Policy
- CPL 015.0 Risk Assessment Annual Work Plan
- CPL 016.0 Record Retention Policy
- CPL 017.0 Reporting Incidents of Intimidation & Retaliation Policy



# Additional Resources

- CMS: <http://www.cms.hhs.gov/>
- HHS/OIG: <http://oig.hhs.gov>
- CMS Prescription Drug Benefit Manual:  
[https://www.cms.gov/PrescriptionDrugCovContra/Downloads/PDBManual\\_Chapter9\\_FWA.pdf](https://www.cms.gov/PrescriptionDrugCovContra/Downloads/PDBManual_Chapter9_FWA.pdf)
- NHCAA: <http://nhcaa.org>
- DEA Drug Diversion: <http://www.deadiversion.usdoj.gov/>



# Additional Resources

Anti-Kickback Statute [42 USC Section 1320a-7b\(b\)](#)

Civil False Claims Act [31 USC Sections 3729–3733](#)

Civil Monetary Penalties Law [42 USC Section 1320a-7a](#)

Criminal False Claims Act [18 USC Section 287](#)

Exclusion [42 USC Section 1320a-7](#)

Criminal Health Care Fraud Statute [18 USC Section 1347](#)

Physician Self-Referral Law [42 USC Section 1395nn](#)

HYPERLINK URL	LINKED TEXT/IMAGE
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXI-partA-sec1320a-7b.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXI-partA-sec1320a-7b.pdf</a>	42 USC Section 1320a-7b(b)
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title31/pdf/USCODE-2017-title31-subtitleIII-chap37-subchapIII.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title31/pdf/USCODE-2017-title31-subtitleIII-chap37-subchapIII.pdf</a>	31 USC Sections 3729–3733
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXI-partA-sec1320a-7a.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXI-partA-sec1320a-7a.pdf</a>	42 USC Section 1320a-7a
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title18/pdf/USCODE-2017-title18-partI-chap15-sec287.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title18/pdf/USCODE-2017-title18-partI-chap15-sec287.pdf</a>	18 USC Section 287
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXI-partA-sec1320a-7.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXI-partA-sec1320a-7.pdf</a>	42 USC Section 1320a-7
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title18/pdf/USCODE-2017-title18-partI-chap63-sec1347.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title18/pdf/USCODE-2017-title18-partI-chap63-sec1347.pdf</a>	18 USC Section 1347
<a href="https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXVIII-partE-sec1395nn.pdf">https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap7-subchapXVIII-partE-sec1395nn.pdf</a>	42 USC Section 1395nn

# Additional Resources

[Compliance Education Materials: Compliance 101](#)

[Health Care Fraud Prevention and Enforcement Action Team Provider Compliance Training](#)

[Office of Inspector General's \(OIG's\) Provider Self-Disclosure Protocol](#)

[Part C and Part D Compliance and Audits - Overview](#)

[Physician Self-Referral](#)

[Avoiding Medicare Fraud & Abuse: A Roadmap for Physicians](#)

[Safe Harbor Regulations](#)

<b>HYPERLINK URL</b>	<b>LINKED TEXT/IMAGE</b>
<a href="https://oig.hhs.gov/compliance/101"><u>https://oig.hhs.gov/compliance/101</u></a>	Compliance Education Materials: Compliance 101
<a href="https://oig.hhs.gov/compliance/provider-compliance-training"><u>https://oig.hhs.gov/compliance/provider-compliance-training</u></a>	Health Care Fraud Prevention and Enforcement Action Team Provider Compliance Training
<a href="https://oig.hhs.gov/compliance/self-disclosure-info/protocol.asp"><u>https://oig.hhs.gov/compliance/self-disclosure-info/protocol.asp</u></a>	Office of Inspector General's (OIG's) Provider Self-Disclosure Protocol
<a href="https://www.cms.gov/medicare/compliance-and-audits/part-c-and-part-d-compliance-and-audits"><u>https://www.cms.gov/medicare/compliance-and-audits/part-c-and-part-d-compliance-and-audits</u></a>	Part C and Part D Compliance and Audits - Overview
<a href="https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral"><u>https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral</u></a>	Physician Self-Referral
<a href="https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/MLN-Publications-Items/CMS1254524.html"><u>https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/MLN-Publications-Items/CMS1254524.html</u></a>	Avoiding Medicare Fraud & Abuse: A Roadmap for Physicians
<a href="https://oig.hhs.gov/compliance/safe-harbor-regulations"><u>https://oig.hhs.gov/compliance/safe-harbor-regulations</u></a>	Safe Harbor Regulations

# Questions?

Contact SIU Manager, [Andrei Barlahan](#):

- Mobile: (714)650-8691
- E-mail: [Andrei.Barlahan@ccmapd.com](mailto:Andrei.Barlahan@ccmapd.com)



# QUIZ Time!

**This concludes our training!** Exit out of here and go back to Paycom Learning to take quiz. You must get at least at **80%** to pass. Good luck!



## 2021 General Compliance & Fraud, Waste and Abuse Quiz

Instructions: Select the correct answer, save the file and submit back to whoever issued this quiz for grading.

**NOTE: You must obtain an 80% to pass the quiz.**

1. T or F. The Whistleblower Provisions under the FCA protect you from retaliation from reporting potential FWA.
2. T or F. There are only two (2) core compliance program requirements.
3. Which of the following is NOT a law related to FWA?
  - a. False Claims Act
  - b. Roe V. Wade Act
  - c. Anti-Kickback Statute
  - d. Stark (Physician Self-Referral Law)
4. What are ways you can report potential noncompliance and/or FWA?
  - a. Hotline
  - b. Face-to-face
  - c. Online Reporting Form
  - d. E-mail
  - e. All of the above
5. What is the difference between fraud and waste/abuse?
  - a. Waste requires intent and knowledge
  - b. Abuse requires intent and knowledge
  - c. Fraud requires intent and knowledge
  - d. They all mean the same thing
6. What does HIPAA stand for?
  - a. Health Integrity Program and Accounting Act
  - b. Health Insurance Portability and Accountability Act
  - c. Health Insurance Patent and Anonymous Act
  - d. Health Integration Potassium and Argon Act
7. T or F. Medicare Parts C and D plan Sponsors are not required to have a compliance program.
8. What is the policy of non-retaliation?
  - a. Allows the Sponsor to discipline employees who violate the Code of Conduct
  - b. Protects employees who, in good faith, report suspected non-compliance
  - c. Prohibits management and supervisor from harassing employees for misconduct
  - d. Prevents fights between employees
9. What are some penalties for violating a FWA law? (Highlight all that apply)
  - a. Imprisonment
  - b. Civil Monetary Penalties
  - c. Exclusion from participation in all Federal health care programs
  - d. Criminal Penalties
10. You play a vital part in preventing, detecting, and reporting potential Medicare noncompliance or FWA. What are your responsibilities?
  - a. Comply with all State and federal laws and regulations.
  - b. Duty to report any noncompliance issues

- c. Duty to follow Clever Care's Code of Conduct
- d. All of the above