

FDR compliance newsletter

December 2020 – Issue 27

Fraud, Waste and Abuse (FWA) — Highlights and examples for FDRs to consider

As an FDR participating in the Medicare program, it's important to understand how to understand what is fraud, waste, and abuse and the differences among them. One of the primary differences is intent and knowledge. Fraud requires intent to obtain payment and the knowledge the actions are wrong. Waste and abuse may involve obtaining an improper payment or creating an unnecessary cost to the Medicare program, but do not require the same intent and knowledge.

Fraud

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. The Health Care Fraud Statute makes it a criminal offense to knowingly and willfully execute a scheme to defraud a health care benefit program. Health care fraud is punishable by imprisonment for up to 10 years. It is also subject to criminal fines of up to \$250,000. In other words, fraud is intentionally submitting false information to the Government or a Government contractor to get money or a benefit.

Examples of actions that may constitute Medicare fraud include:

- Knowingly billing for services not furnished or supplies not provided, including billing

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Quick links

- **[Archived Newsletters](#)**
- **[Aetna's FDR Guide \(updated 06/2019\)](#)**
- **[Medicare managed care manual](#)**
- **[Medicare prescription drug benefit manual](#)**
- **[CVS Health Code of Conduct \(updated Nov 2019\)](#)**

Exclusion list links:

- **[OIG's list of excluded individuals and entities \(LEIE\)](#)**
- **[GSA's System for Award Management \(SAM\)](#)**
 - If the link does not work due to internet browser issues, please access the site directly at **<https://www.SAM.gov/SAM/>**

Aetna® maintains a comprehensive Medicare compliance program. It includes communication with Aetna Medicare FDRs. Patrick Jeswald is Aetna's dedicated Medicare Compliance Officer. You can send questions or concerns to Patrick at **MedicareFDR@Aetna.com**.

Medicare for appointments the patient failed to keep

- Billing for nonexistent prescriptions
- Knowingly altering claim forms, medical records, or receipts to receive higher payment

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Fraud, Waste and Abuse (FWA) — Highlights and examples for FDRs to Consider, continued

Waste

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 criminal actions but rather by the misuse of resources.

Examples of actions that may constitute Medicare waste include:

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

Abuse

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 or intentionally misrepresented facts to obtain payment.

Examples of actions that may constitute Medicare abuse include:

- 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 up-coding or unbundling codes

If you have a compliance, fraud, waste or abuse concern you would like to report, please reach out to our Ethics Line at

1-877 CVS-2040. (1-877-227-2040) The Ethics Line is available 24 hours a day, seven days a week, 365 days a year. All calls will be treated confidentially. You do not have to identify yourself. **CVS Health prohibits retaliation against anyone for raising a legal or ethical concern in good faith or for cooperating with an investigation.**

For more information related to fraud, waste, and abuse, review the combined Compliance Program Guidelines, Chapters 9 of the Prescription Drug Benefit Manual and Chapter 21 of the Medicare Managed Care Manual on the Centers for Medicare & Medicaid Services (CMS) website **CMS.gov**.

Document retention requirements

All FDRs are required to retain **all Medicare documentation** for at least 10 years. This includes any documentation related to the services your organization performs for CVS Health, including (but not limited to) documentation related to:

- OIG/GSA Exclusion Screenings
- Policies and Standards of Conduct, including records of updates and distribution
- Reports of and responses to suspected non-compliance and /or fraud, waste, or abuse
- Human resources records, including disciplinary
- Auditing and monitoring
- Corrective Actions taken

Be sure that your organization has a policy in place that outlines your organization's document retention policy and process. Also make sure that your organization regularly self-reviews to ensure that your policy is understood by employees, and that all Medicare documentation are retained for at least 10 years.



Providing employee samples

Are you prepared to supply documentation in the event of an audit or monitoring request? We may need supporting documents for your:

- Employees' training completion dates
- Code of conduct acknowledgment
- Results of your OIG and GSA exclusion screenings

You need to provide these types of compliance evidence in response to requests by CMS or in the event of a CPE monitor or audit event with us.

Some of our FDRs are concerned about supplying these types of documents. They

don't want to share employee-specific information. And we understand. We will never require personal information in these records. It's simple to protect your employees and comply. We take securing personal information very seriously.

Before you send any employee data to us, make sure you exclude all personal information such as home addresses, date of birth, criminal background checks, etc.

When you get an engagement notice from us, communicate any concerns right away so we can assist in answering further questions.

This newsletter is provided solely for your information and is not intended as legal advice. If you have any questions concerning the application or interpretation of any law mentioned in this newsletter, please contact your attorney.

"Aetna" refers to a subsidiary company of CVS Health, including but not limited to Aetna Health companies, Aetna Better Health companies, Aetna Life Insurance Company, Coventry Health and Life Insurance Company, Coventry Health Care companies, First Health Life & Health Insurance Company, SilverScript Insurance Company, and those joint venture entities in which a CVS Health subsidiary company has ownership interests who offer or administer, under contract with CMS, Medicare Advantage, Medicare-Medicaid Plans (MMPs), Dual Special Needs Plans (DSNPS), and Medicare prescription drug plans (PDP) ("Aetna Medicare business")

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