



Simplifying Healthcare Administration

GENERAL COMPLIANCE

July 2023

OBJECTIVES



After this course you should correctly:

1. Recognize the 7 elements of an effective Compliance Program
2. Understand Ethics – Doing the Right Thing
3. Recognize how compliance program violations should be reported

WHY DO I NEED TRAINING?



Compliance is Everyone's Responsibility

***Failure to follow Medicare, CMS guidance, Health Plan and regulatory agency requirements can lead to serious consequences, including:**

- Contract termination
- Criminal penalties for both the organization and the offending individual
- Exclusions from participating in all Federal health care programs
- Civil monetary penalties for both the organization and the offending individual

WHAT IS AN EFFECTIVE COMPLIANCE PROGRAM?



An effective compliance program fosters a culture of compliance within an organization, and:

- Prevents, detects and corrects non-compliance
- Is tailored and implemented to an organization's unique operations and circumstances
- Has adequate resources
- Promotes the Code of Conduct
- Establishes clear lines of communication

COMPLIANCE PROGRAM REQUIREMENTS



Requirements of an Effective Compliance Program:

1. Written Policies, Procedures and Standards of Conduct
2. Compliance Officer, Compliance Committee and High-Level Oversight
3. Effective Training and Education
4. Effective Lines of Communication
5. Well-Publicized Disciplinary Standards
6. Effective System for Routine Monitoring, Auditing and Identifying Compliance Risks
7. Procedures and System for Prompt Response to Compliance Issues

COMPLIANCE PROGRAM REQUIREMENTS

1. CONDUCT



1. Written Policies, Procedures and Standards of Conduct

- a) Policies articulate commitment to comply with all applicable Federal and State standards and describe compliance expectations according to the Code of Conduct.
- b) **<List Company Name> policies are located <list location>**
- c) **<List how policies and the Standards of Conduct are distributed to staff>**
- d) **<Include policy of non-intimidation/non-retaliation for good faith participation in the compliance program>**

COMPLIANCE PROGRAM REQUIREMENTS

2. OVERSIGHT



2. Designated Compliance Officer, Compliance Committee

<List Compliance Director/ Officer>

<List if Senior management team is involved in Compliance Committee>

<company name> designated a Compliance Officer and a compliance committee accountable and responsible for the activities and status of the compliance program, including issues identified, investigated and resolved by the compliance program. The senior management and governing body are engaged and exercise reasonable oversight of the compliance program.

COMPLIANCE PROGRAM REQUIREMENTS

3. TRAINING AND EDUCATION



3. Effective Compliance Education and Training

This covers the elements of the compliance plan as well as preventing, detecting and reporting FWA.

Training and education is covered in many ways. The training and education are to be tailored for the different employees and their roles and responsibilities. This is attained through Annual Compliance Training, staff meetings, email notifications and departmental educational trainings.

Per CMS, Refer to Chapter 21, GC training 50.3.1 for a review of laws that govern employee conduct in the Medicare program (<https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/mc86c21.pdf>)

COMPLIANCE PROGRAM REQUIREMENTS

4. COMMUNICATION



4. **Effective Lines of Communication**

- a. Chain of Command
- b. Management Team
- c. Compliance Department
- d. Hot Line – Anonymous Reporting

Make effective lines of communication accessible to all, ensure confidentiality, and provide methods for anonymous and good-faith compliance issues reporting at Sponsor and First-tier, Downstream, or Related entity (FDR) levels, more commonly known as subcontractors.

COMPLIANCE PROGRAM REQUIREMENTS

5. DISCIPLINE



5. Well-Publicized Disciplinary Standards

< Health Plan name/Delegate name> must enforce standards through well-publicized disciplinary guidelines. These should be provided during new employee orientation, Annual Compliance training, staff meetings and be present in policy to articulate expectation for reporting compliance issues and assist in their resolution when appropriate. To outline actions such as:

- Mandatory training or re-training
- Disciplinary action that is consistent and equitable
- Termination

COMPLIANCE PROGRAM REQUIREMENTS

6. MONITORING



6. Effective System for Routine Monitoring and Identification of Compliance Risk

The system should include routine internal monitoring and audits of operations to evaluate compliance with requirements. As appropriate, external audits, to evaluate the sponsor's, including FDRs', compliance with CMS requirements and the overall effectiveness of the compliance program.

- Audit compliance with regulations, contractual agreements and all State and Federal laws
- Monitor activities are performed as expected and ensure corrective actions are undertaken and effective

COMPLIANCE PROGRAM REQUIREMENTS

7. REPORTING



7. Established System to Promptly Respond to Compliance Issues

Establish and implement procedures and a system for promptly responding to compliance issues as they are raised, investigating potential compliance problems as identified during self-evaluations and audits, correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensuring ongoing compliance with CMS, state regulatory agencies and Health Plan requirements.

ETHICS: DO THE RIGHT THING



It is really that simple ... Do the right thing by:

- **Conducting** yourself in an ethical and legal manner
- **Acting** fairly and honestly
- **Adhering** to high ethical standards in all you do
- **Acting** with integrity, transparency and accountability
- **Complying** with all laws, regulations and regulatory agencies
- **Reporting** suspected/actual violations

WHAT IS EXPECTED OF ME?



- Follow company Code of Conduct
- Read and understand company policies
- Know how to report violations or suspected non-compliance

<Document here> how to report
through the chain of command and
anonymously

WHAT IS NON-COMPLIANCE?



Non-compliance is any conduct that does not conform with State and Federal law and/or program requirements, with contract requirements, or with ethical and business policies. Areas of risk include (but are not limited to):

- Agent/Broker misrepresentation
- Appeals and grievance review (for example, coverage and organization determinations)
- Member notices
- Conflicts of interest
- Claims processing

- Credentialing and provider networks
- Documentation and Timeliness requirements
- **Health Insurance Portability and Accountability Act (HIPAA)**
- Marketing and enrollment
- Pharmacy, formulary, and benefit administration
- Quality of care

EXAMPLES OF NON-COMPLIANCE



Example

My co-worker changed a date on a member's authorization request to avoid getting in trouble. She is my friend and she said she will not do it again, so I won't say anything.

My friend's neighbor is ill and came in to see the doctor I work for. My friend called me on behalf of the neighbor's spouse wanting information on the visit. My friend says the neighbor's spouse only wants to confirm that neighbor wasn't lying about the visit.

Explanation

Covering up **unethical behavior** is wrong. While you don't want your friend to be in trouble, you are harming the member and breaking the company code of conduct.

Releasing patient information without the proper reason/authorization is prohibited. Even though you may desire to help your friend and the neighbor's spouse, providing any information on the visit is non-compliance unless the neighbor authorized their spouse right of access.

EXAMPLES OF NON-COMPLIANCE (CONT.)



Example

You receive an alert about claims from XYZ Lab. For the last six months, the lab consistently billed for code 80055 (CPT Code for a prenatal panel with CBC). In your review, you find that the code is used for both male and female patients and that reimbursement for code 80055 is higher than the standard codes for a CBC. You also find that orders are from Dr. John Doe, your favorite doctor.

A parent brings their child to an appointment at your office. As you check-in the child, the child's demographic states that the child's DOB would make the child 8 years old, but the child in your office appears to be significantly younger. This is the last patient, you don't want any trouble, and you just want to go home.

Explanation

This is considered a form of upcoding, which is **fraud**. Irrespective that Dr. Doe is your favorite doctor, your findings should be reported immediately so that the matter may be investigated. Failure to report is considered non-compliance and, if fraud is proven, there is a risk of being considered complicit with the fraud.

The parent is committing **fraud** and by covering up for a patient – whether intentionally or otherwise – you are in violation of your provider's office patient verification policy, and are at risk of being considered complicit in the fraud as well as excluded from participation in most healthcare programs.

NON-COMPLIANCE AFFECTS ALL



Without programs to prevent, detect and correct non-compliance, we all risk:

Potential and possibly catastrophic harm to members through:

- Delayed services
- Denial of benefits
- Difficulty in using provider of choice
- Other hurdles of care

Failure to follow the requirements can lead to serious consequences, such as:

- Financial sanctions
- Contract termination
- Criminal penalties
- Exclusions from participating in most health care programs

HOW TO REPORT POTENTIAL NON-COMPLIANCE



Employees of **<company>**
Speak to your manager
Call Compliance Department
Access **<www.xyz>** or call Compliance
Hotline at **xxx-xxx-xxxx** to anonymously
report

Members and Providers can:
Access **<www.xyz>** or call
Compliance Hotline at **xxx-xxx-xxxx**
Call 1-800-MEDICARE

Do Not Hesitate to Report Non-Compliance

***When you report suspected non-compliance in good faith, **<company>**
cannot retaliate against you – See **<policy xyz>** non-retaliation***

REPORTING NON-COMPLIANCE



Who is a "**Whistleblower**"? A Whistleblower is any individual who exposes information or activity that *may* be deemed illegal, dishonest, or violates professional or clinical standards.

When reporting in "*good faith*," an employer cannot retaliate against you for exercising your rights under the Department of Labor's "Whistleblower Protection" laws.

Example of Retaliation

"After I reported irregularities in my department, my manager began excluding me from meetings and moved me to another department."

Explanation

Retaliation or intimidation is not tolerated. The manager's behavior is unacceptable and should be reported to leadership or to Compliance.

AFTER NON-COMPLIANCE IS DETECTED



Non-compliance must be investigated immediately and corrected promptly

Internal monitoring and auditing should ensure:

- No recurrence of the same non-compliance
- Ongoing regulatory compliance requirements
- Efficient and effective internal controls
- Enrollees are protected



INTERNAL MONITORING AND AUDITS



Monitoring and auditing to test and confirm compliance with policies, laws, contracts, State and Federal regulations is part of ensuring an effective compliance program

Internal Monitoring activities include regular reviews confirming ongoing compliance and taking effective corrective actions.

Internal Auditing is a formal review of compliance with a particular set of standards (policies, laws, regulations, contract commitments) used as base of measures.

COMPLIANCE IS EVERYONE'S JOB



Prevent

- Operate within ethical expectations to prevent non-compliance

Detect & Report

- If you see it, report it - report potential non-compliance

Correct

- Correct non-compliance that includes ongoing monitoring to protect members

APPENDIX



Appendix: Laws and Regulations to Consider in Standards of Conduct and/or Training (Chapter 21-Rev. 109 & Chapter 9-Rev. 15-Issued: 07-27-12, Effective: 07-20-12; Implementation 07-20-12)

- Title XVIII of the Social Security Act
- Medicare regulations governing Parts C and D found at 42 CFR §§ 422 and 423 respectively
- Patient Protection and Affordable Care Act (Pub. 1., No. 111-148, 124 Stat. 119)
- Health Insurance Portability and Accountability Act (HIPAA) (Public Law 104-191)
- False Claims Acts (31 U.S.C. §§ 3729-3733)
- Federal Criminal False Claims Statutes (18 U.S.C. §§ 287, 1001)
- Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b))
- The Beneficiary Inducement Statute (42 U.S.C. § 1320a-7a(a)(5))

APPENDIX (CONT.)



- Civil monetary penalties of the Social Security Act (42 U.S.C. § 1395w-27 (g))
- Physician Self-Referral (“Stark”) Statute (42 U.S.C § 1395nn)
- Fraud and Abuse, Privacy and Security Provisions of the Health Insurance Portability and Accountability Act, as modified by HITECH Act
- Prohibitions against employing or contracting with persons or entities that have been excluded from doing business with the Federal Government (42 U.S.C. § 1395w-27(g)(1)(G))
- Fraud Enforcement and Recovery Act of 2009
- Department of Labor Whistleblower Protection Laws

DISCLAIMER



This course was prepared as a service and is not intended to grant rights or impose obligations. This course may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. Readers are encouraged to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

POST-ASSESSMENT QUIZ



1. You discover an unattended email address or fax machine in your office receiving beneficiary appeals requests. You suspect no one is processing the appeals. What should you do?
 - a. Contact law enforcement
 - b. Contact your compliance department (via compliance hotline or other mechanism)
 - c. Wait to confirm someone is processing the appeals before taking further action
 - d. Do nothing

2. A sales agent, employed by the Sponsor's first-tier, downstream, or related entity (FDR), submitted an application for processing and requested two things 1) to back-date the enrollment date by one month, and 2) to waive all monthly premiums for the beneficiary.
What should you do?
 - a. Refuse to change the date or waive the premiums but decide not to mention the request to a supervisor or the compliance department.
 - b. Make the requested changes because the sales agent determines the beneficiary's start date and monthly premiums.
 - c. Tell the sales agent you will take care of it but then process the application properly (without the requested revisions)—you will not file a report because you don't want the sales agent to retaliate against you.
 - d. Process the application properly (without the requested revisions)—inform your supervisor and the compliance officer about the sales agent's request.

POST-ASSESSMENT QUIZ



3. You work for a Sponsor. Last month, while reviewing a Centers for Medicare & Medicaid Services (CMS) monthly report, you identified multiple individuals not enrolled in the plan but for whom the Sponsor is paid. You spoke to your supervisor who said don't worry about it. This month, you identify the same enrollees on the report again. What should you do?
 - a. Decide not to worry about it as your supervisor instructed—you notified your supervisor last month and now it's their responsibility.
 - b. Although you know about the Sponsor's non-retaliation policy, you are still nervous about reporting—to be safe, you submit a report through your compliance department's anonymous tip line to avoid identification.
 - c. Wait until the next month to see if the same enrollees appear on the report again, figuring it may take a few months for CMS to reconcile its records—if they are, then you will say something to your supervisor again.
 - d. Contact law enforcement and CMS to report the discrepancy.
4. Compliance is only the responsibility of the Compliance Officer, Compliance Committee, and Upper Management.
 - a. True
 - b. False

POST-ASSESSMENT QUIZ



5. Ways to report a compliance issue include:
 - a. Telephone hotlines
 - b. Report on the Sponsor's website
 - c. In-person reporting to the compliance department/supervisor
 - d. All of the answers
6. What is the purpose of the non-retaliation policy?
 - a. Allows the Sponsor to discipline employees who violate the Code of Conduct.
 - b. Prohibits management and supervisor from harassing employees for misconduct.
 - c. Protects employees who, in good faith, report suspected non-compliance.
 - d. Prevents fights between employees.
7. There are examples of issues that can be reported to a Compliance Department: suspected fraud, waste, and abuse (FWA), potential health privacy violations, unethical behavior/employee misconduct, and:
 - a. Marking inappropriate incentives to members to join certain Medical Groups and/or Health Plans.
 - b. Documentation and timeliness issues.
 - c. Quality of care issues.
 - d. All of the answers including many other high risk areas.

POST-ASSESSMENT QUIZ



8. Once a corrective action plan begins addressing non-compliance or fraud, waste, and abuse (FWA) committed by a Sponsor's employee or first-tier, downstream, or related entity's (FDR's) employee, ongoing monitoring of the corrective actions is not necessary.
 - a. True – management can be trusted to always ensure the plan of correction is implemented.
 - b. False – internal monitoring is essential for corrective action plan follow-up.
 - c. False – ongoing monitoring is not required by federal or state laws.
 - d. True – the organization must report to CMS only.
9. Commercial, Medicare Parts C and D Plan Sponsors are not required to have a compliance program.
 - a. True – a compliance program is not required if they have a Quality and Ethics committee.
 - b. False – a compliance program is required and must include measures to prevent, detect, and correct non-compliance as well as fraud, waste, and abuse.
 - c. True – a compliance program is not required if compliance training is provided every 2 years.
 - d. True – a compliance program is only needed if they have commercial customers.

POST-ASSESSMENT QUIZ



10. At a minimum, an effective compliance program includes four core requirements: 1) written policies and procedures, 2) well-publicized disciplinary guidelines, 3) effective lines of communication, and 4) effective training and education.
 - a. True – the compliance director can manage these 4 core requirements.
 - b. False – at a minimum, there must be 7 core elements.
 - c. False – the Sponsor is not required to enforce standards through well-publicized disciplinary guidelines.
 - d. False – written policies and procedures are not required as a core element.
11. Correcting non-compliance:
 - a. Protects enrollees, avoids recurrence of the same non-compliance, and promotes efficiency
 - b. Ensures bonuses for all employees
 - c. Should be fully implemented and tailored to an organization's unique operations and circumstances
 - d. Both A and C

POST-ASSESSMENT QUIZ



12. What are some of the consequences for non-compliance, fraudulent, or unethical behavior?
 - a. Disciplinary action
 - b. Termination of employment
 - c. Exclusion from participating in all Federal health care programs
 - d. All of the answers
13. Whistleblowers and persons who report in good-faith any suspected violations or issues are protected from retaliation and intimidation.
 - a. True
 - b. False

POST-ASSESSMENT QUIZ



14. You are working as a prior authorization nurse reviewer, your team has been short staffed for the past 6 months and there has been a delay in getting denial letters distributed timely. Your co-worker has an upcoming health plan audit and she asked you to quality check the cases that have been selected. Upon review of quality check you see all files are at 100 % compliance with letter distribution. Given the back log you are suspicious and believe it is likely the co-worker has changed dates on the letters to show compliance with mailing. What would you do?
 - a. Do nothing and be glad the health plan audit will have a good outcome.
 - b. Contact your supervisor and/or compliance department and report your findings and suspicions.
 - c. Talk to your co-worker and ask her how she did this as you have several upcoming audits yourself.
 - d. Ask your friend from the claims department what you should do.
15. When a strong compliance program is established there is less risk to the customer. Benefits of a strong compliance program include all EXCEPT:
 - a. Decreased member financial liability
 - b. Appropriate access to providers of choice
 - c. Decreased barriers to care
 - d. Delayed treatment/services