

Federal Laws and Regulations

Standard opening (lead-in music)

Canned: This is a Medicaid program integrity podcast. The Centers for Medicare & Medicaid Services developed and produced these podcasts to keep you informed about Medicaid program integrity topics.

Narrator: Welcome to the “Federal Laws and Regulations” podcast. This Podcast provides an overview of the Medicaid program integrity laws and regulations that providers need to know to protect themselves. Let’s join Dr. Dakota and Dr. Welch as they discuss these laws and regulations.

(End music)

Scene – Physicians at a conference discussing Medicaid Federal laws and regulations.

Host: Hello, everyone. I want to thank our featured presenter today. And I also want to let you know that we will be taking a fifteen minute break as we set up for our panel discussion on the topic of Federal laws and regulations regarding Medicaid integrity.

Dr. Dakota: I’m surprised there’s so much discussion about Medicaid laws and program integrity at this conference. Do you think it’s important enough for physicians to spend time learning about it?

Dr. Welch: Well, according to what I read in the papers, it’s a big deal. Apparently, Federal health care programs, such as Medicaid, are losing billions of dollars a year to fraud, waste, and abuse—billions of dollars that could be used to provide necessary services to low-income people who need them. I learned this morning that there are also significant dollars lost to improper payments caused by honest mistakes like billing errors and documentation.

Dr. Dakota: Okay, let’s say you’re right, what do I need to know?

Dr. Welch: This is how someone explained it to me. Program integrity focuses on two things: providing a better quality of care to patients while using the right amount of services; and ensuring Federal and State funds are used to pay for medically necessary services for eligible patients.[1]

Dr. Dakota: That sounds simple enough.

Dr. Welch: While it may sound simple, it really isn’t. Medicaid is governed by Title 19 of the Social Security Act and Title 42 of the Code of Federal Regulations. CMS oversees the Medicaid program and they provide guidance to help States develop and implement it. But there are also State-specific Medicaid program rules. Together, these provide the framework for Medicaid program integrity.

Dr. Dakota: How am I supposed to know all those laws and regulations? I’m a physician, not an attorney!

Dr. Welch: I agree there is a lot of information to know. I worked with my attorney friend, and he explained that there are some key Federal statutes that every physician needs to know.

Dr. Dakota: Such as?

Dr. Welch: Well, first is the Health Care Fraud statute.[2] This law makes it illegal to defraud a health care benefit program. It's punishable by imprisonment for up to 10 years and fines of up to two-hundred-and-fifty thousand dollars.

Dr. Dakota: Whoa, that's a lot of money!

Dr. Welch: It is. Second is the False Claims Act—it establishes civil liability for specific acts intended to defraud the government,[3] like submitting a false or fraudulent claim to Medicaid for payment.

Dr. Dakota: Okay, those laws seem pretty straight forward. I think I can remember them. What are the other laws I need to know?

Dr. Welch: The third law is the Anti-Kickback Statute.[4] It says you can't give or receive anything of value to get or give referrals. You can be fined up to twenty-five thousand dollars and go to prison for up to 5 years.

Dr. Dakota: What's considered a kickback?

Dr. Welch: Well, for example, a hospital wanted to hire me a few months ago. As part of the benefits they offered me, my office space would have been paid for as long as I referred enough patients to the hospital. For someone that doesn't know the law, that sounds like a great deal, but it's against the law.

Dr. Dakota: So what you're telling me is that if it's too good to be true, it probably is! Right?

Dr. Welch: Right. The fourth law every doc should know is the Civil Monetary Penalties Law. It authorizes the OIG to impose civil penalties for violations of the Anti-Kickback Statute and the other laws that we've talked about, such as submitting false or fraudulent claims and making false statements or misrepresenting information on applications or contracts to participate in Federal health care programs. Penalties range from ten thousand to fifty thousand dollars per violation.

Dr. Dakota: Not understanding this information could cause a lot of trouble. Anything else I need to know?

Dr. Welch: Yes, you need to know about exclusions. Federal law gives the OIG the authority to exclude individuals from participating in Federal health care programs.[5] Medicaid won't pay for items or services furnished, ordered, prescribed, or supplied by an excluded individual or entity.

Dr. Dakota: Now, do exclusions apply to non-medical staff who don't bill for services?

Dr. Welch: Yes, exclusions apply to direct and indirect staff. Indirect staff are the ones that perform administrative and management services that aren't separately billable. You should check your employees and contractors monthly to be sure they aren't excluded.

Dr. Dakota: These laws seem to carry serious implications for Medicaid providers. Thanks for bringing them to my attention.

Dr. Welch: Oh, no problem. The government also passed the Affordable Care Act[6] and it includes several measures to improve program integrity in Medicaid such as: screening providers at enrollment, suspending Medicaid payments to providers when there is a “credible allegation” of fraud, terminating providers that have been terminated by Medicare or other State Medicaid programs, establishing compliance programs, and reporting and returning overpayments to the State.[7, 8, 9, 10, 11]

Dr. Dakota: This is great information to know. Thanks again for discussing these Medicaid rules and regulations. You’ve been a huge help.

Dr. Welch: You’re welcome.

(Standard closing with music)

Canned: More questions? For additional information about exclusions and terminations, contact your State Medicaid agency, or the Office of Inspector General at [www \[dot\] oig \[dot\] hhs \[dot\] gov](http://www.oig.hhs.gov).

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