

Managed Care Plans: Critical Partners in the Fight Against Fraud, Waste, and Abuse in Medicaid

Presentation



Objectives

At the conclusion of this presentation, participants will be able to:

- Describe an effective compliance plan
- List the steps to prevent, detect, and report fraud, waste, and abuse
- Name tools used to prevent excluded, debarred, and terminated providers from participating in the Medicaid program



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Program Integrity Requirements

- Compliance plan
- False claims information
- Screening providers



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Why Should an MCP Have a Compliance Plan?



Lewis Morris
Retired Chief Counsel to the Inspector General
U.S. Department of Health and Human Services

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The Compliance Pyramid



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Compliance Plan Requirements

Compliance plans must include seven elements:

- 1 Written policies, procedures, and standards of conduct
- 2 Designation of a compliance officer and committee
- 3 Effective training and education
- 4 Effective lines of communication
- 5 Enforcement of standards
- 6 Internal monitoring and auditing
- 7 Prompt responses and corrective action

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 **Policies, Procedures, and Standards**

Written policies, procedures, and standards should:

- Articulate the organization's commitment to compliance
- Identify applicable statutes, regulations, and contract requirements
- Be written in plain English
- Implement the compliance plan, including communication about the compliance issues



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 **Policies, Procedures, and Standards —False Claims**

Written policies of managed care plans (MCPs) meeting a \$5 million threshold must provide detailed information on:

- The civil provisions of the False Claims Act
- Administrative remedies for false claims
- State civil and criminal laws pertaining to false claims
- Whistleblower protections
- The MCP's procedures for detecting and preventing fraud, waste, and abuse

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 **Compliance Officer and Committee**

The compliance officer should:

- Be a full-time employee of the MCP
- Be a person of high stature in the organization
- Have demonstrated excellence in compliance and ethics

The compliance committee should:

- Include the compliance officer and senior representatives from relevant operational areas



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2 Compliance Officer and Committee

The compliance officer and committee should:

- Act independently of the operational and program areas in the organization
- Have clearly identifiable responsibilities and authority
- Provide periodic reports directly to the governing body
- Continually assess risk and measure for effectiveness



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2 Compliance and the Board of Directors



Lewis Morris
Retired Chief Counsel to the Inspector General
U.S. Department of Health and Human Services

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3 Training and Education—
Subjects

Training and education should address:

- The compliance plan
- Typical forms of provider and beneficiary fraud, waste, and abuse
- Examples of employee noncompliance with policy
- Consequences of violating the law or policy

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3 Training and Education—
Methods

For training and education to be effective, the MCP should:

- Use a blend of different media
- Periodically update training materials
- Assess participant knowledge before and after training
- Keep a record of the training completed



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4 Effective Communication

For effective lines of communication between the compliance officer and the organization's employees, the MCP should:

- Provide a mechanism to report compliance issues
- Provide several independent reporting paths
- Develop mechanisms to encourage open discussion

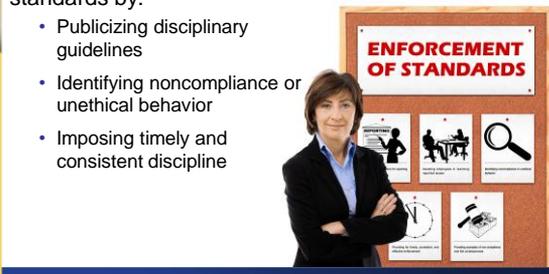


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5 Enforcement of Standards

MCPs should enforce standards by:

- Publicizing disciplinary guidelines
- Identifying noncompliance or unethical behavior
- Imposing timely and consistent discipline



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Internal Monitoring and Auditing

MCPs should establish and implement an effective system that:

- Identifies and prioritizes risks
- Regularly reviews all operational areas
- Periodically monitors and audits risk areas
- Provides regular reports of monitoring and auditing activities and results
- Assesses the system's effectiveness

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Internal Monitoring and Auditing— Exclusions

MCPs should ascertain the exclusion status of all employees, officers, and directors by checking the List of Excluded Individuals/Entities (LEIE), available at <http://exclusions.oig.hhs.gov/> on the HHS-OIG website.

Check the website:

- Upon hire
- Monthly thereafter

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Internal Monitoring and Auditing— Self-Audits

MCPs should perform compliance self-audits by:

- Identifying the risks
- Auditing the risks
- Documenting the audit
- Reviewing and acting on the results
- Monitoring and reporting on corrective actions

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Prompt Responses to Detected Offenses

Establish and implement procedures that require:

- Assignment of a qualified person to investigate
- Review of the relevant documents and interviewing witnesses
- Identification of the standards that may have been violated



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Corrective Action

A corrective action plan should include:

- Steps to correct the problem
- Specific time frames for implementation of those steps
- A means to monitor implementation and effectiveness
- A determination whether additional safeguards are needed to prevent similar violations in the future



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Why Provider Fraud, Waste, and Abuse Should Matter to MCPs

- Provider fraud, waste, and abuse may be costing the MCP
- MCPs may be subject to civil penalties for submitting false fee-for-service provider claims
- CMS guidance states that MCPs should conduct regular audits and reviews of network providers



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Why Provider Fraud, Waste, and Abuse Should Matter to MCPs (continued)

- HHS-OIG scrutiny
- State scrutiny
- Medicaid Fraud Control Unit (MFCU) requests for more managed care referrals
- Additional program integrity audits by outside contractors

How to Prevent Provider Fraud and Abuse in the Managed Care Network

To prevent provider fraud and abuse in managed care networks, MCPs should:

- Maintain a strong credentialing process
- Use edits and preauthorization requirements to prevent improper payments
- Ensure that contracting providers have adequate fraud, waste, and abuse programs

Prevention— Screening Providers for Exclusion

- Medicaid cannot pay for services or items furnished by excluded persons
- The MCP should screen network providers for exclusion:
 - At credentialing
 - Monthly thereafter
- MCPs should notify the State Medicaid agency (SMA) of any excluded providers

... EXCLUDED NOT EXCLUDED ...



Prevention— Screening Providers for Debarment

MCPs should ensure that their directors, officers, employees, and contractors have not been debarred by checking:

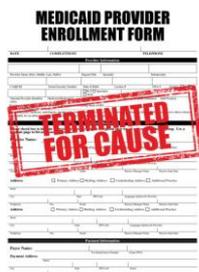
- The Excluded Parties List System (EPLS) located at <https://www.sam.gov> on the System for Award Management (SAM) website



Prevention— Screening Providers for Termination

MCPs should learn:

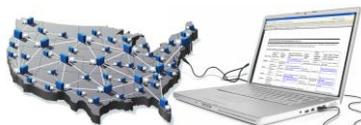
- Which providers have been terminated by any SMA nationwide
- What the State's policies or contract requirements are on the use of terminated providers in managed care networks



How to Detect Provider and Contractor Fraud and Abuse

Methods MCPs should use to detect provider and contractor fraud and abuse include:

- Prepayment edits and preauthorization requirements
- Data analysis
- External monitoring, audits, and reviews
- Sharing information



Detecting Fraud and Abuse — Performing Data Analysis

Effective data analysis includes:

- Data warehousing
- Rule-based algorithms
- Data matching
- Comparing of claim patterns
- Monitoring complaints and social media
- Sampling and extrapolation
- Validation of encounter data



Fraud and Abuse Detection — External Monitoring and Auditing

MCPs should monitor and conduct audits of providers and delegated entities to detect:

- Billing for services not rendered
- Upcoding
- Billing for services not medically necessary
- Beneficiary fraud and abuse (enrollment and drug diversion)
- Underutilization

Fraud and Abuse Detection— Obtaining and Sharing Information

MCPs should:

- Establish and publicize a toll-free fraud and abuse report line
- Make fraud, waste, and abuse reporting forms available online and on paper
- Share fraud, waste, and abuse information with other MCPs and the SMA



Investigation of Suspected Fraud or Abuse

When suspected fraud or abuse is detected, the MCP should:

- Notify and coordinate with the SMA or other designated agency as required by contract
- Follow a written investigation plan
- Request immediate assistance if:
 - Patient safety is at risk
 - Evidence may be destroyed
 - Stolen funds are likely to be removed

Investigation of Suspected Fraud or Abuse—Gathering the Facts

MCPs should assign qualified staff to:

- Review relevant documents and databases
- Interview the source of the complaint
- Interview other persons with knowledge
- Take statistical samples of relevant claims



Investigation of Suspected Fraud or Abuse—Analyzing the Facts

In addition to gathering the facts, the person assigned to conduct the investigation should:

- Analyze patterns in the relevant claims and medical records
- Develop a timeline
- Determine the extent of the loss
- Identify the laws, rules, and policies that appear to have been violated
- Determine the scope of the potential violations



Referral of Fraud and Abuse— Guidance for MCPs

MCP referrals should:

- Be accompanied by a complete investigative report and copies of the relevant documents
- Adhere to:
 - MCP contract requirements
 - Agreements with the SMA, or other designated agency, and law enforcement
 - The CMS standard for referrals from SMAs to MFCUs

Referral— The Investigative Report

The investigative report should start with a concise statement of the case, which sets forth:

- How and when the violation was detected
- What law or rule was violated
- Proof of the violation
- Why the referral merits action by the receiving agency

Referral— The Investigative Report (continued)

The report should contain a detailed statement of facts in chronological order that includes:

- The subject's name and identifying information
- Any previous investigations or litigation involving the subject
- Contact information for the source, the MCP investigator, and witnesses
- Witness interview summaries
- The identity of any other agencies contacted or involved



Where Should MCPs Refer Suspected Fraud and Abuse?

- To SMAs or other designated agencies
- A link to SMA and MFCU contact information is available at: http://www.cms.gov/medicare-medicare-coordination/fraud-prevention/fraudabuseforconsumers/report_fraud_and_suspected_fraud.html



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What Action Should Be Taken After the Referral?

After the referral, the MCP should:

- Check on the status of the referral
- Be prepared to respond to requests for follow up
- Share the results

If the referral is rejected, determine why.



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Promoting Medicaid Program Integrity

In what other ways can MCPs promote Medicaid program integrity?

- Meet regularly with agency partners
- Communicate with peer and subsidiary entities
- Attend State and national meetings of compliance organizations
- Take advantage of public and private resources available on the Internet



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September 2014

Questions



Please direct questions or requests to: MedicaidProviderEducation@cms.hhs.gov

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