

Affordable Care Act Provider Compliance Programs: Getting Started Webinar



compliance

service

quality

ethics




June 17, 2014 / June 26, 2014

Hello and welcome! Thank you for participating and joining us for the ACA Provider Compliance Programs: Getting Started Webinar. My name is Lauren Gillooly Robbins. I am the Manager for Provider Education Support Services with Palmetto GBA and I'll be your moderator today.

Affordable Care Act Provider Compliance Programs:
Getting Started Webinar

Welcome to the Affordable Care Act Provider Compliance Programs:
Getting Started Webinar!



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Refer to the webinar Resources document for more information on MLN products and resources.

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The Affordable Care Act Provider Compliance Programs: Getting Started Webinar is brought to you by the Centers for Medicare & Medicaid Services' (CMS) Medicare Learning Network® (MLN). Today's presentation will be recorded and posted Medicare Learning Network® Learning Management System as an enduring activity.

This webinar provides information and implementation guidance for health care professionals to establish a compliance program in their offices/practices or organization. Please note that this webinar will NOT address coding questions, coverage or payment policies, or any other specific claims issues, nor will any CMS programs other than provider compliance support be discussed. For information on those topics, please contact your Medicare Administrative Contractor or visit the CMS website.

CE credits and a certificate of completion are available upon completion and passing of a short post-assessment. Webinar attendees wishing to receive continuing education credit must use the post-assessment and evaluation administered through the CMS Learning Management System as proof of their attendance and mastery of the webinar objectives. Follow the instructions in the CE Activity Information & Instructions to record your attendance, complete the post-assessment and evaluation, and receive your certificate.

Let's begin with a review of the agenda for today's webinar.

Agenda

- Introduction of Speakers
- Objectives
- Introduction
 - Lauren Gillooly Robbins, Moderator
- Part One: Implementing A Compliance Program: Seven Core Elements
 - Dr. Julie Taitsman, OIG and Ms. Julie Dusold Culbertson, OIG
- Part Two: Dos and Don'ts of Health Care Compliance
 - Jacqueline Bloink
- Questions and Answers
- Resources

We'll begin today with a brief introduction of our speakers and a review of the objectives of the webinar.

In Part One of today's activity, Dr. Julie Taitsman and Ms. Julie Dusold Culbertson of the Office of Inspector General will provide detailed information about the seven core elements of effective compliance programs.

In Part Two, Ms. Jacqueline Bloink will provide tips on the dos and don'ts of implementing a provider compliance program based on her years of industry expertise.

There will also be a short question and answer session at the end of the webinar to answer some of your questions live.

For this webinar, a list of resources and a high-level checklist of provider compliance program requirements have been developed. They are available during this webinar on the left side of your screen under the Content button.

The reference documents are also included with the CE Activity Information & Instructions sent prior to this call, and will be available at the URL after the call.

Introduction of Speakers

Julie Taitsman, M.D., J.D.

Julie Dusold Culbertson

Jacqueline Bloink, CHC, CPC, CPC-I

Dr. Julie Taitsman is the Chief Medical Officer for the Office of Inspector General (OIG) for the U.S. Department of Health and Human Services. As Chief Medical Officer, Dr. Taitsman is OIG's primary resource on clinical and scientific issues and lends medical expertise to audits, evaluations, inspections, and enforcement actions. Dr. Taitsman also leads OIG's physician education initiatives to prevent fraud, waste, and abuse. Dr. Taitsman earned a B.A. from Brown University in 1992, an M.D. from Brown University School of Medicine in 1996, and a J.D. from Harvard Law School in 1998. She completed the Preliminary Medicine Residency Program at Carney Hospital in Boston in 1999 and clerked for Judge Constance Baker Motley in the U.S. District Court for the Southern District of New York from 1999 to 2000. Dr. Taitsman is a recognized expert in health care fraud and has conducted numerous training sessions to educate providers on compliance with laws and regulations to prevent fraud, waste, and abuse in the Medicare and Medicaid programs. Dr. Taitsman has nothing to disclose.

Ms. Julie Dusold Culbertson has served as a Program Analyst for the Department of Health and Human Services (HHS) Office of Inspector General (OIG) since July 2007. Since joining OIG, Julie has contributed to evaluations in the areas of Medicare payment for home health services, chiropractic services, durable medical equipment, and antipsychotic drugs; and management oversight of HHS employee travel cards, NIH grants, Medicare provider enumeration and enrollment, and the Pre-existing Condition Insurance Program. She has been involved with cross-cutting OIG initiatives including the grant fraud workgroup and the award-winning "Take the Initiative" fraud prevention and compliance training program for health care providers. Ms. Dusold Culbertson has disclosed her spouse is employed by Alliance Radiology Group.

Ms. Jacqueline Bloink has been involved in health care management within the private sector since 1996. Her expertise is health care compliance. Ms. Bloink is certified in health care compliance (CHC). She is also a certified professional coder (CPC) and coder instructor (CPC-I). Ms. Bloink has many published articles regarding health care compliance. She is also a frequent speaker for the Health Care Compliance Association. As a Director of Compliance for the largest provider group in Arizona, Ms. Bloink deals first hand with many compliance issues and is constantly designing educational programs for the providers. Ms. Bloink is also a senior consultant for private companies where she offers expert advice to health care organizations that need assistance in the area of health care compliance. Ms. Bloink enjoys writing and speaking professionally about the successes and struggles of health care compliance. Ms. Bloink has disclosed a consultant relationship with Coding Continuum, Inc. and a speaker relationship with Audio Educators, HCCA.

Objectives

After participating in this webinar, you should be able to:

- Identify the elements required for an effective compliance program;
- Recognize the benefits of a compliance program;
- Recognize the requirements for compliance program written policies and procedures and for establishing an auditing and monitoring process;
- Identify roles and responsibilities of a Compliance Officer and committee;
- Recognize best practices for administering consistent disciplinary actions;
- Identify strategies and practices for open lines of communication in a compliance program; and
- Identify steps for putting corrective actions in place.

Before we turn the webinar over to our speakers, let's review the learning objectives for this activity.

Your achievement of these objectives will be assessed in the post-assessment administered through the Learning Management System after the webinar.

Introduction

Let's begin with some information about the OIG's history promoting provider compliance programs, the legislative mandates for those programs, and the benefits to providers.



Section 6401 of the Affordable Care Act provides that a “provider of medical or other items or services or supplier within a particular industry sector or category” shall establish a compliance program as a condition of enrollment in Medicare, Medicaid, or the Children’s Health Insurance Program (CHIP).

The Affordable Care Act further required the Secretary of Health and Human Services (HHS), in consultation with the HHS Office of Inspector General (OIG), to establish “core elements” for provider and supplier compliance programs within a particular industry or sector. In doing so, HHS has the discretion to determine both the timeline for implementation of the core elements and the requirement to have a compliance program.

An enforcement date for provider compliance plans as mandated in the Affordable Care Act is yet to be issued. But since the late 1990s, long before the Affordable Care Act legislation mandated that providers put a compliance plan in place, the Office of Inspector General (OIG) began a major initiative to support Health care Professions in establishing a compliance program for their offices, organizations and practices.

Through that initiative, the OIG has been advising providers to voluntarily adopt compliance plans, and has issued several extremely helpful compliance program guidances for particular provider types, including hospitals, nursing homes, pharmaceutical manufacturers, and physician group practices. All CPGs identify specific risk areas for the particular provider types and offer compliance tips. Many of those tips are generally good advice and are useful for all health care providers. For this session, we have selected the information from those guidance documents generally applicable to all providers, such as the seven fundamental elements of a good compliance plan, and we’ll share those later in this presentation.

The guidance is published in the Federal Register as well as the OIG website at oig.hhs.gov.

Affordable Care Act Compliance Program Mandate

The Affordable Care Act compliance program mandate:

- Is intended to induce all health care professionals to implement a compliance program;
- Is NOT a guarantee that the risk of fraud, waste, abuse or inefficiency will not occur; and
- Will aid providers in better protecting themselves from risk of improper conduct.

Affordable Care Act Compliance Program Mandate

Most health care professionals are aware that the Affordable Care Act mandates compliance programs for Medicare and Medicaid providers. Although the law speaks specifically to individual and small group practices, the intent is for all health care professionals to implement a compliance program in their offices/practices.

Although a compliance program is not a guarantee that fraud, waste, abuse or inefficiency will not occur; the OIG and CMS believe that the implementation of a good compliance program will aid in better protecting yourself from risk of improper conduct.

The Affordable Care Act has seven core elements for an effective compliance program. In the next part of this webinar, we'll review each core element in detail.

Benefits of a Good Compliance Program

A well-composed compliance program can:

- Increase the potential of proper submission and payment of claims;
- Reduce billing mistakes;
- Improve the results of reviews conducted on Medicare claims ;
- Avoid the potential for fraud, waste and abuse; and
- Promote patient safety and ensure delivery of high quality patient care.

Benefits of a Good Compliance Program

The implementation of a compliance program should send a message that your office/practice operates in an ethical manner and is committed to quality customer/patient care, but implementing a sound compliance program can also result in numerous benefits to provider.

A well-composed compliance program can:

- Increase the potential of proper submission and payment of claims;
- Reduce billing mistakes;
- Improve the results of reviews conducted on Medicare claims by the Medical Review Department (MR), Comprehensive Error Rate Contractor (CERT), Recovery Auditor and the Zone Program Integrity Contractor (ZPIC);
- Avoid the potential for fraud, waste and abuse; and
- Promote patient safety and ensure delivery of high quality patient care.

And as an additional note, having your own compliance program may save you valuable staff time in duplicative training. Many commercial insurance plans require providers to "attest" that they have a compliance plan and provide training to all employees as conditions of participation. If the provider does not have a compliance plan the commercial insurance will want you to complete their compliance training.

Benefits of a Good Compliance Program

Fraud and abuse recoveries totaled
\$4.3 BILLION in FY 2013 and
\$19.2 BILLION over the last five years.

CMS Medicare Learning Network® (MLN) fraud and abuse awareness tools are available on the MLN Products web page and the MLN Provider Compliance web page.

<http://go.cms.gov/MLNProducts>

<http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/ProviderCompliance.html>

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Benefits of a Good Compliance Program

To put the importance of reducing fraud and abuse in perspective, just remember that fraud and abuse recoveries totaled \$4.3 billion in just fiscal year 2013 alone, and over NINETEEN BILLION dollars have been recovered just in the last five years!

CMS offers many tools to increase your awareness of Fraud and Abuse, Medicare claims review programs as well as basic Medicare information. These tools can be found on the CMS website on the Medicare Learning Network® (MLN) on the MLN Products web page. Additional information and resources are available on the MLN Provider Compliance web page at <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/ProviderCompliance.html>.

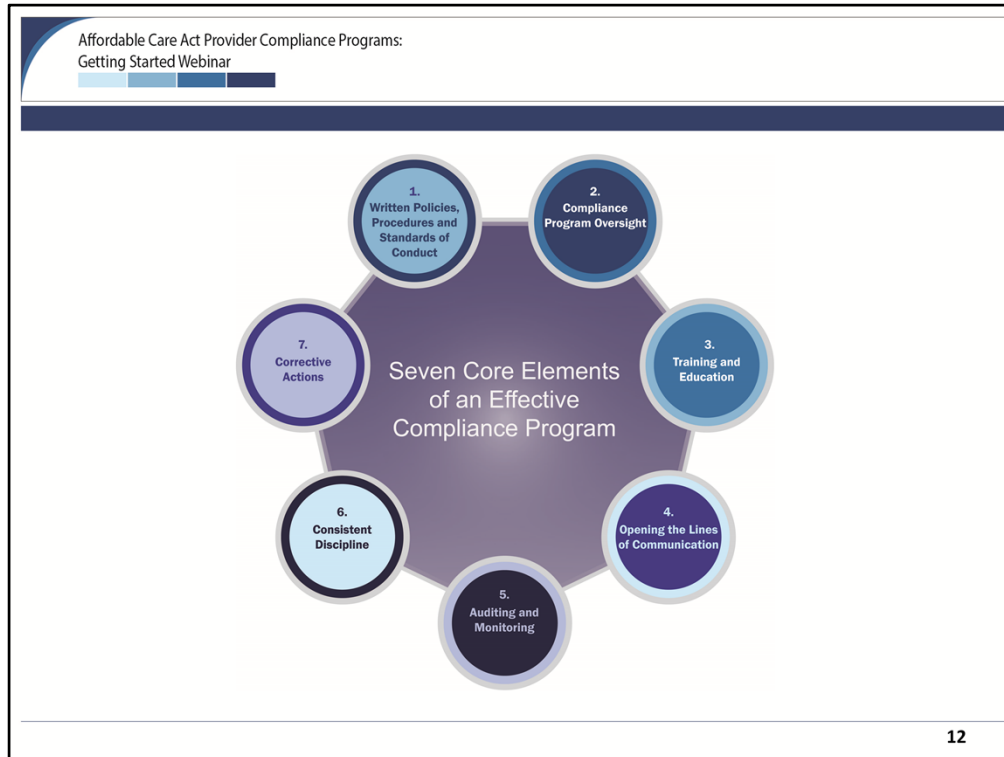
Now we know the benefits a compliance program can bring. Let's review information for getting your compliance program started.

The Affordable Care Act has seven core elements for an effective compliance program. In the next part of this webinar, we'll review each core element for an effective compliance program.

Part One: Implementing a Compliance Program – Seven Core Elements

Part One: Implementing a Compliance Program

I'm now going to turn the presentation over to Dr. Julie Taitsman of the OIG. Dr. Taitsman?



During this part of the webinar we will be talking about the elements required for an effective compliance program, the benefits of a good compliance program, and what should be included in written policies and procedures.

Many of you submitted requests for templates for policies and procedures, and prescriptive guidance on when and how to conduct internal audits and staff trainings. We want to clarify that there is no “one-size fits all” approach to compliance. You must tailor your compliance program to suit your organization’s needs. To assist you, the OIG has provided a number of helpful resources on our public website, such as the Roadmap for New Physicians and a series of voluntary compliance program guidance documents directed at various segments of the health care industry. Jacqueline will tell you more about some of these resources during the next part of this presentation.

Now, let’s begin with some basic background information about provider compliance programs.

There are seven core or key elements proven to be part of effective compliance programs. Let’s explore the requirements for each element in detail.

Seven Core Elements of an Effective Compliance Program

1. Written Policies, Procedures and Standards of Conduct

- Clearly written and describe expectations in detail
- Readily available to all employees
- Reviewed by employees within 90 days of hire and annually
- Regularly reviewed and updated
- Detailed “code of conduct” and reporting mechanisms
- Policies include compliance staff roles and responsibilities
- Procedures show training plans and operational details of the program, including interactions with other departments

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The first core element of an effective compliance program is having written policies, procedures, and standards of conduct. Establishing written policies and procedures is necessary to promote consistency and uniformity in your office or practice. Written policies and procedures should be written clearly and describe expectations of compliance in detail. These written policies, procedures and standards should be composed with guidance from the Compliance Officer (CO) and Compliance Committee.

These guidelines also need to be made readily available for all your employees. You and your compliance committee need to determine how these guidelines will be distributed, whether by hard copy, electronically, or on the Internet. These standards should be reviewed with employees within 90 days of hire and at a minimum of annually thereafter. All employees should be required to certify that they have read, understand and agree to comply with the standards.

You and your compliance committee need to establish how frequently these policies, procedures and standards will be monitored and reviewed; also, how changes will be made to these guidelines.

The written standards for conduct or the “code of conduct” should clearly state and outline the office’s or practice’s commitment to compliance, values and quality treatment of customers/patients and employees. Standards of conduct should detail your organization’s commitment to ethical behavior, as well as your vision and values. The standards of conduct should also indicate that compliance is the responsibility of all employees and describe how to report incidents of non-compliant or unethical behaviors.

Written policies and procedures should be detailed and specific as well as easy to read and comprehend. The written policies and procedures should describe the operational duties and responsibilities for the following:

- Compliance Officer
- Compliance Committee Members
- Management and all office/practice staff

Seven Core Elements of an Effective Compliance Program

1. Written Policies, Procedures and Standards of Conduct

Written policies and procedures should include:

- How and when employees will be trained
- Operation of compliance program:
 - Compliance reporting structure
 - Training requirements
 - Reporting mechanisms
 - How investigations conducted
 - How issues are resolved
 - Monitoring and Auditing
- Duties and Responsibilities for operational areas
- How the compliance department interacts with the internal audit department
- How the compliance department interacts with the legal department
- How the compliance department interacts with the Human Resources (HR) department
- How to measure effectiveness of the code of conduct and the compliance policies and procedures.

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The written policies and procedures should also include at least the following items, but please note this list is not all inclusive:

- How and when employees will be trained
- Operation of compliance program:
 - Compliance reporting structure
 - Training requirements
 - Reporting mechanisms
 - How investigations will be conducted
 - How issues are resolved
 - Monitoring and Auditing
- Duties and Responsibilities for operational areas
- How the compliance department interacts with the internal audit department
- How the compliance department interacts with the legal department
- How the compliance department interacts with the Human Resources (HR) department and
- How to measure effectiveness of the code of conduct and the compliance policies and procedures.

Now that we know what your written policies and procedures should include, let's discuss how the oversight of your compliance program should be structured and what responsibilities and authorities your compliance staff should have.

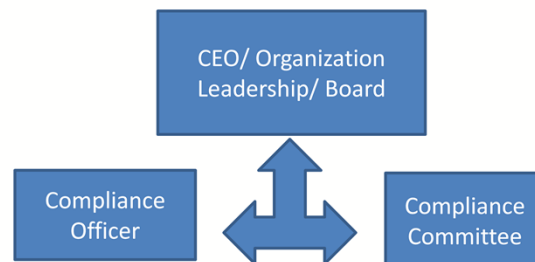
Seven Core Elements of an Effective Compliance Program

2. Compliance Program Oversight

A Compliance Officer (CO) and/or Compliance Committee (CC) oversees the program and reports directly to and is accountable to the CEO.

The CO/CC are seated employees with demonstrated compliance/ethics excellence.

Reporting Chain



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The second element of an effective compliance program is oversight of the program. Your office or practice needs to establish who will oversee the compliance program as the organizations “watch dog”. A compliance officer and or a compliance committee needs to be put in to place. These employees will report directly to the CEO or other senior management (depending on how the leadership is structured), and are responsible for the compliance program structure and administration. These employees must be able to demonstrate that they have involvement in and detailed familiarity with the organization’s operational and compliance activities.

The Compliance Officer or committee are responsible for “reasonable oversight” of the program which entails:

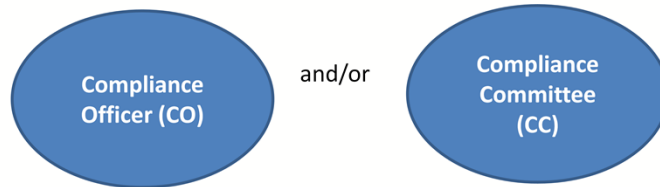
- Approving Standards of Conduct
- Understanding and administering the compliance program structure
- Being informed about the outcomes of audits and monitoring
- Reporting on compliance enforcement activity
- Reviewing and performing effectiveness assessments of the compliance program

As discussed before, it is important to note that compliance plans are not one size fits all. You will need to establish a plan that works for you and is specifically designed to meet your individual needs. So, while compliance plans should designate a compliance professional, what that will look like will vary depending on the size and structure of your organization. For a big hospital or drug company, it might be appropriate to have a VP compliance officer with a large full time staff. For a small clinic or solo practitioner physician’s office, we wouldn’t expect you to have full time staffers just working on compliance. It might make more sense to designate one employee to be the compliance officer in addition to other clinical or administrative responsibilities.

On another note; you may consider outsourcing to an external vendor to assist you with your compliance program. Many organizations/consultants are gearing up to have a "rent a compliance officer" program. If you like them... you can go from rent to own! But before you select a Compliance Officer or Committee, it’s important to understand the difference between those roles.

Seven Core Elements of an Effective Compliance Program

2. Compliance Program Oversight



Both the CO and the CC:

- Report directly to and are accountable to CEO or other senior management;
- Are vested with day-to-day operations of the compliance program;
- Report periodically on activities and status of compliance program, including issues investigated, identified and resolved by compliance program;
- Have express authority to provide unfiltered, in person reports to CEO; and
- Take responsibility for the compliance program design and infrastructure.

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A Compliance Officer and a Compliance Committee are two different entities. Many programs have both.

A Compliance Officer is a single employee who is solely responsible for the day-to-day workings of the compliance program and structure.

The Compliance Committee – is a multi-disciplinary committee whose members have various backgrounds and expertise.

Both a compliance officer and a compliance committee:

- Report directly to and are accountable to the CEO or other senior management (who they report to will depend on your organization's leadership structure, but it should be the highest ranking person or people in the organization);
- Are vested with day-to-day operations of the compliance program;
- Report periodically on activities and status of compliance program, including issues investigated, identified and resolved by compliance program;
- Have express authority to provide unfiltered, in person reports to CEO or other senior management; and
- Take responsibility for the compliance program design and infrastructure.

Let's take a look at the specific responsibilities of the CO and CC.

Seven Core Elements of an Effective Compliance Program

2. Compliance Program Oversight

Compliance Officer/Committee Duties:

- Developing and/or reviewing policies and procedures that implement the compliance program;
- Attending operations staff meetings;
- Monitoring compliance performance by operational areas;
- Enforcing disciplinary standards, ensuring consistency;
- Implementing a system for assessment of risk;
- Developing an auditing work plan;
- Reviewing auditing and monitoring reports;
- Coordinating with Human Resources; and
- Monitoring effectiveness of corrective actions.

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The Compliance Officer and Compliance Committee are responsible for certain duties related to the administration of the compliance program. Those responsibilities include:

- Developing and/or reviewing policies and procedures that implement the compliance program;
- Attending operations staff meetings;
- Monitoring compliance performance by operational areas;
- Enforcing disciplinary standards and ensuring consistency of discipline;
- Implementing a system for assessment of risk;
- Developing an auditing work plan;
- Reviewing auditing and monitoring reports;
- Coordinating with Human Resources; and
- Monitoring effectiveness of corrective actions.

Seven Core Elements of an Effective Compliance Program

2. Compliance Program Oversight

Compliance Officers/Committee Authority:

- Interviewing employees;
- Reviewing collected data;
- Seeking advice from legal counsel; and
- Reporting potential fraud, waste, and abuse within the organization.
- Conducting operations audits;
- Recommending policy, procedure, process improvements; and
- Enforcing compliance program requirements at all levels of the organization.

The CO and Compliance Committee also have the authority to conduct certain functions related to the compliance program. Those authorities include:

- Interviewing employees;
- Reviewing collected data;
- Seeking advice from legal counsel;
- Reporting potential fraud, waste and abuse within the organization;
- Conducting operations audits;
- Recommending policy, procedure, process improvements; and
- Enforcing compliance program requirements at all levels of the organization.

Now that we've discussed the oversight and administration of a compliance program, let's look at the training and education components.

Seven Core Elements of an Effective Compliance Program

3. Training and Education

- General compliance training to all employees, managers and supervisors that effectively communicates the requirements of the compliance program, including the company's code of conduct.
- Initial compliance training for new employees occurring at or near the date of hire.
- Annual refresher compliance training that highlights compliance program changes or other new developments.

The third core element of an effective compliance program is training and education. Training your staff is one of the most important elements of your compliance plan to ensure that staff is aware of expectations and standards.

In terms of when your staff should be trained, look to include:

- General compliance training to all employees, managers and supervisors that effectively communicates the requirements of the compliance program, including the company's code of conduct,
- Initial compliance training for new employees occurring at or near the date of hire, and
- Annual refresher compliance training that highlights compliance program changes or other new developments.

Seven Core Elements of an Effective Compliance Program

3. Training and Education

- The refresher training should re-emphasize the organizations code of conduct.
- Training should, when appropriate, use actual compliance scenarios and/or investigations of non-compliance as examples of risks that employees and managers may encounter. This would include using case-based or scenario based training examples as well as reporting on any noticed or reported trends.
- Make the training as interactive as possible to increase the takeaway value to employees.

Here are some other important things to keep in mind as you design your compliance program training and education.

The refresher training should re-emphasize the organizations code of conduct.

Training should, when appropriate, use actual compliance scenarios and/or investigations of non-compliance as examples of risks that employees and managers may encounter. This would include using case-based or scenario based training examples as well as reporting on any noticed or reported trends.

Make the training as interactive as possible to increase the takeaway value to employees.

Seven Core Elements of an Effective Compliance Program

3. Training and Education

There are many methods to use for training staff some suggestions are:

- Try to “Gameify” the educational modules to make them more engaging.
- Live training or computer/tablet based training.
- Incentivize!

The training method used is your choice; again, you will have to figure out what will work best for your particular audience.

The CO should be responsible for communicating compliance messages by using less formal training methods such as posters, newsletters and Intranet communications.

But HOW should you conduct training? What is most effective?

There are many methods to use for training staff some suggestions are:

- Try to “Gameify” the educational modules to make them more engaging. Remember that staff often enjoy a good competition, too!
- Mix your mediums- look at the feasibility of using both live training and computer/tablet based training.
- Incentivize! Providers may be more engaged or willing to participate in training if you offer them an incentive such as CME credit and lunch or dinner, this gives them time to talk and compare what has been happening in their offices or departments and can be helpful during training discussions.

The training method used is your choice; again, you will have to figure out what will work best for your particular audience.

Informal and consistent education messages are important too! The CO should be responsible for communicating compliance messages by using less formal training methods such as posters, newsletters and Intranet communications.

Speaking of communicating, let’s talk about element number four- opening the lines of communication.

Seven Core Elements of an Effective Compliance Program

4. Opening the Lines of Communication

- Reporting requirements- proactive and timely.
- Compliance issues communication processes.
- Anonymous reporting such as via hotline or drop box.

The fourth core element for an effective compliance program involves opening the lines of communication regarding compliance issues, education, and concerns.

Open lines of communication must be an integral part of your office/practices policies. Effective lines of communication must run in multiple directions and include:

- Requirements for all employees to be proactive and report issues timely.
- A formal process for managers to communicate compliance issues and results to staff
- A process to allow anonymous reporting without fear of retaliation

Good communication is important for all organizations. But how best to achieve that will depend on the size and structure of your organization. Many big organizations have anonymous hotlines – maybe a 1-800 number or an email drop box. Again, we would not expect a five person clinic to establish a 1-800 number. Smaller organizations might promote open door policies or something else that makes more sense for them. You need to figure out what works for your organization. The important thing is to take a careful look at your reporting process to make sure it is effective. If you don't receive many reports, don't assume that there are no problems.

To get more into specifics, let's look at the what, who, how, and when of compliance issue reporting.

Seven Core Elements of an Effective Compliance Program

4. Opening the Lines of Communication

The What, Who, How ,and When

Communicate **what**?

Compliance issues or fraudulent and illegal behavior.

Who should compliance issues be reported to?

- Immediate manager or supervisor
- Compliance Officer or Committee

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Communicate **what**?

All known or perceived instances of compliance issues or fraudulent and illegal behavior should be reported.

Who should compliance issues be reported to? Your staff should know that these issues can be reported to any manager of management or to the Compliance Officer or Committee.

Seven Core Elements of an Effective Compliance Program

4. Opening the Lines of Communication

How to report compliance issues?

You should make several methods available for employees to report compliance issues.

Some methods include:

- In person;
- Electronically, either by email or intranet form; and
- Anonymously by drop box or toll-free hotline.

When should compliance issues be reported?

Compliance issues should be reported immediately or as soon as they are identified.

But HOW can your staff report compliance issues?

You should make several methods available for employee's to report compliance issues. Some methods include:

- In person;
- Electronically, either by email or intranet form; and
- Anonymously by drop box or toll-free hotline.

Another important point of emphasis is **WHEN compliance issues are reported**. Your staff must be trained to make reports immediately or as soon as they are identified.

Seven Core Elements of an Effective Compliance Program

4. Opening the Lines of Communication

Routine Communication and Access to the Compliance Officer/Committee

- “Open Door” policy
- Compliance staff duties include answering routine questions regarding compliance or ethics issues.

An important part of communication within a compliance program involves your compliance officer and/or committee being readily available to your staff.

There should be an organization-wide “open door” policy for employee access to all levels of management, but particularly for the CO and the Compliance Department staff. Your staff should be able to approach any member of management

Make sure your staff know that the compliance staffs’ duties include answering routine questions regarding compliance or ethics issues.

Now that we have established how to effectively communicate about compliance with your staff, let’s turn our attention to auditing and monitoring your program.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

A system for auditing and monitoring must be implemented to:

- Measure the effectiveness of the compliance program;
- Ensure compliance with CMS requirements; and
- Identify compliance risks.

The system should include internal monitoring and audits and external audits, as appropriate.

Auditing and Monitoring comprise the 5th core element of an effective compliance program.

A system for auditing and monitoring must be implemented to measure the effectiveness of the compliance program, ensure compliance with CMS requirements, and identify compliance risks. The system should include internal monitoring and audits and external audits, as appropriate.

First, we need to understand the difference between auditing and monitoring.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Difference Between Auditing and Monitoring

Monitoring:

- Regular reviews performed as part of normal operations to confirm ongoing compliance

Auditing:

- Formal reviews of compliance with a particular set of standards as base measures

Some organizations use the terms “monitoring” and “auditing” interchangeably.

However, the two activities have different meanings and expectations.

Monitoring includes regular reviews performed as part of normal operations to confirm ongoing compliance. These are day to day functions.

Auditing includes formal reviews of compliance with a particular set of standards as base measures.

But what is involved in monitoring and auditing?

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Monitoring:

- Occurs on a regular basis (for example, daily, weekly, or monthly) during normal operations;
- Is performed by staff;
- Checks to see if procedures are working as intended; and
- Follows up on recommendations and corrective action plans to ensure they are being implemented.

Monitoring occurs on a regular basis (for example, daily, weekly, or monthly) during normal operations.

The staff in the department being monitored often performs the monitoring activities.

Monitoring checks to see if procedures are working as intended..

It also is a means of following up on recommendations and corrective action plans to ensure they are being implemented.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Auditing:

- Ensures compliance with a range of statutory and CMS requirements in critical operations areas;
- Includes regular, periodic evaluations of the compliance program to determine the program's overall effectiveness;
- Is performed at least annually, or more frequently, as appropriate;
- May include a variety of audit methods (for example, desk, onsite, internal, or external); and
- Includes written reports containing findings, recommendations, and proposed corrective actions.

Auditing is a more comprehensive review than monitoring.

Auditors review compliance against a set of standards, such as compliance with statutes and regulations or compliance with the internal requirements, used as base measures.

Auditing:

- ensures compliance with a range of statutory and CMS requirements in critical operations areas;
- includes regular, periodic evaluations of the compliance program to determine the program's overall effectiveness;
- is performed at least annually, or more frequently, as appropriate; may include a variety of audit methods (for example, desk, onsite, internal, or external); and includes written reports containing findings, recommendations, and proposed corrective actions.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Who Can Perform Audits?

Audits may be performed internally or by an external organization.

Auditors should:

- Be independent of, and not employed in the department being audited;
- Be competent to identify potential issues within the critical review areas; and
- Have access to existing audit resources, relevant personnel, and all relevant operational areas.

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In addition to knowing how you will monitor and audit your program, you'll also need to know how you will respond to any compliance issues or offenses if they are detected.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Responding to Detected Offenses

Written policies and procedures should, at a minimum, cover the following areas:

- A plan of how internal investigations should be conducted;
- A time limit for closing an investigation;
- Options for corrective action;
- When to have an investigation performed by an outside, independent contractor; and
- How and when to refer an act of non-compliance to CMS or law enforcement authorities. (Where there is credible evidence that the misconduct may violate criminal, civil, or administrative law, the misconduct should be reported to the OIG and CMS within 30 days.)

When your compliance program mechanisms do detect offenses, you'll need to consistently use the same written policies and procedures for handling every offense.

Written policies and procedures for auditing and monitoring should, at a minimum, cover the following areas:

- A plan of how internal investigations should be conducted;
- A time limit for closing an investigation;
- Options for corrective action;
- When to have an investigation performed by an outside, independent contractor; and
- How and when to refer an act of non-compliance to CMS or law enforcement authorities. (Where there is credible evidence that the misconduct may violate criminal, civil, or administrative law, the misconduct should be reported to the OIG and CMS within 30 days.)

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Risk Assessment

Risk assessment is a formal baseline assessment of major compliance and fraud, waste, and abuse areas to assess compliance risks.

Risk assessment should:

- Include areas of concern identified by CMS, beneficiaries, providers; and
- Identify risk levels (for example, high, medium, or low).

Risk assessment results are included in monitoring and auditing work plans. High-risk areas should be audited regularly.

Another important component of auditing and monitoring is assessing the level of risk..

Risk assessment is a formal baseline assessment of major compliance and fraud, waste, and abuse areas to assess compliance risks.

Risk assessment should include areas of concern identified by CMS, beneficiaries, providers; and identify risk levels (for example, high, medium, or low). High-risk areas should be audited regularly.

Risk assessment results are included in monitoring and auditing work plans, and help to guide decisions regarding resources.

Some of you asked us to identify compliance areas that are often problematic. Coding and billing are frequent problems. Another large issue is that providers accidentally hire individuals who are excluded from participating in Federal programs such as Medicare and Medicaid. This is easy to avoid by checking the LEIE -- List of Excluded Individuals and Entities -- for prospective employees, new hires, and existing employees.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Monitoring and Auditing Work Plans

Monitoring and auditing work plans should:

- Outline monitoring/auditing specifics;
- Be based on results of risk assessment;
- Include a process for responding to results; and
- Include corrective actions.

Now we'll take a look at what effective monitoring and auditing work plans should do and include.

Overall, monitoring and auditing work plans should:

- Outline monitoring/auditing specifics;
- Be based on results of risk assessment;
- Include a process for responding to results; and
- Include corrective actions.

Seven Core Elements of an Effective Compliance Program

5. Auditing & Monitoring

Monitoring work plans may include:

- Frequency;
- Person responsible; and
- Issues of concern.

Auditing work plans may include:

- Audit start schedule;
- Methods used;
- Results; and
- Corrective actions.

And here are some ideas of the specific information your monitoring and auditing work plans might include.

Monitoring work plans may include frequency, person responsible, and issues of concern.

Auditing work plans may include audit start schedule, methods used, results, and corrective actions.

Seven Core Elements of an Effective Compliance Program

6. Consistent Discipline

Written policies are required that apply appropriate disciplinary sanctions on those who fail to comply with the applicable requirements and with written standards of conduct.

These disciplinary policies should include sanctions for:

- Non-compliance;
- Failure to detect non-compliance when routine observation or due diligence should have provided adequate clues; and
- Failure to report actual or suspected non-compliance.

Discipline must be dealt with timely and enforced consistently.

Disciplinary policies must:

- Be clearly written and widely publicized;
- Describe expectations as well as consequences for noncompliant, unethical, and illegal behaviors; and
- Be reviewed with staff regularly (at least annually).

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Consistent discipline is the 6th core element of an effective compliance program.

When an investigation confirms a compliance offense, you'll need a plan in place to enforce consistent discipline.

Written policies are required that apply appropriate disciplinary sanctions on those who fail to comply with the applicable requirements and with written standards of conduct.

These disciplinary policies should include sanctions for:

- Non-compliance;
- Failure to detect non-compliance when routine observation or due diligence should have provided adequate clues; and
- Failure to report actual or suspected non-compliance.

Discipline must be dealt with timely and enforced consistently.

Disciplinary policies must be clearly written and describe expectations and consequences for noncompliant behaviors. They should be widely publicized and reviewed at least annually with the staff.

Seven Core Elements of an Effective Compliance Program

7. Corrective Action

When vulnerabilities or non-conformances are identified and/or reported, corrective action must be conducted in response to potential violations.

Corrective action examples include:

- Repayment of overpayments; and
- Disciplinary action against responsible employees.

The final element of an effective compliance program is the use of Corrective Actions.

When vulnerabilities or non-conformances are identified and/or reported as the result of a risk assessment, audit, or monitoring, corrective action must be conducted in response to potential violations.

Examples of corrective action include repayment of overpayments and disciplinary action against responsible employees.

That concludes our discussion of the seven elements of an effective compliance program. At this time, I'll turn the program back over to our moderator. Lauren?

Part Two: Dos and Don'ts for Health Care Compliance Plans

Thank you, Dr. Taitsman and Ms. Culbertson!

Our next speaker, Jacqueline Bloink, will provide some field-tested tips and tactics for implementing an effective compliance program.

Part Two: Dos and Don'ts for Health Care Compliance Plans

1. **Follow the OIG's Guide for Physician Groups**
<http://oig.hhs.gov/authorities/docs/physician.pdf> October 5, 2000
2. Know where to locate **easy and free resources** such as the Health Care Fraud Prevention and Enforcement Action Team (HEAT) Provider Compliance Training (many great – free tools!) <http://oig.hhs.gov/compliance/provider-compliance-training/index.asp>
3. **Keep the plan simple!** If it is not readable- it is probably not USEABLE. No one wants an elaborate plan that sits on a shelf (or in a computer) and is never viewed / used.
4. **Set a date to review the plan every year.** Put it on your calendar. It is easy to get busy and forget to review the plan, so set a date!

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1. Follow the OIG's Guide for Physician Groups: A couple of questions that the participants posed were about existing compliance plan templates. The OIG Guidelines for Physician Groups contains the 7 key components needed to design your own unique plan. Use these 7 components as the guide for your plan. Various compliance organizations also have wonderful resources. One such organization is the Health Care Compliance Association (HCCA.) There is a membership fee, but they have an entire library full of resources including sample documents.
2. Easy and Free Resources: Other resources to use in order to design a good compliance plan include the OIG and CMS. The Health Care Fraud Prevention and Enforcement Team (HEAT) has numerous fact sheets, podcasts and reference materials. All free! Google various compliance topics and you will be surprised at all of your options!
3. Simple to read compliance plans are the best in my experience. If the compliance plan is long or contains difficult language (such as hard to understand legal terms) the providers and employees might avoid reading it. Keep the compliance plan concise and to the point. Also add examples to each of the 7 components so that the reader understands what the goal is of each component. This makes your plan unique and relevant. A large organization might have weekly HR training, whereas a smaller office might only offer on the job training. This is where the uniqueness of each plan is so important. Don't let the compliance plan be only window dressing for the organization. Fancy does not impress anyone if the plan sits on a shelf or in a computer file. One participant asked about the Medicare Advantage Plans. If you follow the 7 components for your plan, you are most likely going to fulfill the requirements for the Medicare Advantage plans (attest) as well as most of the commercial plans.
4. Reviewing the compliance plan every year is important. This is when you can tweak it to make it better. Pick a date that you can remember. Perhaps the anniversary of the organization. Or the 1st day of summer. Whatever works best for you. This is the time where you can change items in the plan that did not work the previous year; or really increase efforts in areas that seemed to help. One of our participant's asked about ideas for ongoing staff / provider education or training. Perhaps you found that dinner meetings with CME really worked. Then you would want to address this more in detail in your plan for the subsequent year (perhaps under training.) Many of us update other areas on an annual basis within our business- why should compliance be any different?

Part Two: Dos and Don'ts for Health Care Compliance Plans

5. **Engage the physicians.** Set up **educational meetings** to discuss the components of the plan and obtain CME credits. Keep the meetings to under 2 hours.
6. **Make the "compliance plan" a topic that is seen positively and frequently** in emails, newsletters, internal "intranet resource tab" and on Board agendas.
7. **The compliance plan needs to be real.** A **person needs to represent the plan** and be a **role model** for the plan. Employees need to feel that they can go to this person **for any compliance issue**. The **person** that represents this "plan" **needs to be accessible**.
8. The compliance plan needs to have **"teeth"** but **the compliance officer *does not need to wear fangs* – keep it friendly and fair** where everyone understands the rules and consequences!

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5. Engaging the providers and staff to "buy into" the compliance program can be a challenge. Try to think of ways to keep everyone informed and at the same time intrigue them so that they ask for more information. CME with dinner works for my organization. Providers can get together and ask questions in a safe environment. The quiet providers will learn from the providers, or staff, that are asking the questions. Also making "social rounds" at the office is very effective. Many times it is helpful to just stop by to say hello and see if they have any questions. Staff is less likely to be afraid of "compliance" if you stop by for informal chats rather than only show up when there is a problem.
6. This leads to the next topic of compliance being "seen." Make sure that you use every opportunity possible to shine the light on compliance. Add compliance topics to your newsletters. Add a compliance tab to your intranet. If you have a Board, make sure that compliance has something interesting to say at each Board meeting. Let your passion for compliance color the organization in a color of your choice.
7. The compliance plan needs to be real. This goes back to the window dressing statement. Don't design a plan that you do not intend to follow. Your compliance point of contact in the organization needs to be a role model. The compliance professional also needs to be accessible. Once staff gets to know that compliance is the "go to person" regarding many issues.... It won't be very long before the staff starts to tell you about many areas of risk. Trust is the key. I give my staff my cell number. They do not abuse it. I can't help them / or the organization unless I know about the problems.
8. All compliance plans need to spell out the consequences of not following the rules. However, the compliance professional does not need to have fangs! Be friendly and fair. Everyone wins when compliance is spelled out and understands the rules.

Questions and Answers

To ask a question:

- Dial (800) 374-0740, Conference ID: 48120093
- State your name and organization
- Press *1 to get into the question queue

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Thank you so much, Ms. Bloink!

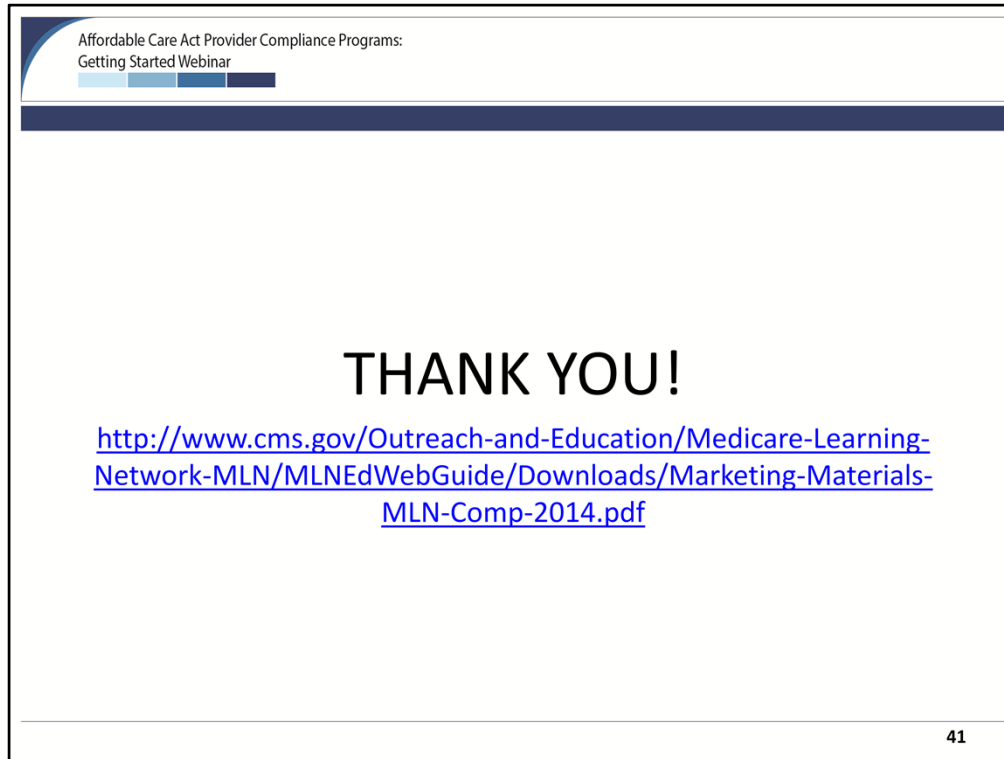
At this time, we'll open up the phone lines for our question and answer session.

To ask a question:

Dial (800) 374-0740, Conference ID: 48120093

State your name and organization

Press *1 to get into the question queue



Thank you for attending today's webinar! And thank you very much to our speakers and subject matter experts for this terrific information.

Just a reminder that CE credits and a certificate of completion are available upon completion and passing of a short post-assessment.

Webinar attendees wishing to receive continuing education credit must use the post-assessment and evaluation administered through the CMS Learning Management System as proof of their attendance and mastery of the webinar objectives.

Follow the instructions in the CE Instructions to record your attendance, complete the post-assessment and evaluation, and receive your certificate. You will also receive an email after the webinar concludes with the pertinent CE information.

Thank you again and have a great day!