



Office of Financial Management

Date: August 21, 2009

To: Medicare Advantage Organizations
Medicare Advantage - Prescription Drug Organizations
Prescription Drug Plan Sponsors

From: Kimberly Brandt, Director, Program Integrity Group

Subject: Fraud, Waste, and Abuse (FWA) Training Clarification

The Centers for Medicare & Medicaid Services (CMS) has received numerous inquiries regarding the changes to 42 C.F.R. § 422.503(b)(4)(vi) and 42 C.F.R. § 423.504 (b)(4)(vi) that became effective on January 1, 2009. The purpose of this memorandum is to provide guidance and clarification to Medicare Advantage Organizations (MAOs) and Prescription Drug Plan (PDP) Sponsors concerning the implementation of fraud, waste and abuse (FWA) training. The regulation revision clarifies that MAO and PDP sponsors must apply FWA training to all entities they are partnering with to provide benefits or services in the Part C and the Part D programs, not just to the direct employees within their organization. Due to the potential burden on downstream entities, CMS strongly encourages MAO and PDP sponsors to work together to provide standardized training.

Accordingly, we clarify that in order to meet the FWA training requirement for first tier, downstream, and related entities, MAOs and PDP Sponsors may either provide the training directly **or** provide appropriate training materials to these delegated and contracted entities. The MAO or PDP sponsor is accountable for ensuring that materials have been provided to all entities. Topics that should be addressed in a FWA training program include:

- Laws and regulations related to MA and Part D fraud, waste and abuse (i.e., False Claims Act, Anti-Kickback statute, HIPAA, etc)
- Obligations of the first tier downstream, and related entities to have appropriate policies and procedures to address fraud, waste, and abuse
- Process for reporting to the MAO or PDP sponsor suspected fraud, waste and abuse in first tier, downstream, and related entities
- Protections for employees of first tier, downstream, and related entities who report suspected fraud, waste and abuse
- Types of fraud, waste and abuse that can occur in first tier, downstream, and related entities

* This represents a broad list of topics and is not intended to represent all topics that could be addressed in FWA training.

If you have any questions about this guidance, please contact the CMS Parts C & D FWA Training resource at FWATraining@cms.hhs.gov.