1. Combating Medicare Parts C and D FWA Training
1.3 Introduction

The Combating Medicare Parts C and D Fraud, Waste, and Abuse Web-Based Training course is brought to you by the Medicare Learning Network®, a registered trademark of the U.S. Department of Health & Human Services (HHS).
1.4 Introduction

Combating Medicare Parts C and D Fraud, Waste, and Abuse Introduction

This Web-Based Training (WBT) course was current at the time it was published or uploaded onto the web. Medicare policy changes frequently so links to the source documents have been provided within the WBT for your reference.

This WBT course was prepared as a service to the public and is not intended to grant rights or impose obligations. This WBT 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. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

This training module will assist Medicare Parts C and D plan Sponsors employees, governing body members, and their first-tier, downstream, and related entities (FDRs) in satisfying the annual Fraud, Waste, and Abuse (FWA) training requirements in the regulations and sub-regulatory guidance at:

- 42 Code of Federal Regulations (CFR) Section 422.503(b)(4)(v)(C);
- 42 CFR Section 423.504(b)(4)(v)(C);
- CMS-4159-F, Medicare Program Contract Year 2015 Policy and Technical Changes in the Medicare Advantage and the Medicare Prescription Drug Benefit Programs; and
- Section 50.3.2 of the Compliance Program Guidelines (Chapter 9 of the “Medicare Prescription Drug Benefit Manual” and Chapter 21 of the “Medicare Managed Care Manual”).

Sponsors and their FDRs may use this module to satisfy FWA training requirements. Sponsors and their FDRs are responsible for providing additional specialized or refresher training on issues posing FWA risks based on the employee’s job function or business setting.
1.5 Introduction

Combating Medicare Parts C and D Fraud, Waste, and Abuse

Introduction

Welcome to the Medicare Learning Network® (MLN) - Your free Medicare education and information resource!

The MLN is home for education, information, and resources for the health care professional community. The MLN provides access to the Centers for Medicare & Medicaid Services (CMS) Program information you need, when you need it, so you can focus more on providing care to your patients.

Serving as the umbrella for a variety of CMS education and communication activities, the MLN offers:

1. MLN Educational Products, including MLN Matters® Articles;
2. Web-Based Training (WBT) Courses (many offer Continuing Education credits);
3. MLN Connects® National Provider Calls;
4. MLN Connects® Provider Association Partnerships;
5. MLN Connects® Provider eNews; and
6. Provider electronic mailing lists.

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1.6 Why Do I Need Training?

Combating Medicare Parts C and D Fraud, Waste, and Abuse Introduction

Why Do I Need Training?

Every year billions of dollars are improperly spent because of FWA. It affects everyone - including you. This training will help you detect, correct, and prevent FWA. You are part of the solution.

Combating FWA is everyone's responsibility! As an individual who provides health or administrative services for Medicare enrollees, every action you take potentially affects Medicare enrollees, the Medicare Program, or the Medicare Trust Fund.
1.7 Training Requirements

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Introduction

Training Requirements: Plan Employees, Governing Body Members, and First-Tier, Downstream, or Related Entity (FDR) Employees

Certain training requirements apply to people involved in Medicare Parts C and D. All employees of Medicare Advantage Organizations (MAOs) and Prescription Drug Plans (PDPs) (collectively referred to in this WBT course as “Sponsors”) must receive training for preventing, detecting, and correcting FWA.

FWA training must occur within 90 days of initial hire and at least annually thereafter.

More information on other Medicare Parts C and D compliance trainings and answers to common questions is available on the CMS website.
Combating Medicare Parts C and D Fraud, Waste, and Abuse

Introduction

Learn more about Medicare Part C

Medicare Part C, or Medicare Advantage (MA), is a health plan choice available to Medicare beneficiaries. MA is a program run by Medicare-approved private insurance companies. These companies arrange for, or directly provide, health care services to the beneficiaries who elect to enroll in an MA plan.

MA plans must cover all services that Medicare covers with the exception of hospice care. MA plans provide Part A and Part B benefits and may also include prescription drug coverage and other supplemental benefits.

Learn more about Medicare Part D

Medicare Part D, the Prescription Drug Benefit, provides prescription drug coverage to all beneficiaries enrolled in Part A and/or Part B who elect to enroll in a Medicare Prescription Drug Plan (PDP) or an MA Prescription Drug (MA-PD) plan. Insurance companies or other companies approved by Medicare provide prescription drug coverage to individuals who live in a plan's service area.
1.9 FWA Training Requirements Exception

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Introduction

FWA Training Requirements Exception

There is one exception to the FWA training and education requirement. FDRs
will have met the FWA training and education requirements if they have met
the FWA certification requirement through:

- Accreditation as a supplier of Durable Medical Equipment, Prosthetics,
  Orthotics, and Supplies (DMEPOS); or
- Enrollment in Medicare Part A (hospital) or B (medical) Program.

If you are unsure if this exception applies to you, please contact your
management team for more information.
1.10 Course Content

Combating Medicare Parts C and D Fraud, Waste, and Abuse Introduction

Course Content

This WBT course consists of two lessons:

1. What Is FWA?
2. Your Role in the Fight Against FWA

Anyone who provides health or administrative services to Medicare enrollees must satisfy general compliance and FWA training requirements. You may use this WBT course to satisfy the FWA requirements.
1.11 Course Objectives

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Introduction

Course Objectives

When you complete this course, you should be able to correctly:

- Recognize FWA in the Medicare Program;
- Identify the major laws and regulations pertaining to FWA;
- Recognize potential consequences and penalties associated with violations;
- Identify methods of preventing FWA;
- Identify how to report FWA; and
- Recognize how to correct FWA.
1.12 What is FWA?

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

What is FWA?

Lesson 1: Introduction and Learning Objectives

This lesson describes Fraud, Waste, and Abuse (FWA) and the laws that prohibit it. It should take about 10 minutes to complete. Upon completing the lesson, you should be able to correctly:

- Recognize FWA in the Medicare Program;
- Identify the major laws and regulations pertaining to FWA; and
- Recognize potential consequences and penalties associated with violations.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Fraud

Fraud is knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program, or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

The Health Care Fraud Statute makes it a criminal offense to knowingly and willfully execute a scheme to defraud a health care benefit program. Health care fraud is punishable by imprisonment for up to 10 years. It is also subject to criminal fines of up to $250,000.

In other words, fraud is intentionally submitting false information to the Government or a Government contractor to get money or a benefit.
Combating Medicare Parts C and D Fraud, Waste, and Abuse

Lesson 1: What is FWA?

Waste and Abuse

**Waste** includes overusing services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare Program. Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources.

**Abuse** includes actions that may, directly or indirectly, result in unnecessary costs to the Medicare Program. Abuse involves payment for items or services when there is not legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

For the definitions of fraud, waste, and abuse, refer to Chapter 21, Section 20 of the "Medicare Managed Care Manual" and Chapter 9 of the "Prescription Drug Benefit Manual" on the Centers for Medicare & Medicaid Services (CMS) website.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Examples of FWA
Examples of actions that may constitute Medicare fraud include:

- Knowingly billing for services not furnished or supplies not provided, including billing Medicare for appointments that the patient failed to keep;
- Billing for non-existent prescriptions; and
- Knowingly altering claim forms, medical records, or receipts to receive a higher payment.
1.16 Examples of FWA

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Examples of FWA (continued)

Examples of actions that may constitute Medicare waste include:

- Conducting excessive office visits or writing excessive prescriptions;
- Prescribing more medications than necessary for the treatment of a specific condition; and
- Ordering excessive laboratory tests.
Examples of FWA (continued)

Examples of actions that may constitute Medicare abuse include:

- Billing for unnecessary medical services;
- Billing for brand name drugs when generics are dispensed;
- Charging excessively for services or supplies; and
- Misusing codes on a claim, such as upcoding or unbundling codes.
Differences Among Fraud, Waste, and Abuse

There are differences among fraud, waste, and abuse. One of the primary differences is intent and knowledge. Fraud requires intent to obtain payment and the knowledge that the actions are wrong. Waste and abuse may involve obtaining an improper payment or creating an unnecessary cost to the Medicare Program, but does not require the same intent and knowledge.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Understanding FWA

To detect FWA, you need to know the law.

The following screens provide high-level information about the following laws:

- Civil False Claims Act, Health Care Fraud Statute, and Criminal Fraud;
- Anti-Kickback Statute;
- Stark Statute (Physician Self-Referral Law);
- Exclusion; and
- Health Insurance Portability and Accountability Act (HIPAA).

For details about the specific laws, such as safe harbor provisions, consult the applicable statute and regulations.
1.20 Civil False Claims Act (FCA)

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 1: What is FWA?

Civil False Claims Act (FCA)

The civil provisions of the FCA make a person liable to pay damages to the Government if he or she knowingly:

- Conspires to violate the FCA;
- Carries out other acts to obtain property from the Government by misrepresentation;
- Knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay the Government;
- Makes or uses a false record or statement supporting a false claim; or
- Presents a false claim for payment or approval.

For more information, refer to 31 United States Code (U.S.C.) Sections 3729-3733 on the Internet.
1.21 Civil False Claims Act (FCA) continued

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Civil FCA (continued)

Damages and Penalties
   Any person who knowingly submits false claims to the Government is liable
   for three times the Government’s damages caused by the violator plus a
   penalty.

Example
   A Medicare Part C plan in Florida:

   • Hired an outside company to review medical records to find additional
     diagnosis codes that could be submitted to increase risk capitation
     payments from the Centers for Medicare & Medicaid Services (CMS);
   • Was informed by the outside company that certain diagnosis codes
     previously submitted to Medicare were undocumented or unsupported;
   • Failed to report the unsupported diagnosis codes to Medicare; and
   • Agreed to pay $22.6 million to settle FCA allegations.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Civil FCA (continued)

Whistleblowers

A whistleblower is a person who exposes information or activity that is deemed illegal, dishonest, or violates professional or clinical standards.

Protected: Persons who report false claims or bring legal actions to recover money paid on false claims are protected from retaliation.

Rewarded: Persons who bring a successful whistleblower lawsuit receive at least 15 percent but not more than 30 percent of the money collected.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Health Care Fraud Statute

The Health Care Fraud Statute states that “Whoever knowingly and willfully executes, or attempts to execute, a scheme to ...defraud any health care benefit program ... shall be fined ... or imprisoned not more than 10 years, or both.”

Conviction under the statute does not require proof that the violator had knowledge of the law or specific intent to violate the law. For more information, refer to 18 U.S.C. Section 1346 on the internet.
1.24 Health Care Fraud Statute (continued)

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Health Care Fraud Statute (continued)

Examples
A Pennsylvania pharmacist:
• Submitted claims to a Medicare Part D plan for non-existent prescriptions and for drugs not dispensed;
• Plead guilty to health care fraud; and
• Received a 15-month prison sentence and was ordered to pay more than $166,000 in restitution to the plan.

The owners of two Florida Durable Medical Equipment (DME) companies:
• Submitted false claims of approximately $4 million to Medicare for products that were not authorized and not provided;
• Were convicted of making false claims, conspiracy, health care fraud, and wire fraud;
• Were sentenced to 54 months in prison; and
• Were ordered to pay more than $1.9 million in restitution.
Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 1: What is FWA?

Criminal Health Care Fraud

Persons who knowingly make a false claim may be subject to:

- Criminal fines up to $250,000;
- Imprisonment for up to 20 years; or
- Both.

If the violations resulted in death, the individual may be imprisoned for any term of years or for life.

For more information, refer to 18 U.S.C. Section 1347 on the Internet.
1.26 Anti-Kickback Statute

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 1: What is FWA?

Anti-Kickback Statute

The Anti-Kickback Statute prohibits knowingly and willfully soliciting, receiving, offering, or paying remuneration (including any kickback, bribe, or rebate) for referrals for services that are paid, in whole or in part, under a Federal health care program (including the Medicare Program).

For more information, refer to 42 U.S.C. Section 1320a-7b(b) on the Internet.

Damages and Penalties
Violations are punishable by:
• A fine of up to $25,000;
• Imprisonment for up to 5 years; or
• Both.

For more information, refer to the Social Security Act (the Act), Section 1128B(b) on the Internet.
Combing Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Anti-Kickback Statute (continued)

EXAMPLE
A radiologist who owned and served as medical director of a diagnostic testing center in New Jersey:

- Obtained nearly $2 million in payments from Medicare and Medicaid for MRIs, CAT scans, ultrasounds, and other resulting tests; Paid doctors for referring patients;
- Plead guilty to violating the Anti-Kickback Statute; and
- Was sentenced to 46 months in prison.

The radiologist was among 17 people, including 15 physicians, who have been convicted in connection with this scheme.
1.28 Stark Statute (Physician Self-Referral Law)

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 1: What is FWA?

Stark Statute (Physician Self-Referral Law)

The Stark Statute prohibits a physician from making referrals for certain designated health services to an entity when the physician (or a member of his or her family) has:

• An ownership/investment interest; or
• A compensation arrangement (exceptions apply).

For more information, refer to 42 U.S.C. Section 1395nn on the Internet.
1.29 Stark Statute (Physician Self-Referral Law)

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Stark Statute (Physician Self-Referral Law) (continued)

Damages and Penalties
Medicare claims tainted by an arrangement that does not comply with the Stark Statute are not payable. A penalty of around $23,800 may be imposed for each service provided. There may also be around a $159,000 fine for entering into an unlawful arrangement or scheme.

For more information, visit the Physician Self-Referral webpage on the CMS website and refer to the Act, Section 1877 on the Internet.

Example
A physician paid the Government $203,000 to settle allegations that he violated the physician self-referral prohibition in the Stark Statute for routinely referring Medicare patients to an oxygen supply company he owned.
1.30 Civil Monetary Penalties (CMP) Law

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Civil Monetary Penalties (CMP) Law

The Office of Inspector General (OIG) may impose civil penalties for a number of reasons, including:

• Arranging for services or items from an excluded individual or entity;
• Providing services or items while excluded;
• Failing to grant OIG timely access to records;
• Knowing of an overpayment and failing to report and return it;
• Making false claims; or
• Paying to influence referrals.

For more information, refer to 42 U.S.C. 1320a-7a and the Act, Section 1128A(a) on the Internet.
1.31 Civil Monetary Penalties (CMP) Law (continued)

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Civil Monetary Penalties (CMP) Law (continued)

Damages and Penalties
The penalties can be around $15,000 to $70,000 depending on the specific violation. Violators are also subject to three times the amount:

- Claimed for each service or item; or
- Of remuneration offered, paid, solicited, or received.

Example
A California pharmacy and its owner agreed to pay over $1.3 million to settle allegations they submitted claims to Medicare Part D for brand name prescription drugs that the pharmacy could not have dispensed based on inventory records.
1.32 Exclusion

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Exclusion
No Federal health care program payment may be made for any item or service furnished, ordered, or prescribed by an individual or entity excluded by the OIG. The OIG has authority to exclude individuals and entities from federally funded health care programs and maintains the List of Excluded Individuals and Entities (LEIE). You can access the LEIE on the Internet.

The United States General Services Administration (GSA) administers the Excluded Parties List System (EPLS), which contains debarment actions taken by various Federal agencies, including the OIG. You may access the EPLS on the System for Award Management website.

If looking for excluded individuals or entities, make sure to check both the LEIE and the EPLS since the lists are not the same. For more information, refer to 42 U.S.C. Section 1320a-7 and 42 Code of Federal Regulations Section 1001.1901 on the Internet.
1.33 Exclusion (continued)

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 1: What is FWA?

Exclusion (continued)

Example

A pharmaceutical company pleaded guilty to two felony counts of criminal fraud related to failure to file required reports with the Food and Drug Administration concerning oversized morphine sulfate tablets. The executive of the pharmaceutical firm was excluded based on the company’s guilty plea. At the time the executive was excluded, he had not been convicted himself, but there was evidence he was involved in misconduct leading to the company’s conviction.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
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Health Insurance Portability and Accountability Act (HIPAA)

HIPAA created greater access to health care insurance, protection of privacy of health care data, and promoted standardization and efficiency in the health care industry.

HIPAA safeguards help prevent unauthorized access to protected health care information. As an individual with access to protected health care information, you must comply with HIPAA.

For more information, visit the HIPAA webpage on the Internet.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

HIPAA (continued)

Damages and Penalties
Violations may result in Civil Monetary Penalties. In some cases, criminal penalties may apply.

Example
A former hospital employee pleaded guilty to criminal HIPAA charges after obtaining protected health information with the intent to use it for personal gain. He was sentenced to 12 months and 1 day in prison.
1.36 Summary

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Lesson 1 Summary

There are differences among FWA. One of the primary differences is intent and knowledge. Fraud requires that the person have intent to obtain payment and the knowledge that their actions are wrong. Waste and abuse may involve obtaining an improper payment but do not require the same intent and knowledge.

Laws and regulations exist that prohibit FWA. Penalties for violating these laws may include:

• Civil Monetary Penalties;
• Civil prosecution;
• Criminal conviction/fines;
• Exclusion from participation in all Federal health care programs;
• Imprisonment; or
• Loss of provider license.
1.37 Review

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Lesson 1 Review

Now that you have completed Lesson 1, let's do a quick knowledge check. The following questions do not contribute to your overall course score in the Post-Assessment.

After reviewing each question, click the next button. The answer will be on the following slide.
1.38 Knowledge Check

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Knowledge Check

Which of the following requires intent to obtain payment and the knowledge that the actions are wrong?

A. Fraud
B. Abuse
C. Waste
1.39 Knowledge Check Answer

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 1: What is FWA?

Knowledge Check

Which of the following requires intent to obtain payment and the knowledge that the actions are wrong?

A. Fraud

B. Abuse

C. Waste
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 1: What is FWA?

Knowledge Check
Which of the following is NOT potentially a penalty for violation of a law or
regulation prohibiting Fraud, Waste, and Abuse (FWA)?

A. Civil Monetary Penalties
B. Deportation
C. Exclusion from participation in all Federal health care programs
### Combating Medicare Parts C and D Fraud, Waste, and Abuse

**Lesson 1: What is FWA?**

#### Knowledge Check

Which of the following is NOT potentially a penalty for violation of a law or regulation prohibiting Fraud, Waste, and Abuse (FWA)?

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<tbody>
<tr>
<td>A. Civil Monetary Penalties</td>
<td>B. Deportation</td>
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<td>C. Exclusion from participation in all Federal health care programs</td>
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1.42 Lesson 2: Your Role in the Fight Against FWA

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Lesson 2: Introduction and Learning Objectives

This lesson explains the role you can play in fighting against Fraud, Waste, and Abuse (FWA), including your responsibilities for preventing, reporting, and correcting FWA.

It should take about 10 minutes to complete. Upon completing the lesson, you should be able to correctly:

- Identify methods of preventing FWA;
- Identify how to report FWA; and
- Recognize how to correct FWA.
1.43 Where Do I Fit In?

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Where Do I Fit In?

As a person who provides health or administrative services to a Medicare Part C or Part D enrollee, you are either an employee of a:

- Sponsor (Medicare Advantage Organizations [MAOs] and Prescription Drug Plans [PDPs]);
- First-tier entity (Examples: Pharmacy Benefit Management (PBM), hospital or health care facility, provider group, doctor office, clinical laboratory, customer service provider, claims processing and adjudication company, a company that handles enrollment, disenrollment, and membership functions, and contracted sales agent);
- Downstream entity (Examples: pharmacies, doctor office, firms providing agent/broker services, marketing firms, and call centers); or
- Related entity (Examples: Entity with common ownership or control of a Sponsor, health promotion provider, or SilverSneakers®).
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Where Do I Fit In? (continued)

I am an employee of a Part C Plan Sponsor or an employee of a Part C Plan Sponsor's first-tier or downstream entity

Part C Plan Sponsor

First Tier

Downstream

INDEPENDENT PRACTICE
CALL CENTERS
HEALTH SERVICES/HOSPITAL GROUPS
FULFILLMENT VENDORS
FIELD MARKETING ORGANIZATIONS
CREDENTIALING

PROVIDERS
RADIOLOGY
HOSPITALS
MENTAL HEALTH
AGENTS

PROVIDERS
PROVIDERS
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Where Do I Fit In? (continued)

I am an employee of a Part C Plan Sponsor or an employee of a Part C Plan Sponsor’s first-tier or downstream entity.

The Part C Plan Sponsor is a CMS Contractor. Part C Plan Sponsors may enter into contracts with FDRs. This stakeholder relationship flow chart shows examples of functions that relate to the Sponsor’s Medicare Part C contracts. First Tier and related entities of the Medicare Part C Plan Sponsor may contract with downstream entities to fulfill their contractual obligations to the Sponsor.

Examples of first tier entities may be independent practices, call centers, health services/hospital groups, fulfillment vendors, field marketing organizations, and credentialing organizations. If the first tier entity is an independent practice, then a provider could be a downstream entity. If the first tier entity is a health service/hospital group, then radiology, hospital, or mental health facilities may be the downstream entity. If the first tier entity is a field marketing organization, then agents may be the downstream entity. Downstream entities may contract with other downstream entities. Hospitals and mental health facilities may contract with providers.
1.46 Where Do I Fit in? (continued)

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Where Do I Fit In? (continued)

I am an employee of a Part D Plan Sponsor or an employee of a Part D Plan Sponsor’s first-tier or downstream entity

Part D Plan Sponsor

CMS CONTRACTOR

First Tier

CALL CENTERS
PRIN

Downstream

PHARMACY
MARKETING FIRM
QUALITY ASSURANCE FIRM
CLAIMS PROCESSING FIRM
AGENTS

FIELD MARKETING ORGANIZATIONS
1.47 Where Do I Fit In? (continued)

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Where Do I Fit In? (continued)

I am an employee of a Part D Plan Sponsor or an employee of a Part D Plan Sponsor’s first-tier or downstream entity

The Part D Plan Sponsor is a CMS Contractor. Part D Plan Sponsors may enter into contracts with FDRs. This stakeholder relationship flow chart shows examples of functions that relate to the Sponsor’s Medicare Part D contracts. First Tier and related entities of the Part D Plan Sponsor may contract with downstream entities to fulfill their contractual obligations to the Sponsor.

Examples of first tier entities include call centers, PBMs, and field marketing organizations. If the first tier entity is a PBM, then the pharmacy, marketing firm, quality assurance firm, and claims processing firm could be downstream entities. If the first tier entity is a field marketing organization, then agents could be a downstream entity.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

What Are Your Responsibilities?

You play a vital part in preventing, detecting, and reporting potential FWA, as well as Medicare non-compliance.

• **FIRST**, you must comply with all applicable statutory, regulatory, and other Medicare Part C or Part D requirements, including adopting and using an effective compliance program.

• **SECOND**, you have a duty to the Medicare Program to report any compliance concerns, and suspected or actual violations that you may be aware of.

• **THIRD**, you have a duty to follow your organization’s Code of Conduct that articulates your and your organization’s commitment to standards of conduct and ethical rules of behavior.
1.49 How Do You Prevent FWA?

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

How Do You Prevent FWA?

- Look for suspicious activity;
- Conduct yourself in an ethical manner;
- Ensure accurate and timely data/billing;
- Ensure you coordinate with other payers;
- Keep up to date with FWA policies and procedures, standards of conduct, laws, regulations, and the CMS guidance; and
- Verify all information provided to you.
1.50 Stay Informed About Policies and Procedures

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Stay Informed About Policies and Procedures

Familiarize yourself with your entity's policies and procedures.

Every Sponsor and First-Tier, Downstream, and Related Entity (FDR) must have policies and procedures that address FWA. These procedures should help you detect, prevent, report, and correct FWA.

Standards of Conduct should describe the Sponsor’s expectations that:

• All employees conduct themselves in an ethical manner;
• Appropriate mechanisms are in place for anyone to report non-compliance and potential FWA; and
• Reported issues will be addressed and corrected.

Standards of Conduct communicate to employees and FDRs that compliance is everyone's responsibility, from the top of the organization to the bottom.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Report FWA

Everyone must report suspected instances of FWA. Your Sponsor’s Code of Conduct should clearly state this obligation. Sponsors may not retaliate against you for making a good faith effort in reporting.

Do not be concerned about whether it is fraud, waste, or abuse. Just report any concerns to your compliance department or your Sponsor’s compliance department. Your Sponsor’s compliance department area will investigate and make the proper determination. Often, Sponsors have a Special Investigations Unit (SIU) dedicated to investigating FWA. They may also maintain an FWA Hotline.

Every Sponsor must have a mechanism for reporting potential FWA by employees and FDRs. Each Sponsor must accept anonymous reports and cannot retaliate against you for reporting. Review your organization’s materials for the ways to report FWA.

When in doubt, call your Compliance Department or FWA Hotline.
Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 2: Your Role in the Fight Against FWA

Reporting FWA Outside Your Organization
If warranted, Sponsors and FDRs must report potentially fraudulent conduct to Government authorities, such as the Office of Inspector General (OIG), the Department of Justice (DOJ), or CMS.

Individuals or entities who wish to voluntarily disclose self-discovered potential fraud to OIG may do so under the Self-Disclosure Protocol (SDP). Self-disclosure gives providers the opportunity to avoid the costs and disruptions associated with a Government-directed investigation and civil or administrative litigation.

Details to Include When Reporting FWA
When reporting suspected FWA, you should include:

• Contact information for the source of the information, suspects, and witnesses;
• Details of the alleged FWA;
• Identification of the specific Medicare rules allegedly violated; and
• The suspect’s history of compliance, education, training, and communication with your organization or other entities.
1.53 Where to Report FWA

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

WHERE TO REPORT FWA

HHS Office of Inspector General:
• Phone: 1-800-HHS-TIPS (1-800-447-8477) or TTY 1-800-377-4950
• Fax: 1-800-223-8164
• Email: HHSTips@oig.hhs.gov
• Online: https://forms.oig.hhs.gov/hotlineoperations/index.aspx

For Medicare Parts C and D:
• National Benefit Integrity Medicare Drug Integrity Contractor (NBI MEDIC) at 1-877-7SafeRx (1-877-772-3379)

For all other Federal health care programs:
• CMS Hotline at 1-800-MEDICARE (1-800-633-4227) or TTY 1-877-486-2048


You can find information about reporting to Prime on PrimeToday.
1.54 Correction

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 2: Your Role in the Fight Against FWA

Correction

Once fraud, waste, or abuse has been detected, it must be promptly corrected. Correcting the problem saves the Government money and ensures you are in compliance with CMS requirements.

Develop a plan to correct the issue. Consult your organization’s compliance officer to find out the process for the corrective action plan development. The actual plan is going to vary, depending on the specific circumstances. In general:

- Design the corrective action to correct the underlying problem that results in FWA program violations and to prevent future non-compliance;
- Tailor the corrective action to address the particular FWA, problem, or deficiency identified. Include timeframes for specific actions;
- Document corrective actions addressing non-compliance or FWA committed by a Sponsor’s employee or FDR’s employee and include consequences for failure to satisfactorily complete the corrective action; and
- Once started, continuously monitor corrective actions to ensure they are effective.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Correction (continued)

Corrective Action Examples

Corrective actions may include:

- Adopting new prepayment edits or document review requirements;
- Conducting mandated training;
- Providing educational materials;
- Revising policies or procedures;
- Sending warning letters;
- Taking disciplinary action, such as suspension of marketing, enrollment, or payment; or
- Terminating an employee or provider.
1.56 Indicators of Potential FWA

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 2: Your Role in the Fight Against FWA

Indicators of Potential FWA

Now that you know about your role in preventing, reporting, and correcting FWA, let's review some key indicators to help you recognize the signs of someone committing FWA.

The following pages present issues that may be potential FWA. Each page provides questions to ask yourself about different areas, depending on your role as an employee of a Sponsor, pharmacy, or other entity involved in the delivery of Medicare Parts C and D benefits to enrollees.
1.57 Key Indicators: Potential Beneficiary Issues

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Key Indicators: Potential Beneficiary Issues

- Does the prescription, medical record, or laboratory test look altered or possibly forged?
- Does the beneficiary's medical history support the services requested?
- Have you filled numerous identical prescriptions for this beneficiary, possibly from different doctors?
- Is the person receiving the medical service the actual beneficiary (identity theft)?
- Is the prescription appropriate based on the beneficiary's other prescriptions?
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Key Indicators: Potential Provider Issues

- Are the provider’s prescriptions appropriate for the member’s health condition (medically necessary)?
- Does the provider bill the Sponsor for services not provided?
- Does the provider write prescriptions for diverse drugs or primarily for controlled substances?
- Is the provider performing medically unnecessary services for the member?
- Is the provider prescribing a higher quantity than medically necessary for the condition?
- Is the provider’s diagnosis for the member supported in the medical record?
1.59 Key Indicators: Potential Pharmacy Issues

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 2: Your Role in the Fight Against FWA

Key Indicators: Potential Pharmacy Issues

- Are drugs being diverted (drugs meant for nursing homes, hospice, and other entities being sent elsewhere)?
- Are the dispensed drugs expired, fake, diluted, or illegal?
- Are generic drugs provided when the prescription requires that brand drugs be dispensed?
- Are PBM's being billed for prescriptions that are not filled or picked up?
- Are proper provisions made if the entire prescription cannot be filled (no additional dispensing fees for split prescriptions)?
- Do you see prescriptions being altered (changing quantities or Dispense As Written)?
1.60 Key Indicators: Potential Wholesaler Issues

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Key Indicators: Potential Wholesaler Issues

- Is the wholesaler distributing fake, diluted, expired, or illegally imported drugs?
- Is the wholesaler diverting drugs meant for nursing homes, hospices, and Acquired Immune Deficiency Syndrome (AIDS) clinics and then marking up the prices and sending to other smaller wholesalers or pharmacies?
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Key Indicators: Potential Manufacturer Issues

- Does the manufacturer promote off-label drug usage?
- Does the manufacturer provide samples, knowing that the samples will be billed to a Federal health care program?
1.62 Key Indicators: Potential Sponsor Issues

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Key Indicators: Potential Sponsor Issues

- Does the Sponsor encourage/support inappropriate risk adjustment submissions?
- Does the Sponsor lead the beneficiary to believe that the cost of benefits is one price, only for the beneficiary to find out that the actual cost is higher?
- Does the Sponsor offer cash inducements for beneficiaries to join the plan?
- Does the Sponsor use unlicensed agents?
1.63 Lesson 2 Summary

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Lesson 2 Summary

- As a person who provides health or administrative services to a Medicare Parts C or D enrollee, you play a vital role in preventing FWA. Conduct yourself ethically, stay informed of your organization's policies and procedures, and keep an eye out for key indicators of potential FWA.
- Report potential FWA. Every Sponsor must have a mechanism for reporting potential FWA. Each Sponsor must be able to accept anonymous reports and cannot retaliate against you for reporting.
- Promptly correct identified FWA with an effective corrective action plan.
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Lesson 2 Review

Now that you have completed Lesson 2, let's do a quick knowledge check. The following questions do not contribute to your overall course score in the Post-Assessment.

After reviewing each question, click the next button. The answer will be on the next slide.
1.65 Knowledge Check

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Knowledge Check

A person comes to your pharmacy to drop off a prescription for a beneficiary who is a “regular” customer. The prescription is for a controlled substance with a quantity of 160. This beneficiary normally receives a quantity of 60, not 160. You review the prescription and have concerns about possible forgery. What is your next step?

A. Fill the prescription for 160
B. Fill the prescription for 60
C. Call the prescriber to verify the quantity
D. Call the Sponsor’s compliance department
E. Call law enforcement
1.66 Knowledge Check Answer

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

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A. Fill the prescription for 160
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D. Call the Sponsor’s compliance department
E. Call law enforcement
1.67 Knowledge Check

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Knowledge Check

Your job is to submit a risk diagnosis to the Centers for Medicare & Medicaid Services (CMS) for the purpose of payment. As part of this job you verify, through a certain process, that the data is accurate. Your immediate supervisor tells you to ignore the Sponsor's process and to adjust/add risk diagnosis codes for certain individuals. What should you do?

A. Do what your immediate supervisor asked you to do and adjust/add risk diagnosis codes
B. Report the incident to the compliance department (via compliance hotline or other mechanism)
C. Discuss your concerns with your immediate supervisor
D. Call law enforcement
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

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Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 2: Your Role in the Fight Against FWA

Knowledge Check

You are in charge of payment of claims submitted by providers. You notice a certain diagnostic provider (“Doe Diagnostics”) requested a substantial payment for a large number of members. Many of these claims are for a certain procedure. You review the same type of procedure for other diagnostic providers and realize that Doe Diagnostics’ claims far exceed any other provider that you reviewed. What should you do?

A. Call Doe Diagnostics and request additional information for the claims  
B. Consult with your immediate supervisor for next steps or contact the compliance department (via compliance hotline, Special Investigations Unit (SIU), or other mechanism)  
C. Reject the claims  
D. Pay the claims
Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

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C. Reject the claims
D. Pay the claims
1.71 Knowledge Check

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Knowledge Check

You are performing a regular inventory of the controlled substances in the pharmacy. You discover a minor inventory discrepancy. What should you do?

A. Call local law enforcement
B. Perform another review
C. Contact your compliance department (via compliance hotline or other mechanism)
D. Discuss your concerns with your supervisor
E. Follow your pharmacy’s procedures
1.72 Knowledge Check Answer

Combating Medicare Parts C and D Fraud, Waste, and Abuse Lesson 2: Your Role in the Fight Against FWA

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You are performing a regular inventory of the controlled substances in the pharmacy. You discover a minor inventory discrepancy. What should you do?

A. Call local law enforcement
B. Perform another review
C. Contact your compliance department (via compliance hotline or other mechanism)
D. Discuss your concerns with your supervisor
E. **Follow your pharmacy's procedures**
1.73 Post-Assessment

Combating Medicare Parts C and D Fraud, Waste, and Abuse
Lesson 2: Your Role in the Fight Against FWA

Post-Assessment

This assessment asks you 10 questions about Medicare Parts C and D Fraud, Waste, and Abuse (FWA). It should take about 10 minutes to complete.

You must score 80% or higher to pass. Once you begin the quiz, you must finish the quiz for it to register as completed. You have 3 attempts to pass, and then you will have to retake the course.

To retake, you must exit the course, reenter the course, and answer NO to the question “Would you like to resume your presentation where you left off?”

Click the “NEXT” button to continue to the first Post-Assessment question.
1.74 Question 1 of 10

Once a corrective action plan is started, the corrective actions must be monitored annually to ensure they are effective.

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1.75 Question 2 of 10

Ways to report potential Fraud, Waste, and Abuse (FWA) include:

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1.76 Question 3 of 10

Any person who knowingly submits false claims to the Government is liable for five times the Government’s damages caused by the violator plus a penalty.

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1.77 Question 4 of 10

These are examples of issues that should be reported to a Compliance Department: suspected Fraud, Waste, and Abuse (FWA); potential health privacy violation, and unethical behavior/employee misconduct.

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1.78 Question 5 of 10

_Bribes or kickbacks of any kind for services that are paid under a Federal health care program (which includes Medicare) constitute fraud by the person making as well as the person receiving them._

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1.79 Question 6 of 10

_Waste includes any misuse of resources such as the overuse of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare Program._

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1.80 Question 7 of 10

Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

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1.81 Question 8 of 10

Some of the laws governing Medicare Parts C and D Fraud, Waste, and Abuse (FWA) include the Health Insurance Portability and Accountability Act (HIPAA); the False Claims Act; the Anti-Kickback Statute; the List of Excluded Individuals and Entities (LEIE); and the Health Care Fraud Statute.

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1.82 Question 9 of 10

You can help prevent Fraud, Waste, and Abuse (FWA) by doing all of the following:

- Look for suspicious activity;
- Conduct yourself in an ethical manner;
- Ensure accurate and timely data/billing;
- Ensure you coordinate with other payers;
- Keep up to date with FWA policies and procedures, standards of conduct, laws, regulations, and the Centers for Medicare & Medicaid Services (CMS) guidance; and
- Verify all information provided to you.

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1.83 Question 10 of 10

What are some of the penalties for violating Fraud, Waste, and Abuse (FWA) laws?

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**2017 FWA Answer Key**

1.74 Question 1 of 10

*Once a corrective action plan is started, the corrective actions must be monitored annually to ensure they are effective.*

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