

Fraud, Waste, and Abuse: Know Your Responsibilities

Fraud, Waste, and Abuse (FWA) all involve the receipt of an unearned financial benefit. FWA reduces the ability of Medicaid and Medicare health plans to accurately fund the health care of our members. Federal laws are in place to protect these federal health care programs and beneficiaries from FWA. Additionally, the Patient Protection and Affordable Care Act (PPACA) expands this protection by improving government-wide efforts to prevent and detect fraud and by penalizing individuals who attempt to defraud these programs.

This *Medical Office Notes* details these laws, your responsibilities as a Plan provider, tips on compliance and prevention measures, and free training resources.

Since Passport Health Plan (PHP) and Passport Advantage (PAD) administer reimbursement for Medicaid and Medicare, these FWA regulations apply to all Plan providers and your staff.

FWA Federal Regulations and How They Affect You

There are three laws most relevant to you. Find out more about possible penalties for violation:

- **The False Claims Act** makes it illegal to submit false or fraudulent claims for payment to Medicare or Medicaid. Violations don't have to be intentional. You may also be punished for ignoring or disregarding the truth. Violations could result in fines of three times the program's loss plus \$11,000 per claim.
- **The Anti-Kickback Statute** prohibits asking for or receiving anything of value in exchange for referrals of Federal health care program business. Violations can result in fines, prison time, and exclusion from Medicare and/or Medicaid.
- **The Physician Self-Referral Statute (aka the Stark law)** limits you from referring members to entities when you have a financial interest with that entity. Penalties for violating the Stark law include denial of payment, penalties, and being excluded from Medicare and/or Medicaid.

Examples of FWA in Billing and Coding

The following situations are examples of false claims under FWA regulations:

- Billing for services not rendered
- Billing for services not medically necessary
- Billing for services not documented
- Upcoding
- Participation in kickbacks

New Rules Established by the PPACA

- **Enhanced Screening and Enrollment process (effective March 25, 2011)** requires newly enrolling and existing providers who have historically posed a higher risk of fraud or abuse to be screened before enrolling in the Medicare or Medicaid programs.
- **Temporary stop payments (effective March 25, 2011)** to providers suspected of fraud while an action or investigation is under way.

- **New Focus on Compliance and Prevention:** Under the new law, providers and suppliers must establish compliance programs ensuring they are aware of anti-fraud requirements and good governance practices, and have incorporated these practices into their operations. Failure to comply could result in exclusion from Medicare and Medicaid.

Note: Although a deadline for implementing a compliance program has not yet been announced, having a program in place now will give you a head start when the deadline is established.

Provider Action Required

As a provider who receives Medicaid and/or Medicare funding via PHP/PAD, you must cooperate with any investigation of suspected FWA. In addition, if you suspect FWA by a Plan member or provider, it is your responsibility to report this immediately by calling one of the following numbers:

- The Plan's FWA Hotline: (855) 512-8500
- Office of the Inspector General (OIG) Medicare FWA Hotline: (800) 447-8477
- KyHealth Choices Medicaid Fraud Hotline: (800) 372-2970

You may also help prevent FWA by:

- **Verifying member eligibility and identification.** Ask for additional picture identification, especially if you are unsure whether the individual presenting the PHP or PAD ID card is the same as the beneficiary named on the card.
- **Notifying the Plan's FWA Hotline** if you believe a member is trying to use more than one ID card, use a card belonging to someone else, or obtain unnecessary services or supplies.

Provider and Office Staff Training

The Kentucky Department for Medicaid Services (DMS) requires annual staff training for all PHP providers. Please keep in-office training records with dates and signatures.

The Plan also strongly encourages all PAD providers to conduct and maintain records of annual FWA training as well.

To help facilitate FWA training, the Plan offers the following **FREE** resources in the "Provider References" section of our web site, www.passporthealthplan.com/provider:

- **FWA Training and Educational Tool**
This presentation educates providers and staff on recognizing and reporting FWA.
- **Annual Training Log**
This template may be used to record annual staff trainings.

Other Resources

Implementation of Provider Enrollment Provisions

http://www.pedorthics.org/resource/resmgr/infodmepossupp/sr_21_mm7350.pdf

Comprehensive Details on the New PPACA Rules:

http://www.healthreform.gov/affordablecareact_summary.html

Questions

For questions about this communication, please contact your Provider Relations representative or the Provider Relations department at (502) 585-7943.