

# Fraud, Waste and Abuse

What is Fraud, Waste and Abuse?





# Fraud



- An intentional or deliberate act to deprive another of property or money by deception or other unfair means.
- An attempt to obtain something valuable through intentional misinterpretation.
- Knowingly billing for services that were not provided.
- Wrongful or criminal deception intended to result in financial or personal gain.
- Fraud includes false representation of fact, making false statements, or by concealment of information.

# Waste

- Practices that, directly or indirectly, result in unnecessary costs to federally funded programs, such as overusing services.
- Generally not considered to be caused by criminally negligent actions .
- Thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment of the U.S. government.
- Incurring unnecessary costs resulting from inefficient or ineffective practices, systems or controls.

# ABUSE

- Actions that may, directly or indirectly, result in unnecessary costs to federally funded programs.
- Involves paying for items or services when there is no legal entitlement to that payment.
- Excessive or improper use of a thing, or to use something in a manner contrary to the natural or legal rules for its use.

# Examples of Fraud

- Billing for services not rendered
- Billing for a non-covered service as a covered service.
- Misrepresenting dates of service.
- Misrepresenting locations of service.
- Misrepresenting provider of service.
- Waiving of deductibles and/or co-payments.
- Incorrect reporting of diagnoses or procedures (includes unbundling).
- Overutilization of services.
- Corruption (kickbacks and bribery).
- False or unnecessary issuance of prescription drugs.

# More Examples

- Kickbacks – the receipt of anything of value for the referral of consumers.
- Example of therapy fraud scheme: fraudulent billing for more hours of therapy than provided.
- For instance, a therapy session may have lasted 20 minutes, but are billed for 60 minutes.
- **Recent example** - A Prineville, Oregon woman was sentenced to federal prison yesterday for using stolen identities to submit fraudulent health care claims resulting in over \$1.5 million in misappropriated funds from the Oregon Health Authority (OHA) Medicaid Program and filing false tax returns that failed to report earnings she received.

# Examples of Waste

- Providing services not medically necessary.
- Failure to adhere to the requirements of the service definition.
- Excessive testing
- Overutilization of services providing more sessions or treatments than are medically necessary
- Waste refers to overusing services or other practices that, directly or indirectly, result in unnecessary costs to Medicaid. Waste is generally not caused by criminally negligent actions but by the misuse of resources.



# Examples of Abuse

- Using treatments that are not evidence-based
- Using a higher cost treatment when a lower cost treatment could be equally effective
- Insufficient documentation

# Importance of Documentation



# False Claim Act

The False Claims Act (FCA) makes it illegal to submit claims to CMS that the provider knew or should have known were fraudulent. To prove liability, the government must prove:

1. the provider submitted a claim for payment;
2. the claim was false;
3. the provider knew the claim was false; and
4. the false statement was material to the government's decision to pay.

# Anti Kickback

The Anti-Kickback Statute (AKS) imposes civil and criminal penalties against a person who offers or receives remuneration to induce the referral of services covered by a federal health care program (e.g., Medicare). Providers cannot knowingly or willfully solicit, receive, or offer to pay a kickback for referring an item or service reimbursable by a federal healthcare program. Violators of AKS are subject to strict penalties, including fines, exclusion from health programs, license revocation, and even jail.

# Stark Law

Physician Self-Referral Law, known as Stark Law. Stark Law prohibits physicians from referring patients to entities with which the physician (or the physician's immediate family member) has a financial interest. In other words, physicians can't refer to themselves. Stark law aims to prevent wasteful referral practices.

# Example of Fraud

A news release about an [addiction treatment center accused](#) of healthcare fraud was issued by the USDOJ in 2023. According to the documents included in the press release, Brier, Bruining and RCCA operated a chain of addiction treatment centers but failed to provide patients with the required therapy and counselling sessions. In addition, they commonly submitted claims for 45-minute counselling sessions to Medicare, Medicaid and other health care payers, even though the sessions typically lasted 10 minutes or less. There have been times when the available therapist could not have finished the total quantity of treatment sessions in a 24-hour period due to the volume of sessions being billed at this rate.

# Policy

Mental health providers want to focus on helping as many patients as possible. But the truth is, mistakes happen. And when they do, the government will be there to discipline whomever they can. Maintaining a fraud, waste, and abuse policy can show an enforcement agency that your practice is sufficiently working to detect and eliminate misconduct before it occurs. It can also promote an organizational culture of compliance.

# Hotline

Call the Fraud, Waste & Abuse Hotline toll free 1-866-685-8664. (877) 877-9392 or online at [www.oregonconsumer.gov](http://www.oregonconsumer.gov). You may also contact the Centers for Medicare & Medicaid Services (CMS) at (800) 633-4227, TTY: (877) 486-2048.

GOHBI

To make a report anonymously by phone call **1-844-773-7237**

[www.gobhi.ethicspoint.com](http://www.gobhi.ethicspoint.com)



# Preventing FWA

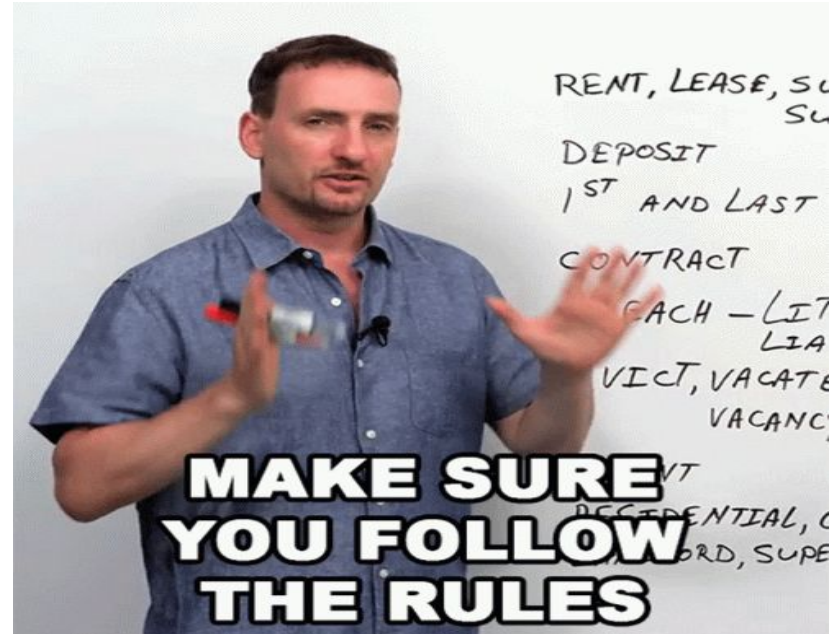
- Implement a compliance program
- Provide regular training for staff on compliance issues and the importance of accurate documentation and billing practices
- Conduct regular audits
- Promote a culture of compliance
- Stay informed of changes in Medicaid regulations and guidelines

# Questions

Questions



# COMPLIANCE





# COMPLIANCE

At its most basic level, a compliance program is a set of internal policies and procedures that you put into place to help your organization comply with the law.

Healthcare Compliance can be defined as the ongoing process of meeting or exceeding the legal, ethical, and professional standards applicable to a particular healthcare organization or provider.

# 7 elements of Compliance

1. Implementing written policies, procedures and standards of conduct.
2. Designating a compliance officer and compliance committee.
3. Conducting effective training and education.
4. Open lines of communication
5. Conducting internal monitoring and auditing
6. Enforcing standards through well-publicized disciplinary guidelines.
7. Responding promptly to detected offenses and undertaking corrective action.

# Element 1

## **Implementing written policies, procedures and standards of conduct.**

The first basic step to a an Effective compliance program is to establish standards and procedures that prevent and detect violations of policies, procedures, rules and regulations and fraud and criminal conduct. These policies, procedures and standards of conduct become the foundational tools for building and maintaining an effective compliance program.

Periodically review all policies and procedures to ensure compliance to OIG regulatory rules.

# Element 2

**Designating a compliance officer and compliance committee.**

Compliance Officer Oversee integration of the compliance program into operations. Develop an annual compliance work plan.

Compliance Committee Duties can include providing guidance and advice to the compliance officer

Regularly reviewing and assessing accuracy of and adherence to policies and procedures

Assist the compliance officer in ensuring effective mechanisms are in place to mitigate risk areas

Reviewing audit finding trends

Participating in risk assessment process



# Element 3

## . **Conducting effective training and education.**

Education and Training - may be the most important lines of defense for a compliance program. Education is the best strategy for preventing non compliance.

Annual training and targeted training

Annual trainings for board, staff and providers

Targeted trainings hour long topic specific lunch and learn trainings

# Element 4

## Open lines of communication

The 4 C's of communication

Clear

Concise

Creative

Communicating programs expectations and goals is key to success.

Communication needs to occur at all levels of the organization.

Hotlines

Non Retaliation Policy

# Element 5

## **Conducting internal monitoring and auditing**

Every compliance program should have an auditing and monitoring program.

External auditing Providers Auditing calendar and tools

Internal audits - in house programs, policies, procedures

# Element 6

**Enforcing standards through well-publicized disciplinary guidelines.**

Clear consistent discipline

Written policies and procedures

# Element 7

**Responding promptly to detected offenses and undertaking corrective action.**

Audit Reports

Plan of Corrections

Withholds

Paybacks

# COMPLIANCE



# Summary

An effective compliance program can enhance an organization's operations, improve quality of care and reduce overall costs. It can help the organization to identify problems upfront and do something about them before they become systemic and costly.

# GOBHI's HOTLINE

[www.gobhi.ethicspoint.com](http://www.gobhi.ethicspoint.com)

or by phone

1-844-773-7237.



# Resources

<https://oig.hhs.gov/compliance/compliance-guidance/>

[https://oig.hhs.gov/reports-and-publications/featured-topics/ihs/training/fraud-waste-and-abuse-for-health-care-providers/content/#/lessons/Q\\_LqIRct1c1EKs6p7TnS8VmuldHlizi6](https://oig.hhs.gov/reports-and-publications/featured-topics/ihs/training/fraud-waste-and-abuse-for-health-care-providers/content/#/lessons/Q_LqIRct1c1EKs6p7TnS8VmuldHlizi6)

<https://www.youtube.com/watch?v=1M7kKGqSa14>

Thank you