



Fraud, Waste and Abuse (FWA) and General Compliance Training

For PharmPix Pharmacy Network Providers

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ACCREDITED
Pharmacy Benefit Management

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Pharmacy Investigations & Referrals

Pharmacies are expected to support investigations and make referrals when FWA is suspected.

Part D excerpts:

"...Sponsors must have procedures...to identify and address fraud, waste and abuse...
...and a comprehensive fraud and abuse plan to detect...fraud, waste and abuse...
...and a process to refer potential violations...to federal and state enforcement agencies...
...for those sponsors who have a Special Investigation Unit (SIU), CMS views the work of the SIU as critical if...[fraud is to be identified]."

Examples of Part D Allegations

- Pharmacy upcoding to a more expensive prescription
- Billing for nonexistent prescriptions
- Illegal use of physician DEA numbers and prescription forging by members
- Pharmacy prescription splitting, billing for partial fills, billing for non-covered prescriptions and generic switching to maximize reimbursement
- Prescription diversion, doctor shopping and pharmacy shopping

Provider-Level FWA: Upcoding & False Billing

Upcoding and Billing for Nonexistent Prescriptions

A customer suspected that the pharmacist was billing for prescriptions they never ordered or received and for more product than was dispensed.

Provider-Level FWA: Inappropriate Generic Substitution

Inappropriate Generic Substitution

A pharmacist pleaded guilty to 15 counts of filing false claims. The pharmacist billed for prescriptions never provided and for dispensing generic drugs while billing for more expensive brand-name medications.

Provider-Level FWA: Partial Fills

Billing for Partial Fills and Prescriptions Not Picked Up

Two national pharmacy chains paid more than \$400,000 for billing for larger quantities than were actually dispensed. When an individual pharmacy did not have sufficient stock to fully fill a prescription, the pharmacy would partially fill the prescription and bill for the full amount. The customer was instructed to return for the balance. If the customer failed to pick up the balance of the prescription, the claim was not corrected to reflect the partial fill.



Additional Provider-Level FWA Examples

- Billing for non-covered prescriptions as covered items
- Generic switching to maximize reimbursement
- Billing for extra refills or dispensing adulterated prescription drugs
- Prescription diversion and illegal remuneration schemes
- Prescription mills, prescription diversion and resale of drugs on the black market
- Doctor shopping and illegal remuneration schemes
- Doctor-pharmacy-member diversion conspiracies
- Prescription diversion and inappropriate use

Using Data to Detect FWA

Use data analysis to recognize unusual trends, changes in utilization and prescription patterns.

- Member utilization report, by volume of prescriptions filled
- Member controlled-substances report
- Members using multiple pharmacies and multiple prescribers to obtain multiple controlled prescriptions
- Prescriber utilization report, including top prescribers by volume of prescriptions filled
- Prescriber controlled-substances report
- Comparison of the geographic locations of the prescriber, member and pharmacy

Applicable Laws & Statutes: Federal Requirements

Deficit Reduction Act of 2005, Title VI, Chapter 3, § 6033

Requires entities such as health plans that receive federal funds to establish written policies providing detailed information about fraud, waste and abuse in federal health care programs.

False Claims Act, 31 U.S.C. §§ 3729–3733

Prohibits:

- Presenting a false claim for payment or approval
- Making or using a false record or statement in support of a false claim
- Conspiring to violate the False Claims Act
- Falsely certifying the type or amount of property to be used by the government
- Certifying receipt of property without knowing whether the certification is true

Applicable Laws & Statutes: Referral, Privacy & Exclusion

Stark Statute, 42 U.S.C. § 1395nn

Prohibits a physician from making a referral for certain designated health services to an entity in which the physician, or a member of their family, has an ownership or investment interest or a compensation arrangement, unless an exception applies.

Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191)

Includes safeguards to prevent unauthorized access to protected health information.

Exclusion, 42 U.S.C. § 1395(e)(1) and 42 C.F.R. § 1001.1901

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 Office of Inspector General.

Applicable Laws & Statutes: Criminal Health Care Fraud

Criminal Health Care Fraud Statute

- Prohibits knowingly and willfully executing, or attempting to execute, a scheme to defraud a health care program or to obtain money or property owned by, or under the control of, a health care program.
- Proof of a specific intent to violate the law is not required.

Consequences of Noncompliance

- Civil monetary penalties
- Criminal convictions and fines
- Civil prosecution
- Imprisonment
- Loss of provider license
- Exclusion from federal health care programs

How to Report FWA

Do not be concerned about whether an issue is fraud, waste or abuse. Report any concerns to your compliance department or your sponsor's compliance department.

- Telephone: (787) 522-5252
- Email: ppxcompliance@pharmpix.com
- Website: [PharmPix](https://www.pharmpix.com)

Case Study #1: Possible Prescription Forgery

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.

Correct Answer: C. Call the prescriber to verify the quantity.

Case Study #2: Unusual Claims Activity

You are responsible for payment of claims submitted by providers. You notice that a diagnostic provider, "Doe Diagnostics," has requested substantial payment for a large number of members. Many of these claims are for the same procedure. You review the same type of procedure for other diagnostic providers and realize that Doe Diagnostics' claims far exceed those of any other provider you reviewed.

What do you do?

- A. Call Doe Diagnostics and request additional information for the claims.
- B. Consult with your immediate supervisor about next steps.
- C. Contact the compliance department.
- D. Reject the claims.
- E. Pay the claims.

Correct Answer: C. Contact the compliance department.

If you have any questions or wish to have more information regarding this document, you can call us at 787-522-5252-ext.219. Our pharmacists will help you.

In addition, know that you can access our recent communications at our providers' portal:

<https://www.pharmpix.com/providers/>.



References

- CMS Prescription Drug Benefit Manual, Chapter 9
- CMS Medicare Managed Care Manual, Chapter 21
- Code of Federal Regulations: 42 CFR 422.503 and 42 CFR 423.504
- Office of Inspector General: Fraud Information
- Medicare Learning Network: Fraud & Abuse Job Aid