

Partnering With Your SIU for Strategic and Tactical Compliance

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Topics to Cover

- The Compliance/SIU partnership
- The Compliance Officer & Fraud, Waste, Abuse (FWA)
- Strategic Planning
- Organizational Design
- FWA/Compliance Infrastructure
- The Compliance Plan + the Fraud Plan
- Eleven Principles from CMS
- State Guidance
- Mastering the 7 (“8”) Elements
- Wins/Opportunities

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The Compliance/SIU Partnership

- SIUs have historically operated in silos or have been misunderstood;
- Strongest programs have incorporated FWA programs into the fabric of their culture
- The Compliance Officer is engaged in everything from planning to liaison with state/federal agencies.

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The Compliance Officer and FWA

- Developing and implementing systems and programs for reporting on noncompliance and potential FWA **without fear of retaliation**;
- Maintaining the compliance reporting mechanism and closely coordinating with the internal audit department and the SIU,
- Responding to reports of potential FWA; coordinating internal investigations with the SIU or internal audit department; and developing appropriate corrective or disciplinary actions, as necessary
- Coordinating potential fraud investigations/referrals with the SIU, where applicable, and the appropriate NBI MEDIC.

(Section 50.2.1 Chapter 9, Rev. 16, Issued: 01-11-13, Effective: 01-11-13; Implementation: 01-11-13)
(Chapter 21, Rev. 110, Issued: 01-11-13, Effective: 01-11-13; Implementation: 01-11-13)
42 C.F.R. § 422.503(b)(4)(vi)(B), 423.504(b)(4)(vi)(B)HCCA Presentation February 25, 2013

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Compliance Officer & FWA: - SIU Organization and Governance

- Centralized Model vs. Decentralized Model
- Cooperation and coordination between the compliance office and the SIU is critical to the success of an overall compliance program
- Challenges the traditional activities of the SIU –
 - Does **not** compromise the independence of the unit, confidentiality of information or reporting requirements to external agencies
- Establish clear ownership of responsibilities between compliance office and SIU to ensure ALL requirements are being handled (e.g. PBM Oversight)
- Specific elements that create regulatory requirements for SIU units - (*Chapter 9, Rev. 16, Issued: 01-11-13, Effective: 01-11-13; Implementation: 01-11-13; Chapter 21, Rev. 110, Issued: 01-11-13, Effective: 01-11-13; Implementation: 01-11-13*)

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Strategic Planning

- CEO, BOD and the CCO
 - Shaping the culture and realizing the vision
- Work Plans, Guidance and Regulation
 - OIG Work Plan, CFRs, Chapters, Contracts, DOIs
- Past Deficiencies and CAPS
 - CMS, State Agencies, I-CAPS
- Organizational Risk Assessments
 - Organizational and Departmental
- Best Practices and Sector Anticipation
 - Proactive/Reactive Measures
- Independent Assessments
 - Consultants and Experts

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Strategies and Timing

Short Term

- Define SIU Responsibilities
- Establish budget
- Personnel Selection
- Technology Requirements
- Measurement Systems
- Factors in measuring performance
- Leverage cross functional resources

Long Term

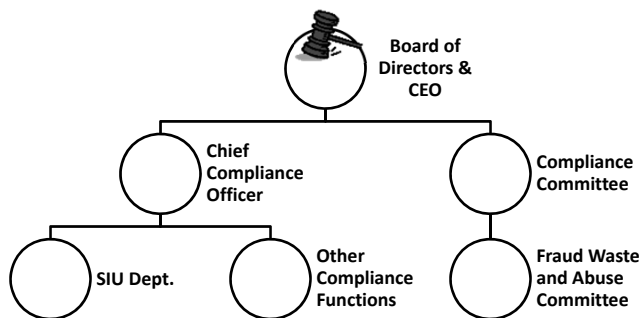
- Expensing SIU Costs
- Calculating Savings/ROI
- Data Mining and Link Analysis
- Integrated Business Processes
- Utilization Management
- Strengthened Regulatory Relationships

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Organizational Design

- Suggested High Level Structure

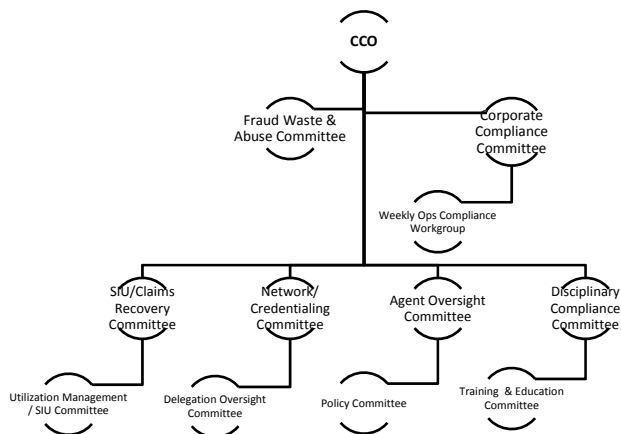


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FWA/Compliance Infrastructure

- **Example Committee Structure**



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The Compliance Plan & Fraud Plan

- **Development and Distribution**
 - Upon creation and NLT annually thereafter
 - Thorough review by CCO and SIU leadership
 - Follow approval process with signatures and dates
 - Compliance Plan and FWA Plan must be consistent and in tandem
 - State/Federal approval (as applicable)
 - Make available to all employees
 - FDRs, providers, members
 - Make sure you do it if you say it in the Plan
 - Do not over commit
 - **T**rust but **V**erify
 - CCO is 100% responsible for FWA too, including the Plan

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Eleven Principles from CMS

1. Sponsor has procedures for the identification of fraud, waste, and abuse in its network.
2. Sponsor has a process to identify overpayments at any level within its network and to properly repay such overpayments in accordance with CMS policy.
3. Sponsor has policies and procedures for coordinating and cooperating with MEDICs, CMS, and law enforcement, including policies that fully cooperate with any audits conducted by the abovementioned entities or their designees.
4. Sponsor's compliance officer's duties include responding to reports of potential and actual instances of Part D fraud, waste, or abuse, including the coordination of internal investigations and the development of appropriate corrective or disciplinary actions.
5. Sponsor's compliance officer's duties include maintaining documentation for each report of potential fraud, waste, or abuse received through any of the reporting methods (i.e. hotline, mail, in-person) which summarizes the initial report of noncompliance, the investigation, the results of the investigation, and all corrective and/or disciplinary action(s) taken as a result of the investigation.

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Eleven Principles from CMS

6. Sponsor's compliance training addresses pertinent laws related to fraud and abuse.
7. Sponsor has various methods to educate enrollees on prescription drug fraud, waste, and abuse.
8. Sponsor has procedures for internal monitoring and auditing to test and confirm compliance with the Part D benefit regulations, sub regulatory guidance, contractual agreements, and all applicable State and Federal laws, as well as internal policies and procedures to protect against potential fraud, waste, or abuse.
9. Sponsor receives and reviews at least one of the following data reports: payment reports, drug utilization reports, prescribing patterns by physician reports, geographic ZIP reports.
10. Sponsor conducts data analysis that includes the comparison of claim information against other data (e.g., provider, drug provided, diagnoses, or beneficiaries) to identify potential errors and/or potential fraud.
11. Sponsor has procedures in place to voluntarily self-report potential fraud or misconduct to Government authorities such as OIG (through OIG's Provider Self-Disclosure Protocol) or the Department of Justice

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State Guidance - NY OMIG*

- **Eight Elements of an Effective Compliance Program**
- The compliance program implemented by Medicaid providers must apply to billings, payments, medical necessity and quality of care, governance, mandatory reporting, credentialing and other risk areas that are or should, with due diligence, be identified by the provider. The *Guidance* provides OMIG's views on the eight elements for effective compliance programs. In brief, the eight elements are as follows:
 - (1) Written Policies and Procedures
 - (2) Designation of Compliance Officer
 - (3) Training and Education
 - (4) Communication Lines to the Compliance Officer
 - (5) Disciplinary Policies
 - (6) Identification of Compliance Risk Areas and Non-Compliance
 - (7) Responding to Compliance Issues
 - (8) Policy of Non-Intimidation and Non-Retaliation

*Office of the Medicaid Inspector General
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State Guidance - FL MPI*

- **Eight Elements of an Effective Compliance Program**
- **Compliance Officer***: The Health Plan shall have a designated person qualified by training and experience in health care or risk management, to oversee a fraud and abuse program.
- At a minimum the compliance plan must include:
 - (1) Written policies, procedures and standards of conduct that articulate the Health Plan's commitment to comply with all applicable federal and state standards;
 - (2) The designation of a compliance officer and a compliance committee accountable to senior management;
 - (3) A description of the Health Plan's method for verifying with members whether services billed by providers were received (see 42 CFR 455.20);
 - (4) Effective training and education of the compliance officer and the Health Plan's employees;
 - (5) Effective lines of communication between the compliance officer and the Health Plan's employees;
 - (6) Enforcement of standards through well-publicized disciplinary guidelines;
 - (7) Provision for internal monitoring and auditing; and
 - (8) Provisions for prompt response to detected offenses and for development of corrective action.

*Medicaid Program Integrity

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Element I: Written Policies, Procedures and Standards of Conduct

- SIU Policies should cover, at a minimum, the following:
 - SIU organization and staffing
 - Education and training (internal/external)
 - Internal communication
 - Prevention and detection (Data analysis)
 - Intake and triage
 - Pre-payment intervention
 - Post-payment investigation
 - Referral process to include law enforcement
 - Corrective action
 - High risk or special target areas (Optional but suggested)

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Element II: Compliance Officer, Compliance Committee and High Level Oversight

- Must demonstrate continuity and communication between CCO and SIU
- Compliance Officer collaboration on potential FWA: with other sponsors, State Medicaid programs, Medicaid Fraud Control Units (MCFUs), commercial payers, and other organizations
- The Compliance Officer's reports should not be routed to the CEO or President through operational management such as the COO, CFO, GC (General Counsel) etc.
- The governing body (the "Board") should collect and review measurable evidence that the compliance program is detecting and correcting Medicare program noncompliance on a timely basis.
- Fraud, Waste and Abuse Committees must actively report to the Compliance Committee and to the Board of Directors
 - Including on an ad-hoc basis

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Element III: Effective Training and Education

- FWA Training Required for health plans, PBMs, Pharmacies, Subcontractors, Dentists, IPA/medical providers
 - May also be deemed as Medicare providers for FWA training: Hospitals, SNFs, Physicians, Ancillary providers
- FWA training program must be living dynamic information that addresses the constant evolvement of healthcare fraud
- New hire, annual, targeted and ongoing
 - Upon appointment to new job function
 - when requirements change;
 - when employees are found to be noncompliant;
 - as a corrective action to address a noncompliance issue; and
 - when an employee works in an area implicated in past FWA.
- Example: Training Clip:

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Element IV: Effective Lines of Communication

- Confidential reporting mechanisms that reach Governing Body, Employees, Subcontractors, Members, Providers, Facilities, Advocate Groups
- Everyone has an obligation to report
- Integrate FWA messaging into department meetings, executive briefings, town halls, stop-and-learn sessions
- Posters, wallet cards, table tents, mouse pads, key cards, member mailings, EOBs, newsletters – update periodically
- Emphasize and educate - **non-retaliation**

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Element V: Well-Publicized Disciplinary Standards

- Intended to encourage participation in compliance program through actions taken to address non-compliance
- Publicize policies, procedures and standards that clearly outline expectations and repercussions for non-compliant or fraudulent acts or omissions
- Provide relevant examples of unethical or non-compliance conduct employees may experience in job functions
- Take timely, consistent and appropriate actions when there is non-compliance
- Publish real examples of disciplinary actions taken via:
 - Regular presentations at department staff meetings/ Committee Meetings;
 - Communications with FDRs;
 - General FWA & compliance training;
 - Intranet site;
 - Posters prominently displayed throughout employee work and break areas; and
 - Newsletters.

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Element VI: Effective System for Routine Monitoring, Auditing and Identification of Compliance Risks

- Conduct FWA Risk Assessments of your organization and subcontractors
- Add resources/ budget for gaps/opportunities identified
- Encourage reporting of risks by internal and external sources
- Ensure compliance audit calendar includes FWA elements
- Compliance Audit Calendar includes audits of subcontractors for FWA

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Element VII: Procedures and System for Prompt Response to Compliance Issues

- Conduct joint investigations: Compliance Officer, SIU Director/VP, Legal Department and Human Resources Representative
- Consider good faith & non retaliation policy as well as bad faith
- Timely and responsible referrals to outside agencies
- Corrective Actions that are timely, appropriate and consistent
- Reporting and engagement of governing body (the Board and Disciplinary Committee)

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Wins & Opportunities

Wins

- Monthly FWA Challenge & Incentives
- SIU/Compliance Communication Plan
- Predictive Analytics
- Active Surveillance
- Compliance Officer Briefings
- Provider/vendor education as a deterrent
- Annual FWA Program Review
- Leverage Legal Counsel in investigations

Opportunities

- Integration of external reporting hotline
- Data Collection and Sharing.
 - Collect data from multiple sources and analyze the data
- Strengthened network integrity and reduced risk
- Enhanced system edits/capabilities
- Trending and analysis used to adapt to real time threats
- Better Partnership with vendors/ sub-contractors – increased reporting
- Leveraging cross functional resources – more subject matter expertise

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Wins & Opportunities - The Bottom Line

2012				2011				2010				2009				2008			
CPT	Count	Curve	Paid	CPT	Count	Curve	Paid	CPT	Count	Curve	Paid	CPT	Count	Curve	Paid	CPT	Count	Curve	Paid
99281	3885	2.89%	\$ 512,042.11	99281	3881	2.75%	\$467,911.32	99281	2427	2.89%	\$314,078.94	99281	2439	3.67%	\$295,517.65	99281	1819	3.76%	\$106,574.18
99282	10022	7.11%	\$ 1,407,152.04	99282	9159	7.92%	\$1,401,526.49	99282	8999	9.51%	\$1,056,134.57	99282	9299	12.49%	\$892,911.35	99282	3258	12.02%	\$924,586.80
99283	55202	38.38%	\$ 7,751,746.21	99283	49170	38.89%	\$6,997,320.42	99283	38978	43.21%	\$4,575,130.77	99283	27462	41.36%	\$2,820,463.14	99283	9132	33.70%	\$916,888.34
99284	38713	26.91%	\$ 6,471,002.47	99284	33771	27.42%	\$5,702,296.46	99284	24200	26.89%	\$3,378,614.23	99284	16875	25.41%	\$1,256,463.64	99284	7091	25.17%	\$1,009,358.32
99285	33837	24.91%	\$ 6,796,421.10	99285	27076	21.99%	\$5,000,305.52	99285	16209	17.96%	\$2,349,202.17	99285	11349	17.09%	\$1,848,672.87	99285	6900	24.26%	\$1,110,276.51
Totals	143899		\$2,938,363.99	Totals	123151		\$19,575,186.15	Totals	90207		\$11,853,155.89	Totals	66418		\$8,114,368.65	Totals	27100		\$9,467,699.95

ER Paid 99281-99285 Jan 2008 to Jan 2013			
CPT	Count	Curve	Paid
99281	13149	2.91%	\$1,689,634.91
99282	39964	8.86%	\$5,070,864.56
99283	180191	39.93%	\$23,140,640.49
99284	120826	26.77%	\$18,883,025.79
99285	97141	21.53%	\$17,350,217.80
Totals	451271		\$66,134,383.55

Points for Consideration:

1. 2009 to 2012 saw a 7.8% rise in 99285s per distribution
2. 99284s distribution is relatively unchanged over 5 years
3. 99282 and 99283 distribution is declining year over year
4. Correlation to EHRs is indisputable; population is not sicker, nor have coding guidelines changed

Questions/Feedback