

# FWA Oversight for Small to Midsize Plans

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## About Alex and Lisa



Alexander Henrichs, CHC  
Specializes in Medicare Part C & D compliance audits and consulting for regulatory requirements.



Lisa Coyle Gallagher, RN, JD  
Over 20 years' experience conducting fraud and regulatory investigations and building investigative teams.

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## Agenda



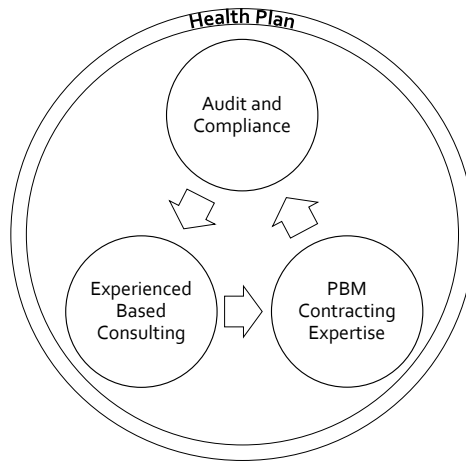
- CCA Background
  - Organizational Information
- Building an effective FWA program
  - Observations and best practices from what other plans are doing
  - Some free tools for your reference
- Utilizing delegates (FDRs) for your FWA program
  - Observations and best practices from what other plans are doing
  - Some free tools for your reference
- Preparing for review: what CMS expects to see in your FWA program during a program audit

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## About Burchfield, an Aon Company

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# The Burchfield Group



✓  
**300+**  
AUDIT ENGAGEMENTS  
PER YEAR

**1st**  
LARGEST PROVIDER  
OF PBM AUDIT  
SERVICES IN U.S.

**2nd**  
LARGEST PROVIDER  
OF CMS MOCK AUDITS  
AND IVAs

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an Aon company

 commonwealth  
care alliance

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# About CCA

Commonwealth Care Alliance background

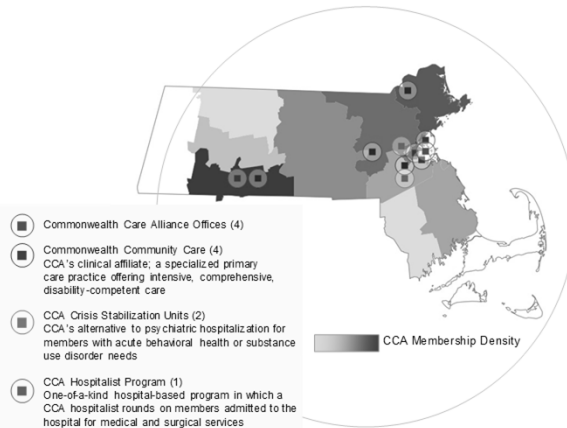
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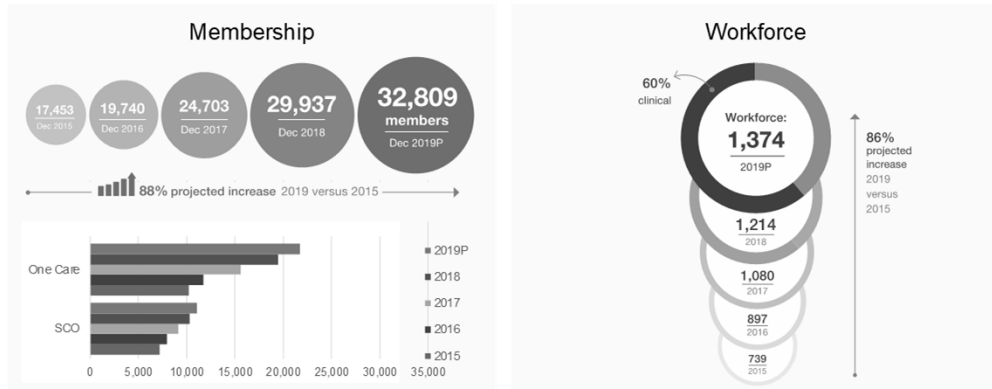
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- Based in Massachusetts, CCA is a not-for-profit, community-based healthcare organization
- Dedicated to leading the way in transforming the nation's healthcare for individuals with the most significant needs
- Mission to improve the health and well-being of people with significant needs by innovating, providing, and coordinating the highest-quality, individualized care
- Nationally recognized for innovative model of care proven to improve quality and health outcomes while reducing overall cost of care



Updated 6/19

# CCA Today



Updated 6/19. Statistics as of December 2018.

# CCA Organizational Growth

## One Care

MassHealth+Medicare  
Bringing your care together

- Medicare-Medicaid Plan (MMP)
- Dual eligible only
- Eligible population: Age 21–64
- CCA service area: 9 counties and 1 partial
- Assign care management responsibilities to certain provider sites (“Health Homes”)
- Variety of care management models tailored to diverse population needs
- **MassHealth processes enrollment**



- HMO/Special Needs Plan
- Dual eligible or MassHealth Standard only
- Eligible population: Age 65+
- CCA service area: 7 counties and 3 partial
- Delegated and non-delegated arrangements with primary care sites for primary care and care management
- Variety of care management models tailored to diverse population needs
- **CCA processes enrollment**

# CCA MassHealth Programs

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### One Care

**51** average age

**74.2%** have a physical or behavioral health disability

**67.5%** have severe mental illness, such as schizophrenia, bipolar disorder, or severe depression (excluding substance-use disorders)

**31.2%** have a substance-use disorder (excluding tobacco and nicotine)

**8.4%** have a major physical disability, such as paralysis, spinal cord injury, multiple sclerosis, muscular dystrophy, cerebral palsy, or ventilator dependency

**7.6%** are homeless

**7x** cost of caring for One Care-eligible population averages \$3,195 per member per month, 7 times the average for MassHealth MCO patients

Updated 6/19. Statistics as of December 1, 2018, except as noted.



### Senior Care Options

**76** average age

**68.9%** of CCA Senior Care Options members are nursing home certifiable, yet are able to live safely and independently at home with our care and support

**65.2%** have four or more chronic conditions

**58.6%** have a physical or behavioral health disability

**59.4%** primarily speak a language other than English

**54.6%** have diabetes

**10.3%** have a major physical disability, such as paralysis, spinal cord injury, multiple sclerosis, muscular dystrophy, cerebral palsy, or ventilator dependency

# CCA Member Demographics

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# Building an Effective FWA Program

Observations from the past year

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## Quick Live Poll

(Open web-based poll now)



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## Why Do Plans Need an FWA Program?



- **CMS Expectations of an FWA Program**
  - Perform effective monitoring in order to prevent and detect FWA
    - Chapter 9/21
  - Identifying trends using data analysis
  - Create effective avenues for member and employee reporting of suspected FWA
  - Establishment of Special Investigations Unit (SIU)
  - FWA Training (employees and FDRs)

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## Why Do Plans Need an FWA Program?



- **CFRs:** Medicare Advantage Programs, 42 C.F.R. §422.503, 42 C.F.R. §423.504, 42 CFR 438.608, 42 U.S.C. §1396 et seq, and Provider Termination: 42 C.F.R. § 455.101
- **Sub-regulatory guidance:** Medicare Prescription Drug Benefit Manual, Chapter 9, Medicare Managed Care Manual, Chapter 21
- **Federal law:** False Claims Act: 31 U.S.C. §3729-33, Anti-Kickback: 42 U.S.C.A. §1320a-7b, Mail Fraud: 18 U.S.C. 1341, Scope and Effect of Exclusion, 42 C.F.R. §1001.1901, Bribery, Theft and Other Federal Crimes Statute Title 18 U.S.C, Prohibition on Inducements to Beneficiaries: 42 U.S.C. § 1320a-7a (A) (5)
- **HIPAA:** 45 CFR 160, 162, 164
- **PPACA:** 75 FR 37187
- **Social Security Act:** section 1902(a)(68)

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## Challenges Small/Midsize Plans Face When Designing an FWA Program



- We know we need to monitor for potential FWA in:
  - Pharmacy claims
  - Medical claims
  - Member complaints
  - Dental claims
  - Vision claims
  - Provider complaints
  - Downstream entities
  - Hotline referrals
  - Community (e.g., law enforcement) referrals
  - ... and the list goes on!
- Resource Constraints

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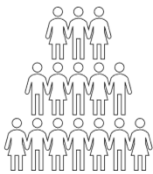
## Additional Considerations

- SIU activities will initially be a compliance function when the decision is made to build and grow the team
- Key Considerations:
  - Identify strengths, opportunities, challenges and gaps
  - Take audit findings and recommendations and turn into action based on business goals, organizational priorities and regulatory requirements
  - Executive Leader Sponsorship

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## Leveraging Internal Partnerships



- Assess cross-functional support available to the unit
  - Contracting
  - Provider Network Relations
  - Claims Operations
    - Edits- CCI, Non-CCI
    - Payment Policies
  - Compliance
  - Provider Credentialing and Data Management
  - IT and Business Analytics

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## Leveraging External Partnerships



- Importance of Plan, Government and Law Enforcement Partners
  - Cooperation and Collaboration
  - Contract Requirements
- Planning
  - Be flexible- i.e. the announcement of a CMS CPE Audit
  - Use of delegates to implement your plan and assist in audit activities
- Anti-fraud Organizations
  - National Organizations (NHCAA)
  - Regional Organizations (state-level plan associations, local anti-fraud groups)

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## Utilizing Data



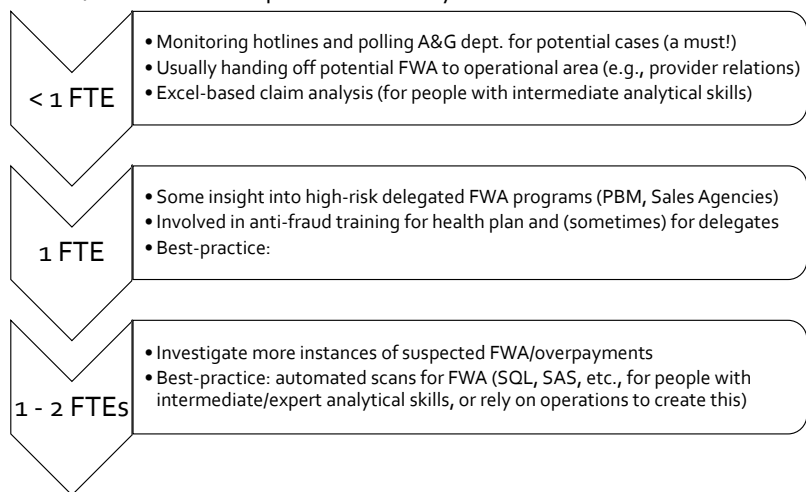
- Case Management System
- Background Check Vendor
- Importance of Pre-Pay Review, Decline of Pay and Chase
- Electronic Data Warehouse
- Fraud Artificial Intelligence Overlay
- Routine and Case Specific Analytics, Reports and Dashboards

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## Breaking it Down

### FWA Programs We Observed, by FTEs Dedicated to FWA

- Based on our observations of FWA programs in approx. 40 small/mid-size health plans in the last year



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## A Helpful Tool for FWA Program Design



- For this talk, Burchfield created an example Anti-FWA P&P that may be a starting point for your FWA monitoring program.
- This is available for free [here](#).

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## Utilizing Delegates (FDRs) for your FWA Program

Observations from the past year

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## Compare and Contrast

## Delegate Oversight vs. Partnering With Delegates

### Audit/oversight approach to delegates

- Generally focused on contractual obligations
- Includes independent monitoring and/or auditing of the delegated functions
- Examples
  - Referring cases and expecting investigation
  - FWA-based performance guarantees

### Partnership approach to delegates

- Partner with the delegate to improve self-monitoring and FWA detection
- Working together to combat FWA
- Examples
  - Resource sharing for investigations
  - Co-designing FWA detection routines
  - Aligned incentives – e.g., value-based contracting

**A combination of both produces the best outcome!**

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## Lessons Learned

## What NOT to do when Partnering With Your Delegates



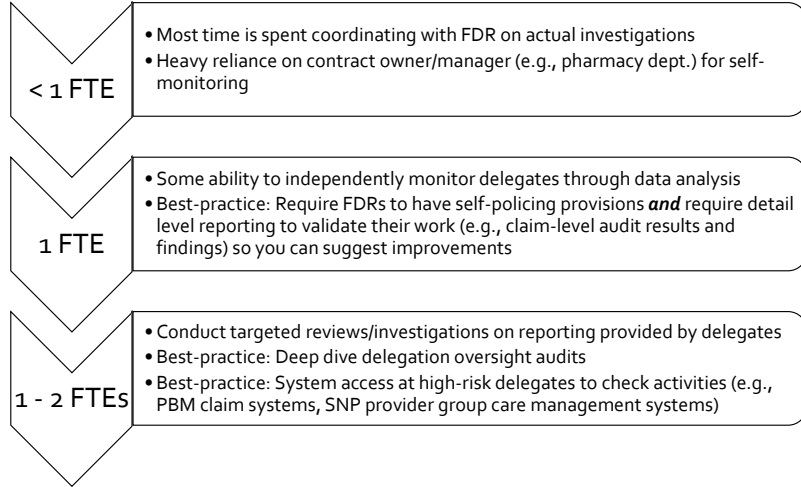
- Assume your FDR is conducting FWA activities
- Leave FWA activities out of your contracts
- Ignore or choose not to follow up on reports of suspected FWA from FDRs
- Have no visibility to FWA auditing/monitoring activities FDRs are conducting

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## Breaking it down

### How FWA Programs Utilize Delegates, by FTEs Dedicated to Delegate Oversight

- Based on our observations of FWA programs in approx. 40 small/mid-size health plans in the last year



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## Alternative Option – Third Party FWA Vendor



- Has your organization considered using a third-party vendor for FWA activities?
- Intake data from multiple sources (pharmacy, medical claims, vision, dental)
- ‘Out of the box’ analytics for many common concerns (upcoding, duplicate payments, opioids, etc.)
- Custom algorithms to detect issues important to your plan
- Ability to outsource detection and investigation, if desired
- ... but cost could be prohibitive
- ... and you’ll have to work to keep the vendor in-sync with your plan’s culture (e.g., how they interact with your providers, etc.)

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# FWA Review in CMS Program Audits

Observations from the past year

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## What Does CMS do in a Program Audit Regarding FWA?

- How CMS will review your FWA program during a Program Audit
  - Universe Review
    - FWA indicated activities in FTEAM, IA and IM universes
  - Additional Documentation Review
    - Review of workplan(s)
  - Interviews
    - SIU interview, might also come up in Compliance Officer interview and FDR Oversight interview
  - Tracers
    - A portion of the tracers CMS selects will be FWA lines from the provided universes

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## Lessons Learned

### What NOT to do for the FWA Review in a Program Audit



- Incomplete universes
  - FTEAM, IA and IM universes without FWA activities listed
- Incorrect choice for SIU interview
  - Questionnaire & interview conducted by someone who doesn't have a fully understanding your SIU/FWA program
- No FWA items on the workplan
  - Or, FWA items listed that aren't being completed

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### A Helpful Tool for Program Audit Tracers

- Example SIU/FWA Tracer Presentation for your reference.
- Available for free [here](#)

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## Summary

- There are many ways for small - mid-sized plans to run an effective FWA program!
- Here is a summary of "first steps" you can take to evaluate and bolster your FWA program:
  - Review your workplans – make sure all FWA activities are listed
  - Join anti-fraud organizations or workgroups to stay on top of industry trends
  - Network with other plans in your region
  - Consider hiring a vendor to perform analytics for lead generation
  - Make sure an FWA hotline information is readily accessible to members (EOBs, website, etc.)
  - Talk to your FDRs to understand what they are currently monitoring
    - Ask to receive reports

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## Questions?



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## Contact Us

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