



**Demystifying Compliance
Training Obligations For First
Tier, Downstream and Related
Entities Contracting With
Medicare Advantage Plans**

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Presented by Sarah Coyne and Jon Kammerzelt

Who Is Affected?

- Medicare Advantage (MA) Organizations
- Part D Sponsors (Prescription Drug Plans – PDPs)
- All First Tier, Downstream And Related Entities (FDR)
 - Don't worry! We are going to tell you what this means!

First Tier Entity

- First tier entity means any party that enters into an acceptable written arrangement with an MA plan or PDP to provide administrative services or health care services to or for plan beneficiaries.
- Health care providers are often first tier entities by virtue of their participation agreements with plans.

Downstream Entity

- Downstream entity means any party that enters into an acceptable written arrangement below the level of the arrangement between an MA organization/ PDP and a first tier entity.
- For example, if a hospital system that contracts with an MA plan has provider contracts with physician groups for certain services (e.g. radiology, pathology, emergency department staffing, anesthesia), those physician groups are “downstream entities” with regard to the MA plan.

Related Entity

- Related entity means any entity that is related to the MA organization/ PDP by common ownership or control and:
 - (1) Performs some of the MA organization's/ PDP's management functions under contract or delegation;
 - (2) Furnishes services to Medicare enrollees under an oral or written agreement; or
 - (3) Leases real property or sells materials to the MA organization/ PDP at a cost of more than \$2,500 during a contract period.

What Needs To Happen?

- TWO THINGS:
 - (1) General compliance training – specifically using CMS training module.
 - (2) Fraud Waste And Abuse (FWA) training – specifically using CMS training module
 - “Deemed” status exception.
 - May want to include FWA training anyway.



Why Do Health Care Providers Care About This Requirement For MA Plans And PDPs?

- MA plans and PDPs must require FDRs to do this specific training.
 - MA plans and PDPs have the burden of ensuring that their FDRs conduct appropriate training.
 - MA plans and PDPs must establish and publicize disciplinary standards and procedures to encourage participation in compliance program.
- Provider contracts (with MA plans and PDPs) will contain this training requirement.
- Providers are independently required to maintain an effective compliance program (through Medicare enrollment).

CMS Web-Based Training

- CMS developed web-based training for FDRs to use in training their workforce.
- Training contains (essentially):
 - Relevant laws and regulations related Medicare Parts C and D FWA
 - Compliance expectations
 - Examples of noncompliance
 - How to report/ correct FWA



Three Options For FDRs To Comply

- Complete the CMS web-based training located on the CMS Medicare Learning Network.
- Download, view or print the content of the CMS web-based training and incorporate it into the FDR's existing compliance training materials/ systems.
- Incorporate the content of the CMS training modules into written documents, such as Provider Guides, Participation Manuals or Business Associate Agreements.



Important Note

- FDRs CANNOT modify the CMS web-based training content.
- However, FDRs may ADD TO the CMS training to cover topics specific to their organization.



Who Must Be Trained

- CMS does not expect that an entity's entire staff be subject to training requirements.
- The entity should determine which employees to train based on the following CMS guidance (and plan requirements):
 - Senior administrators or managers directly responsible for the FDR's contract with the MA plan or PDP;
 - Individuals directly involved with establishing and administering the plan's formulary and/or medical benefits, coverage policies, and procedures;
 - Individuals involved with decision-making authority on behalf of the plan;
 - Reviewers of beneficiary claims and services submitted for payment; or
 - Individuals with job functions that place the FDR in a position to commit noncompliance with CMS program requirements or health care FWA.

When Must FDR Training Occur?

- Upon each employee's hire (within 90 days)
- Annually thereafter



Two Options For Demonstrating (To Plans) Completed Training

- (1) Certificate of Completion
 - Once each individual at the FDR completes the training, the system will generate a certificate of completion
 - SEND TO PLAN: All MA plan and PDP sponsors must accept the certificates of completion for all FDRs

OR

- (2) Attestation sent to plan confirming that the entity has completed the appropriate compliance and FWA training

Attestation

- Must include language specifying that the entity complies with CMS compliance and FWA training requirements and that training includes CMS content.
- If training was part of the provider's existing program, the Attestation must include assurance that the CMS training content was provided without modification.
- Often, these attestation forms are being sent to the providers by the plans themselves.

Documentation Required By Plans

- FDRs must maintain certificates or other documentation of training completion.
- Deemed providers must maintain evidence of FWA training even if not using CMS module.
- FDRs must furnish (upon request) evidence of training such as certificates of completion, training logs, system generated reports, spreadsheet. (For up to 10 years)
- Documentation of training must include employee names, dates of employment, dates of completion, passing scores (if captured).

CMS Suspends Review of Training Certification Requirement

- After CMS released its compliance training requirements, it received several inquiries and concerns from MA plans, PDPs and FDRs regarding difficulties adopting the compliance training module, the burden of completing multiple trainings and complications with reporting completion back to sponsors.
- In response to the concerns, and in order to allow sufficient time to implement and adjust to the new requirements, CMS suspended review of the training certification element.
 - MA plans and PDPs are not currently required to provide documentation verifying that their FDRs have satisfied the compliance training requirements.

Practical Takeaways

- Regardless of the temporary suspension, FDRs should work to become fully compliant with the requirements as soon as possible.
- Because CMS gives each MA plan and PDP discretion in how to enforce the requirements, FDRs should review the terms of their agreements.
- FDRs should work with their MA plans and PDPs to determine what method of training they will require and which individual's in their organization need to be trained.
- FDRs should identify any downstream entities that will require training and ensure that they receive training in accordance with the new requirements.
- FDRs should implement a plan to train new employees within 90 days of hire and annually thereafter.

Any Questions?

Sarah Coyne
(608) 283-2435
Sarah.Coyne@quarles.com



Jon Kammerzelt
(608) 283-2438
Jon.Kammerzelt@quarles.com

