

FWA (Fraud, Waste and Abuse) Training

Why Do I Need Training or Re-Training?

Every year **billions** of dollars are improperly spent because of FWA. It affects everyone – **including you**. This training will help you detect, correct, and prevent FWA. **You** are part of the solution. Medicaid and Medicare require companies to retrain their employees every year.

Combating FWA is **everyone's** responsibility! As an individual/employee who provides services for Medicaid/Medicare clients, every action you take potentially affects the Program.

“All Affected Individuals” from the Board, executives, employees, contractors, agents and vendors have an affirmative obligation to report fraud waste and abuse.

This is just a review of the basics. Websites and links will be available for more information as well as our detailed FWA Work Plan is available in the pharmacy.

What do you know? (Pre-test)

- **1-How many elements of an effective compliance plan?**
- A)4
- B)10
- C)8

- **2-Fraud requires both intent and knowledge? True or False**

- **3-There are both civil and criminal penalties to employees as well as companies who commit fraud, waste or abuse?**
- True or False

- **4-What does HIPAA stand for?**
- A) Health Insurance Prescription and Account Access
- B) Health Insurance Portability and Accountability Act
- C) Health Insurance Prescription and Accountability Act

- **5- Ways to report potential Fraud, Waste, and Abuse (FWA) include:**
- A) to the compliance officer (Corporate or Local)
- B) to the NYS OMIG at 1-877-87FRAUD
- C) to the corporate hotline
- D) all of the above

Now let's do a basic review of the required elements and how FWA affects you and your job.

- ***FWA Mission: NYS OMIG mission is to enhance the integrity of the New York State Medicaid and Medicare program by preventing and detecting fraudulent, abusive, and wasteful practices in the program and recovering improperly expended funds while promoting high-quality patient care. PharMerica Corporation and BrightSpring Health Services share this mission.***
- <https://omig.ny.gov/about-us>

EXPECTATIONS

- The Office of Inspector General (OIG), the State Medicaid Fraud Control Units, and other regulatory agencies have all endorsed the need for compliance programs as a way to force the health care industry to police itself.

The established standards are:

- to create and maintain a work environment in which ethical concerns can be raised and openly discussed
- “all affected individuals” are trained, educated and retrained yearly on preventing fraud waste and abuse.
- -to prevent improper conduct, whether intentional or not, from occurring
- to also detect and prevent patterns of improper conduct, or the appearance of such improper patterns, from developing

WHO MUST HAVE A COMPLIANCE PROGRAM?

- Who Must Have a Compliance Program?
- Persons, providers, or affiliates are required to have a compliance program under New York State Social Services Law (SSL) § 363-d and 18 NYCRR Part 521 if they are a “required provider” as defined in 18 NYCRR § 521.2(a).
- If you answer **YES** to any of the following questions, you are required to have a compliance program in New York State.
- Is your organization subject to Article 28 or Article 36 of the NYS Public Health Law?
- Is your organization subject to Article 16 or Article 31 of the NYS Mental Hygiene Law?
- Does your organization claim or order — and/or can be reasonably expected to claim or order — Medicaid services or supplies of at least \$500,000 in any consecutive 12-month period?
- Does your organization receive Medicaid payments — and/or can be reasonably expected to receive payments — either directly or indirectly, of at least \$500,000 in any consecutive 12-month period?
- **Indirect Medicaid reimbursement** is any payment that you receive for the delivery of Medicaid care, services, or supplies that comes from a source other than the State of New York. For example, if you provide covered services to a Medicaid beneficiary who is enrolled in a Medicaid Managed Care Plan, the payment you receive from the Managed Care Organization is considered an indirect payment.
- Does your organization submit Medicaid claims of at least \$500,000 in any consecutive 12-month period on behalf of another person or persons?

- NYS OMIG BOC
- The Bureau of Compliance (BOC) works to educate, assist, and assess Medicaid program providers in meeting their obligation to establish and operate effective compliance programs by monitoring and enforcing mandatory compliance program and compliance certification requirements. BOC also coordinates and enforces [Corporate Integrity Agreements](#) (CIA).
- BOC assesses the compliance programs of Medicaid providers to help ensure they create a control structure to reduce the potential for fraud, waste, and abuse, and have systems in place to identify and self-correct errors before the Medicaid program is billed.
- An integral part of BOC’s function is education and outreach to the provider community regarding program integrity compliance.

FRAUD

- **Fraud** is knowingly and willfully executing (knowledge and intent) , or attempting to execute, a scheme or artifice to defraud any health care benefit program, or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.
- The Health Care Fraud Statute makes it a criminal offense to knowingly and willfully execute a scheme to defraud a health care benefit program. Health care fraud is punishable by imprisonment for up to 10 years. It is also subject to criminal fines of up to \$250,000. An exclusion from participation in all Federal health care programs
- Again there are Civil (personal fines\$\$) and criminal (jail time) penalties for Fraud.
- In other words, fraud is intentionally submitting false information to the Government or a Government contractor to get money or a benefit.

WASTE

- **Waste** includes overusing services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare Program. Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources.

ABUSE

- **Abuse** includes actions that may, directly or indirectly, result in unnecessary costs to the Medicare Program. Abuse involves payment for items or services when there is not legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

EXAMPLES OF FWA

- Examples of actions that may constitute **fraud** include:
 - • Knowingly billing for services not furnished or supplies not provided;
 - • Billing for non-existent prescriptions;
 - • Knowingly altering claims, medical records, to receive a higher payment.
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- Examples of actions that may constitute **waste** include:
 - • Prescribing more medications than necessary for the treatment of a specific condition;
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- Examples of actions that may constitute **abuse** include:
 - • Billing for prescriptions and not sending;
 - • Billing for brand name drugs when generics are dispensed;
 - • Not using correct date written or entering wrong days supply to get claim paid
 - • Misusing codes or using wrong override codes on a claim.
 - • Not following HIPAA guidelines for protecting a patients PHI

An Effective Compliance Program; to meet all the laws, statues and regulations including NYS requirements must have these 8 elements:

- 1-Have written policies, procedures and standards of conduct
- 2-designate a compliance officer and compliance committee
- 3-conduct effective training and education
- 4-develop effective lines of communication
- 5-enforce standards and have disciplinary policies
- 6-conduct and access internal monitoring and internal/external auditing
- 7-respond promptly to detected offenses and undertake corrective action
- 8-maintain a policy of non-intimidation and Non-Retaliation (the additional NYS labor law sections 740 & 741)

ELEMENTS

- **Element 1**
- **Written Policies and Procedures:**
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- PharMerica maintains a company Handbooks, a company Code of Conduct and we have a Corporate Compliance plan. Together we share NY policies with BrightSpring Health Services and PAL pharmacy in NY. We also have a FWA Compliance Manual/ Workplan, a written copy is available in the pharmacy with detailed laws and guidance, and how to communicate compliance issues for further investigation and resolution.
- **Laws you should be familiar with are: (there are civil and criminal penalties)**
- False Claims Act (FCA), Federal Deficit Reduction Act
- Anti-kickback Statue, Safe Harbor, Qui Tam;
- Program Fraud Civil Remedies Act (PFCRA)
- New York Social Service Law, New York Labor Law (especially 740 and 740)
- HIPAA (Health Insurance Portability and Accountability Act)
- FERA (Fraud Enforcement and Recovery Act)

ELEMENTS (cont'd)

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- **Element 2**
- **Designation of a Compliance officer:**
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- Each local NY location has a local officer responsible for day to day compliance issues. There is also a Chief Corporate Compliance officer who maintains the day to day responsibility for the Corporate Compliance Program.
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- **Element 3**
- **Training and Education:**
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- Training will be done upon hire and annually thereafter. Some departments may get a more detailed department specific training. The Chief Corporate Compliance Officer will ensure all affected individuals receive annual training, and will develop a schedule of periodic training on compliance issues, as necessary, for new and existing affected individuals.
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- **Element 4**
- **Communication lines to the Compliance Officer:**
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- Communication is always available. The corporate HOTLINE for PharMerica reporting is 1-800-793-7741, for BrightSpring 1-866-293-3863, these reports are confidential and anonymous, to the extent allowed by law. The compliance officer can be reached directly, or you can leave him/her a voicemail. You can also leave a message at 516-536-0800 ext 887626 or Medicaid Fraud at 1-877-87-FRAUD (37283) or <https://www.stopmedicarefraud.gov>. NO RETALIATORY action will be taken against you for reporting an issue or complaint. All affected individuals are required to report suspected misconduct or possible violations of Federal or state laws or of the Corporate Compliance program. No retaliation, retribution or intimidation will be tolerated for reporting potential issues.
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- **Element 5**
- **Disciplinary Policies:**
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- All complaints /issues will be promptly and thoroughly investigated. Disciplinary guidelines are taken into account on a case by case issue and will be enforced fairly and firmly.

ELEMENTS (cont'd)

- **Element 5**
- **Disciplinary Policies (cont'd):**
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- The appropriate disciplinary action shall be determined on a case-by-case basis after a thorough investigation into any allegations. Our policy is to apply discipline progressively whenever possible, uniformly, firmly and fairly to violators at all levels of the organization. Disciplinary actions range from a verbal warning up through termination. This includes disciplinary actions for : failure to report / participating in non-compliant behavior / encouraging, directing, facilitating, or permitting non-compliant behavior / or for failing to detect and report a compliance violation
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- **Element 6**
- **A System for Routine Identification:**
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- Whenever a potential issues is discovered, staff is coached to prevent further issues. Every month our company does a check for providers not allowed to bill, this includes a check on all affected individuals. Additional areas and audit prevention tools are available in the Corporate Compliance Plan such as onsite master audits, focused audits, as well as review of publications issued by government regarding compliance rules or protocols that need to be implemented.
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- **Element 7**
- **Responding to Compliance Issues:**
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- All FWA complaints/ issues will be logged and promptly and thoroughly investigated by our Chief Compliance Officer. New policies and systems may be implemented to reduce the potential for recurrence. If overpayments are discovered the proper steps will be taken for repayment in the appropriate time frame as described in detail on the NYS OMIG website.

ELEMENTS (cont'd)

- **Element 8: A Policy of Non-Intimidation and Non-Retaliation:** As defined in the law and as practiced. Our companies will not intimidate or retaliate against any employee who brings to our attention in good faith participation;
- **1-** an issue or concern. Including, but not limited to, any action or suspected action taken by or within the company that is illegal, fraudulent or in violation of any Corporate Compliance Policy,
- **2-** cooperating with or participating in the investigation of such,
- **3-** assisting with or participating in self-evaluations, audits and/or implementation of remedial actions,
- **4-** reporting to appropriate regulatory officials as provided in Labor Law sections 740 and 741.
- No violation reported by an employee in good faith will be the sole reason for subjecting an employee to discipline. We maintain a written policy of Non-Retaliation in our company Handbook, Corporate Compliance Plan and Code of Conduct.

WE WANT TO PREVENT FRAUD, WASTE AND ABUSE AND YOU AS AN EMPLOYEE MUST KNOW THIS.

- Under this law employers are prevented from taking any retaliatory actions against an employee who discloses to a supervisor, compliance officer or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to public health or which constitutes the crime of health care fraud. All affected individuals have an obligation to report issues or suspected issues.

All employees have access to written material in the company Corporate Compliance Plan defining the Federal Deficit Reduction Act, the Federal False Claims Act, the Program Fraud Civil Remedies Act (PFCRA), Anti-kickback Statute and the electronic health record Safe Harbor.

Employees must know who their site and corporate compliance officer are and that they can also file a report with them or to management or by leaving a message on the company (PharMerica) confidential and anonymous hotline 1-800-793-7741 or (BrightSpring) hotline at 1-866-293-3863. All reported issues would be investigated promptly thoroughly. Disciplinary policies will be established that include but are not limited to re-educating, retraining, termination, consultation and record added to human resource file in addition to re-evaluation of our internal systems.

SYSTEMS FOR REPORTING

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- All affected individuals = (PharMerica, Chem Rx, BrightSpring Health Service, Pharmacy Alternatives) board members and executives and contractors/agents/vendors have an affirmative obligation to report any ethical misconduct or compliance concerns. Anyone who suspects noncompliance with any laws, rules or regulations must report their concerns to any of the following:
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 - 1-Their supervisor
 - 2-Local Compliance Officer
 - 3-Corporate Chief Compliance Officers) 502-630-7431
 - 4-Contact the PharMerica “Hotline” 1-800-793-7714 or BrightSpring Health Service “Hotline” at 1-866-293-3863
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- **OR**
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- HHS Office of Inspector General:
 - Phone: 1-800-HHS-TIPS (1-800-447-8477) or TTY 1-800-377-4950
 - Fax: 1-800-223-8164
 - Email: HHSTips@oig.hhs.gov
 - Online: <https://forms.oig.hhs.gov/hotlineoperations/index.aspx>
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- For Medicare Parts C and D:
 - National Benefit Integrity Medicare Drug Integrity Contractor (NBI MEDIC) at 1-877-7SafeRx (1-877-772-3379)
 -
- For all other Federal health care programs:
 - CMS Hotline at 1-800-MEDICARE (1-800-633-4227) or TTY 1-877-486-2048
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- HHS and U.S. Department of Justice (DOJ): <https://www.stopmedicarefraud.gov>
- **OR**
- NYS OMIG-1-877-87 FRAUD (1-877-873-7283)
- NYS Department of Health
- Corning Tower
- Empire State Plaza,
- Albany, NY 12237

Post Test

- 1-Which of the following requires intent to obtain payment and the knowledge that the actions are wrong?
- **Select the correct answer.**
- A. Fraud
- B. Abuse
- C. Waste
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- 2-Which of the following is NOT potentially a penalty for violation of a law or regulation prohibiting Fraud, Waste, and Abuse (FWA)?
- **Select the correct answer.**
- A. Civil Monetary Penalties
- B. Deportation
- C. Exclusion from participation in all Federal health care programs
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- 3-Some of the laws governing Medicaid and Medicare Parts B, C and D Fraud, Waste, and Abuse (FWA) include the Health Insurance Portability and Accountability Act (HIPAA); the False Claims Act; the Anti-Kickback Statute; the List of Excluded Individuals and Entities (providers not allowed to bill) (LEIE); and the Health Care Fraud Statute.
- **Select the correct answer.**
- A. True
- B. False
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- 4-I know how to report possible Fraud, Waste and Abuse
- Yes_____ or No_____
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- 5-What does HIPAA stand for?
- A) Health Insurance Prescription and Account Access
- B) Health Insurance Portability and Accountability Act
- C) Health Insurance Prescription and Accountability Act

Additional Information

- Resources:
- <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/CombMedCandDFWAdownload.pdf>
- <https://www.omig.ny.gov/>
- <https://www.humana.com/about/legal/disclaimer-and-licensure/fraud-waste-and-abuse>
- Know your Local Compliance Officer:
- Long Beach: Diane Carcich-Sokolowski (516-536-0800 ext887794)
- Albany: Deborah Zucker (ext 887301 or 518-452-7795)
- Buffalo: Nancy Culp (ext 851436 or 716-395-5881)
- Onco360/Caremed: Cameron Franklin (502-416-1483 ext. 1763)
- Pharmacy Alternatives: Christopher Sharpe (585-486-4367)
- **PharMerica HOTLINE (anonymous & confidential) 1-800-793-7741**
- **Chief Compliance Officer: Rachael Kurzer Givens (502-630-7431)**
- **BrightSpring HOTLINE (anonymous & confidential) 1-866-293-3863**