

Combating Medicare Parts C and D Fraud, Waste, and Abuse Web-Based Training Course

January 2019

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**Combating Medicare Parts C and D
Fraud, Waste, and Abuse**

Web-Based Training (WBT) Course

INTRODUCTION

INTRODUCTION PAGE 1

The Combating Medicare Parts C and D Fraud, Waste, and Abuse Web-Based Training course is brought to you by the Medicare Learning Network®, a registered trademark of the U.S. Department of Health & Human Services (HHS)



INTRODUCTION PAGE 2

This Web-Based Training (WBT) course was current at the time it was published or uploaded onto the web. Medicare policy changes frequently so links to the source documents have been provided within the WBT for your reference.

This WBT course was prepared as a service to the public and is not intended to grant rights or impose obligations. This WBT may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

This training module will assist Medicare Parts C and D plan Sponsors employees, governing body members, and their first-tier, downstream, and related entities (FDRs) in satisfying the annual Fraud, Waste, and Abuse (FWA) training requirements in the regulations and sub-regulatory guidance at:

- 42 Code of Federal Regulations (CFR) Section 422.503(b)(4)(vi)(C);
- 42 CFR Section 423.504(b)(4)(vi)(C);
- CMS-4159-F, Medicare Program Contract Year 2015 Policy and Technical Changes in the Medicare Advantage and the Medicare Prescription Drug Benefit Programs; and
- Section 50.3.2 of the Compliance Program Guidelines (Chapter 9 of the “Medicare Prescription Drug Benefit Manual” and Chapter 21 of the “Medicare Managed Care Manual”).

Sponsors and their FDRs may use this module to satisfy FWA training requirements. Sponsors and their FDRs are responsible for providing additional specialized or refresher training on issues posing FWA risks based on the employee’s job function or business setting.

ACRONYM	TITLE TEXT
CFR	<i>Code of Federal Regulations</i>
FDR	<i>First-tier, Downstream, and Related Entity</i>
FWA	<i>Fraud, Waste, and Abuse</i>
WBT	<i>Web-Based Training</i>

INTRODUCTION PAGE 3



Welcome to the **Medicare Learning Network® (MLN)** – Your free Medicare education and information resource!

The MLN is home for education, information, and resources for the health care professional community. The MLN provides access to the Centers for Medicare & Medicaid Services (CMS) Program information you need, when you need it, so you can focus more on providing care to your patients.

Serving as the umbrella for a variety of CMS education and communication activities, the MLN offers:

1. [MLN Educational Products](#), including [MLN Matters® Articles](#);
2. [Web-Based Training \(WBT\) Courses](#) (many offer Continuing Education credits);
3. [MLN Connects® National Provider Calls](#);
4. [MLN Connects® Provider Association Partnerships](#);
5. [MLN Connects® Provider eNews](#); and
6. [Provider electronic mailing lists](#).

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ACRONYM	TITLE TEXT
CMS	<i>Centers for Medicare & Medicaid Services</i>
MLN	<i>Medicare Learning Network®</i>

HYPERLINK URL	LINKED TEXT/IMAGE
https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts	MLN Educational Products
https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles	MLN Matters® Articles
https://learner.mlnlms.com	WBT Courses
https://www.cms.gov/Outreach-and-Education/Outreach/NPC	MLN Connects® National Provider Calls
https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLN-Partnership	MLN Connects® Provider Association Partnerships

HYPERLINK URL	LINKED TEXT/IMAGE
https://www.cms.gov/Outreach-and-Education/Outreach/FFSProvPartProg	MLN Connects® Provider eNews
https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/MailingLists_FactSheet.pdf	Provider electronic mailing lists

INTRODUCTION PAGE 4

Why Do I Need 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.

Combating FWA is **everyone's** responsibility! As an individual who provides health or administrative services for Medicare enrollees, every action you take potentially affects Medicare enrollees, the Medicare Program, or the Medicare Trust Fund.

INTRODUCTION PAGE 5

Training Requirements: Plan Employees, Governing Body Members, and First-Tier, Downstream, or Related Entity (FDR) Employees

Certain training requirements apply to people involved in Medicare Parts C and D. All employees of Medicare Advantage Organizations (MAOs) and Prescription Drug Plans (PDPs) (collectively referred to in this WBT course as “Sponsors”) must receive training for preventing, detecting, and correcting FWA.

FWA training must occur within 90 days of initial hire and at least annually thereafter.

More information on other [Medicare Parts C and D compliance trainings and answers to common questions](#) is available on the CMS website.

ACRONYM	TITLE TEXT
MA	<i>Medicare Advantage</i>

INTRODUCTION PAGE 6

FWA Training Requirements Exception

There is one exception to the FWA training and education requirement. FDRs will have met the FWA training and education requirements if they have met the FWA certification requirement through:

- Accreditation as a supplier of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); or
- Enrollment in Medicare Part A (hospital) or B (medical) Program.

If you are unsure if this exception applies to you, please contact your management team for more information.

INTRODUCTION PAGE 7

Course Content

This WBT course consists of two lessons:

1. What Is FWA?
2. Your Role in the Fight Against FWA

Anyone who provides health or administrative services to Medicare enrollees must satisfy general compliance and FWA training requirements. You may use this WBT course to satisfy the FWA requirements.

You do not have to complete this course in one session; however, you must complete at least one lesson before exiting this course. Do not click the “X” button in the upper right-hand corner of the window as this will cause you to exit the WBT course without properly saving your progress. You can complete the entire course in about 30 minutes.

Successfully completing the course requires completing all lessons and course evaluation, and scoring 70 percent or higher on the Post-Assessment. After successfully completing the Post-Assessment, you’ll get instructions to complete the course evaluation and print your certificate. If you do not successfully complete the course, you will be given the opportunity to review the course material and retake the Post-Assessment.

Course Cues

This course uses cues at various times to provide additional information. The cues are hyperlinks, buttons, acronyms, pop-up windows, and printing cues. For more information on course cues, click the “HELP” button in the upper right corner.

Screen Resolution

If you need to adjust your screen resolution, access instructions through the “HELP” button in the upper right corner and go to the “Screen Resolution” section.

INTRODUCTION PAGE 8

Course Objectives

When you complete this course, you should be able to correctly:

- Recognize FWA in the Medicare Program;
- Identify the major laws and regulations pertaining to FWA;
- Recognize potential consequences and penalties associated with violations;
- Identify methods of preventing FWA;
- Identify how to report FWA; and
- Recognize how to correct FWA.

Click on the “MAIN MENU” button to return to the WBT Main Menu. Then, select “Lesson 1: What Is FWA?”

LESSON 1: WHAT IS FWA?

LESSON 1 PAGE 1

Lesson 1: Introduction and Learning Objectives

This lesson describes Fraud, Waste, and Abuse (FWA) and the laws that prohibit it. It should take about 10 minutes to complete. Upon completing the lesson, you should be able to correctly:

- Recognize FWA in the Medicare Program;
- Identify the major laws and regulations pertaining to FWA; and
- Recognize potential consequences and penalties associated with violations.

ACRONYM	TITLE TEXT
FWA	<i>Fraud, Waste, and Abuse</i>

LESSON 1 PAGE 2

Fraud

Fraud is knowingly and willfully executing, 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.

In other words, fraud is intentionally submitting false information to the Government or a Government contractor to get money or a benefit.

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.

LESSON 1 PAGE 3

Waste and Abuse

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 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.

For the definitions of fraud, waste, and abuse, refer to Chapter 21, Section 20 of the "[Medicare Managed Care Manual](#)" and Chapter 9 of the "[Prescription Drug Benefit Manual](#)" on the Centers for Medicare & Medicaid Services (CMS) website.

HYPERLINK URL	LINKED TEXT/IMAGE
https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/mc86c21.pdf	Medicare Managed Care Manual
https://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/Downloads/Chapter9.pdf	Prescription Drug Benefit Manual

LESSON 1 PAGE 4

Examples of FWA

Examples of actions that may constitute Medicare **fraud** include:

- Knowingly billing for services not furnished or supplies not provided, including billing Medicare for appointments that the patient failed to keep;
- Billing for non-existent prescriptions; and
- Knowingly altering claim forms, medical records, or receipts to receive a higher payment.

Examples of actions that may constitute Medicare **waste** include:

- Conducting excessive office visits or writing excessive prescriptions;
- Prescribing more medications than necessary for the treatment of a specific condition; and
- Ordering excessive laboratory tests.

Examples of actions that may constitute Medicare **abuse** include:

- Billing for unnecessary medical services;
- Billing for brand name drugs when generics are dispensed;
- Charging excessively for services or supplies; and
- Misusing codes on a claim, such as upcoding or unbundling codes.

LESSON 1 PAGE 5

Differences Among Fraud, Waste, and Abuse

There are differences among fraud, waste, and abuse. One of the primary differences is intent and knowledge. Fraud requires intent to obtain payment and the knowledge that the actions are wrong. Waste and abuse may involve obtaining an improper payment or creating an unnecessary cost to the Medicare Program, but does not require the same intent and knowledge.

LESSON 1 PAGE 6

Understanding FWA

To detect FWA, you need to know the **law**.

The following screens provide high-level information about the following laws:

- Civil False Claims Act, Health Care Fraud Statute, and Criminal Fraud;
- Anti-Kickback Statute;
- Stark Statute (Physician Self-Referral Law);
- Exclusion; and
- Health Insurance Portability and Accountability Act (HIPAA).

For details about the specific laws, such as safe harbor provisions, consult the applicable statute and regulations.

LESSON 1 PAGE 7

Civil False Claims Act (FCA)

The civil provisions of the FCA make a person liable to pay damages to the Government if he or she knowingly:

- Conspires to violate the FCA;
- Carries out other acts to obtain property from the Government by misrepresentation;
- Knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay the Government;
- Makes or uses a false record or statement supporting a false claim; or
- Presents a false claim for payment or approval.

Damages and Penalties

Any person who knowingly submits false claims to the Government is liable for three times the Government's damages caused by the violator plus a penalty.

For more information, refer to [31 United States Code \(U.S.C.\) Sections 3729-3733](#) on the Internet.

EXAMPLE

A Medicare Part C plan in Florida:

- Hired an outside company to review medical records to find additional diagnosis codes that could be submitted to increase risk capitation payments from the Centers for Medicare & Medicaid Services (CMS);
- Was informed by the outside company that certain diagnosis codes previously submitted to Medicare were undocumented or unsupported;
- Failed to report the unsupported diagnosis codes to Medicare; and
- Agreed to pay \$22.6 million to settle FCA allegations.

ACRONYM	TITLE TEXT
FCA	<i>False Claims Act</i>
HYPERLINK URL	LINKED TEXT/IMAGE
https://www.gpo.gov/fdsys/pkg/USCODE-2015-title31/pdf/USCODE-2015-title31-subtitleIII-chap37-subchapIII.pdf	31 U.S.C. Sections 3729-3733

LESSON 1 PAGE 8

Civil FCA (continued)

Whistleblowers

A whistleblower is a person who exposes information or activity that is deemed illegal, dishonest, or violates professional or clinical standards.

Protected: Persons who report false claims or bring legal actions to recover money paid on false claims are protected from retaliation.

Rewarded: Persons who bring a successful whistleblower lawsuit receive at least 15 percent but not more than 30 percent of the money collected.

LESSON 1 PAGE 9

Health Care Fraud Statute

The Health Care Fraud Statute states that “Whoever knowingly and willfully executes, or attempts to execute, a scheme to ... defraud any health care benefit program ... shall be fined ... or imprisoned not more than 10 years, or both.”

Conviction under the statute does not require proof that the violator had knowledge of the law or specific intent to violate the law. For more information, refer to [18 U.S.C. Section 1346](#) on the Internet.

EXAMPLE

A Pennsylvania pharmacist:

- Submitted claims to a Medicare Part D plan for non-existent prescriptions and for drugs not dispensed;
- Pleaded guilty to health care fraud; and
- Received a 15-month prison sentence and was ordered to pay more than \$166,000 in restitution to the plan.

The owners of two Florida Durable Medical Equipment (DME) companies:

- Submitted false claims of approximately \$4 million to Medicare for products that were not authorized and not provided;
- Were convicted of making false claims, conspiracy, health care fraud, and wire fraud;
- Were sentenced to 54 months in prison; and
- Were ordered to pay more than \$1.9 million in restitution.

HYPERLINK URL

<https://www.gpo.gov/fdsys/pkg/USCODE-2015-title18/pdf/USCODE-2015-title18-partI-chap63-sec1346.pdf>

LINKED TEXT/IMAGE

18 U.S.C. Section 1346

LESSON 1 PAGE 10

Criminal Health Care Fraud

Persons who knowingly make a false claim may be subject to:

- Criminal fines up to \$250,000;
- Imprisonment for up to 20 years; or
- Both.

If the violations resulted in death, the individual may be imprisoned for any term of years or for life.

For more information, refer to [18 U.S.C. Section 1347](#) on the Internet.

HYPERLINK URL	LINKED TEXT/IMAGE
https://www.gpo.gov/fdsys/pkg/USCODE-2015-title18/pdf/USCODE-2015-title18-part1-chap63-sec1347.pdf	18 U.S.C. Section 1347

LESSON 1 PAGE 11

Anti-Kickback Statute

The Anti-Kickback Statute prohibits knowingly and willfully soliciting, receiving, offering, or paying remuneration (including any kickback, bribe, or rebate) for referrals for services that are paid, in whole or in part, under a Federal health care program (including the Medicare Program).

For more information, refer to [42 U.S.C. Section 1320a-7b\(b\)](#) on the Internet.

Damages and Penalties

Violations are punishable by:

- A fine of up to \$25,000;
- Imprisonment for up to 5 years; or
- Both.

For more information, refer to the [Social Security Act \(the Act\), Section 1128B\(b\)](#) on the Internet.

EXAMPLE

A radiologist who owned and served as medical director of a diagnostic testing center in New Jersey:

- Obtained nearly \$2 million in payments from Medicare and Medicaid for MRIs, CAT scans, ultrasounds, and other resulting tests;
- Paid doctors for referring patients;
- Pleaded guilty to violating the Anti-Kickback Statute; and
- Was sentenced to 46 months in prison.

The radiologist was among 17 people, including 15 physicians, who have been convicted in connection with this scheme.

HYPERLINK URL	LINKED TEXT/IMAGE
https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXI-partA-sec1320a-7b.pdf	42 U.S.C. Section 1320a-7b(b)
https://www.ssa.gov/OP_Home/ssact/title11/1128B.htm	Social Security Act (the Act), Section 1128B(b)

LESSON 1 PAGE 12

Stark Statute (Physician Self-Referral Law)

The Stark Statute prohibits a physician from making referrals for certain designated health services to an entity when the physician (or a member of his or her family) has:

- An ownership/investment interest; or
- A compensation arrangement (exceptions apply).

For more information, refer to [42 U.S.C. Section 1395nn](#) on the Internet.

Damages and Penalties

Medicare claims tainted by an arrangement that does not comply with the Stark Statute are not payable. A penalty of around **\$23,800** may be imposed for each service provided. There may also be around a **\$159,000** fine for entering into an unlawful arrangement or scheme.

For more information, visit the [Physician Self-Referral webpage](#) on the CMS website and refer to [the Act, Section 1877](#) on the Internet.

EXAMPLE

A physician paid the Government \$203,000 to settle allegations that he violated the physician self-referral prohibition in the Stark Statute for routinely referring Medicare patients to an oxygen supply company he owned.

HYPERLINK URL	LINKED TEXT/IMAGE
https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXVIII-partE-sec1395nn.pdf	42 U.S.C. Section 1395nn
https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral	Physician Self-Referral webpage
https://www.ssa.gov/OP_Home/ssact/title18/1877.htm	the Act, Section 1877

LESSON 1 PAGE 13

Civil Monetary Penalties (CMP) Law

The Office of Inspector General (OIG) may impose civil penalties for a number of reasons, including:

- Arranging for services or items from an excluded individual or entity;
- Providing services or items while excluded;
- Failing to grant OIG timely access to records;
- Knowing of an overpayment and failing to report and return it;
- Making false claims; or
- Paying to influence referrals.

Damages and Penalties

The penalties can be around \$15,000 to \$70,000 depending on the specific violation. Violators are also subject to three times the amount:

- Claimed for each service or item; or
- Of remuneration offered, paid, solicited, or received.

For more information, refer to [42 U.S.C. 1320a-7a](#) and [the Act, Section 1128A\(a\)](#) on the Internet.

EXAMPLE

A California pharmacy and its owner agreed to pay over \$1.3 million to settle allegations they submitted claims to Medicare Part D for brand name prescription drugs that the pharmacy could not have dispensed based on inventory records.

ACRONYM	TITLE TEXT
OIG	<i>Office of Inspector General</i>
HYPERLINK URL	LINKED TEXT/IMAGE
https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXI-partA-sec1320a-7a.pdf	42 U.S.C. 1320a-7a
http://www.ssa.gov/OP_Home/ssact/title11/1128A.htm	the Act, Section 1128A(a)

LESSON 1 PAGE 14

Exclusion

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 OIG. The OIG has authority to exclude individuals and entities from federally funded health care programs and maintains the List of Excluded Individuals and Entities (LEIE). You can access the [LEIE](#) on the Internet.

The United States General Services Administration (GSA) administers the Excluded Parties List System (EPLS), which contains debarment actions taken by various Federal agencies, including the OIG. You may access the [EPLS](#) on the System for Award Management website.

If looking for excluded individuals or entities, make sure to check both the [LEIE](#) and the [EPLS](#) since the lists are not the same. For more information, refer to [42 U.S.C. Section 1320a-7](#) and [42 Code of Federal Regulations Section 1001.1901](#) on the Internet.

EXAMPLE

A pharmaceutical company pleaded guilty to two felony counts of criminal fraud related to failure to file required reports with the Food and Drug Administration concerning oversized morphine sulfate tablets. The executive of the pharmaceutical firm was excluded based on the company’s guilty plea. At the time the executive was excluded, he had not been convicted himself, but there was evidence he was involved in misconduct leading to the company’s conviction.

ACRONYM	TITLE TEXT
EPLS	<i>Excluded Parties List System</i>
LEIE	<i>List of Excluded Individuals and Entities</i>

HYPERLINK URL	LINKED TEXT/IMAGE
https://exclusions.oig.hhs.gov	LEIE
https://www.sam.gov/portal/SAM/#1	EPLS
https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXI-partA-sec1320a-7.pdf	42 U.S.C. Section 1320a-7
https://www.gpo.gov/fdsys/pkg/CFR-2015-title42-vol5/pdf/CFR-2015-title42-vol5-sec1001-1901.pdf	42 Code of Federal Regulations Section 1001.1901

LESSON 1 PAGE 15

Health Insurance Portability and Accountability Act (HIPAA)

HIPAA created greater access to health care insurance, protection of privacy of health care data, and promoted standardization and efficiency in the health care industry.

HIPAA safeguards help prevent unauthorized access to protected health care information. As an individual with access to protected health care information, you must comply with HIPAA.

For more information, visit the [HIPAA webpage](#) on the Internet.

Damages and Penalties

Violations may result in Civil Monetary Penalties. In some cases, criminal penalties may apply.

EXAMPLE

A former hospital employee pleaded guilty to criminal HIPAA charges after obtaining protected health information with the intent to use it for personal gain. He was sentenced to 12 months and 1 day in prison.

ACRONYM	TITLE TEXT
HIPAA	<i>Health Insurance Portability and Accountability Act</i>
HYPERLINK URL	LINKED TEXT/IMAGE
https://www.hhs.gov/hipaa	HIPAA webpage

LESSON 1 PAGE 16

Lesson 1 Summary

There are differences among FWA. One of the primary differences is intent and knowledge. Fraud requires that the person have intent to obtain payment and the knowledge that their actions are wrong. Waste and abuse may involve obtaining an improper payment but do not require the same intent and knowledge.

Laws and regulations exist that prohibit FWA. Penalties for violating these laws may include:

- Civil Monetary Penalties;
- Civil prosecution;
- Criminal conviction/fines;
- Exclusion from participation in all Federal health care programs;
- Imprisonment; or
- Loss of provider license.

LESSON 1 PAGE 17

Lesson 1 Review

Now that you have completed Lesson 1, let's do a quick knowledge check. The following questions do not contribute to your overall course score in the Post-Assessment.

LESSON 1 PAGE 18

Knowledge Check

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

**CORRECT
ANSWER**

A

LESSON 1 PAGE 19

Knowledge Check

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

**CORRECT
ANSWER**

B

LESSON 1 PAGE 20

You completed Lesson 1: What Is FWA?

Now that you have learned about FWA and the laws and regulations prohibiting it, let's look closer at your role in the fight against FWA.

Click the "MAIN MENU" button to return to the Web-Based Training (WBT) Main Menu. Then select "Lesson 2: Your Role in the Fight Against FWA" to begin Lesson 2.

LESSON 2: YOUR ROLE IN THE FIGHT AGAINST FWA

LESSON 2 PAGE 1

Lesson 2: Introduction and Learning Objectives

This lesson explains the role you can play in fighting against Fraud, Waste, and Abuse (FWA), including your responsibilities for preventing, reporting, and correcting FWA. It should take about 10 minutes to complete. Upon completing the lesson, you should be able to correctly:

- Identify methods of preventing FWA;
- Identify how to report FWA; and
- Recognize how to correct FWA.

ACRONYM	TITLE TEXT
FWA	<i>Fraud, Waste, and Abuse</i>

LESSON 2 PAGE 2

Where Do I Fit In?

As a person who provides health or administrative services to a Medicare Part C or Part D enrollee, you are either an employee of a:

- Sponsor (Medicare Advantage Organizations [MAOs] and Prescription Drug Plans [PDPs]);
- First-tier entity (Examples: Pharmacy Benefit Management (PBM), hospital or health care facility, provider group, doctor office, clinical laboratory, customer service provider, claims processing and adjudication company, a company that handles enrollment, disenrollment, and membership functions, and contracted sales agent);
- Downstream entity (Examples: pharmacies, doctor office, firms providing agent/broker services, marketing firms, and call centers); or
- Related entity (Examples: Entity with common ownership or control of a Sponsor, health promotion provider, or SilverSneakers®).

LESSON 2 PAGE 3

Where Do I Fit In? (continued)

I am an employee of a Part C Plan Sponsor or an employee of a Part C Plan Sponsor’s first-tier or downstream entity

The Part C Plan Sponsor is a CMS Contractor. Part C Plan Sponsors may enter into contracts with FDRs. This stakeholder relationship flow chart shows examples of functions that relate to the Sponsor’s Medicare Part C contracts. First Tier and related entities of the Medicare Part C Plan Sponsor may contract with downstream entities to fulfill their contractual obligations to the Sponsor.

Examples of first tier entities may be independent practices, call centers, health services/hospital groups, fulfillment vendors, field marketing organizations, and credentialing organizations. If the first tier entity is an independent practice, then a provider could be a downstream entity. If the first tier entity is a health service/hospital group, then radiology, hospital, or mental health facilities may be the downstream entity. If the first tier entity is a field marketing organization, then agents may be the downstream entity. Downstream entities may contract with other downstream entities. Hospitals and mental health facilities may contract with providers.

I am an employee of a Part D Plan Sponsor or an employee of a Part D Plan Sponsor’s first-tier or downstream entity

The Part D Plan Sponsor is a CMS Contractor. Part D Plan Sponsors may enter into contracts with FDRs. This stakeholder relationship flow chart shows examples of functions that relate to the Sponsor’s Medicare Part D contracts. First Tier and related entities of the Part D Plan Sponsor may contract with downstream entities to fulfill their contractual obligations to the Sponsor.

Examples of first tier entities include call centers, PBMs, and field marketing organizations. If the first tier entity is a PBM, then the pharmacy, marketing firm, quality assurance firm, and claims processing firm could be downstream entities. If the first tier entity is a field marketing organization, then agents could be a downstream entity.

ACRONYM	TITLE TEXT
CMS	<i>Centers for Medicare & Medicaid Services</i>

LESSON 2 PAGE 4

What Are Your Responsibilities?

You play a vital part in preventing, detecting, and reporting potential FWA, as well as Medicare non-compliance.

- **FIRST**, you must comply with all applicable statutory, regulatory, and other Medicare Part C or Part D requirements, including adopting and using an effective compliance program.
- **SECOND**, you have a duty to the Medicare Program to report any compliance concerns, and suspected or actual violations that you may be aware of.
- **THIRD**, you have a duty to follow your organization's Code of Conduct that articulates your and your organization's commitment to standards of conduct and ethical rules of behavior.

LESSON 2 PAGE 5

How Do You Prevent FWA?

- Look for suspicious activity;
- Conduct yourself in an ethical manner;
- Ensure accurate and timely data/billing;
- Ensure you coordinate with other payers;
- Keep up to date with FWA policies and procedures, standards of conduct, laws, regulations, and the CMS guidance; and
- Verify all information provided to you.

ACRONYM	TITLE TEXT
CMS	<i>Centers for Medicare & Medicaid Services</i>

LESSON 2 PAGE 6

Stay Informed About Policies and Procedures

Familiarize yourself with your entity's policies and procedures.

Every Sponsor and First-Tier, Downstream, and Related Entity (FDR) must have policies and procedures that address FWA. These procedures should help you detect, prevent, report, and correct FWA.

Standards of Conduct should describe the Sponsor's expectations that:

- All employees conduct themselves in an ethical manner;
- Appropriate mechanisms are in place for anyone to report non-compliance and potential FWA; and
- Reported issues will be addressed and corrected.

Standards of Conduct communicate to employees and FDRs that compliance is everyone's responsibility, from the top of the organization to the bottom.

ACRONYM	TITLE TEXT
FDRs	<i>First-Tier, Downstream, and Related Entities</i>

LESSON 2 PAGE 7

Report FWA

Everyone must report suspected instances of FWA. Your Sponsor's Code of Conduct should clearly state this obligation. Sponsors may not retaliate against you for making a good faith effort in reporting.

Do not be concerned about whether it is fraud, waste, or abuse. Just report any concerns to your compliance department or your Sponsor's compliance department. Your Sponsor's compliance department area will investigate and make the proper determination. Often, Sponsors have a Special Investigations Unit (SIU) dedicated to investigating FWA. They may also maintain an FWA Hotline.

Every Sponsor must have a mechanism for reporting potential FWA by employees and FDRs. Each Sponsor must accept anonymous reports and cannot retaliate against you for reporting. Review your organization's materials for the ways to report FWA.

When in doubt, call your Compliance Department or FWA Hotline.

LESSON 2 PAGE 8

Reporting FWA Outside Your Organization

If warranted, Sponsors and FDRs must report potentially fraudulent conduct to Government authorities, such as the Office of Inspector General (OIG), the Department of Justice (DOJ), or CMS.

Individuals or entities who wish to voluntarily disclose self-discovered potential fraud to OIG may do so under the Self-Disclosure Protocol (SDP). Self-disclosure gives providers the opportunity to avoid the costs and disruptions associated with a Government-directed investigation and civil or administrative litigation.

Details to Include When Reporting FWA

When reporting suspected FWA, you should include:

- Contact information for the source of the information, suspects, and witnesses;
- Details of the alleged FWA;
- Identification of the specific Medicare rules allegedly violated; and
- The suspect’s history of compliance, education, training, and communication with your organization or other entities.

WHERE TO REPORT FWA	
HHS Office of Inspector General:	
<ul style="list-style-type: none">• 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	
For Medicare Parts C and D:	
<ul style="list-style-type: none">• National Benefit Integrity Medicare Drug Integrity Contractor (NBI MEDIC) at 1-877-7SafeRx (1-877-772-3379)	
For all other Federal health care programs:	
<ul style="list-style-type: none">• CMS Hotline at 1-800-MEDICARE (1-800-633-4227) or TTY 1-877-486-2048	
HHS and U.S. Department of Justice (DOJ): https://www.stopmedicarefraud.gov	

ACRONYM	TITLE TEXT
OIG	<i>Office of Inspector General</i>

LESSON 2 PAGE 9

Correction

Once fraud, waste, or abuse has been detected, it must be promptly corrected. Correcting the problem saves the Government money and ensures you are in compliance with CMS requirements.

Develop a plan to correct the issue. Consult your organization’s compliance officer to find out the process for the corrective action plan development. The actual plan is going to vary, depending on the specific circumstances. In general:

- Design the corrective action to correct the underlying problem that results in FWA program violations and to prevent future non-compliance;
- Tailor the corrective action to address the particular FWA, problem, or deficiency identified. Include timeframes for specific actions;
- Document corrective actions addressing non-compliance or FWA committed by a Sponsor’s employee or FDR’s employee and include consequences for failure to satisfactorily complete the corrective action; and
- Once started, continuously monitor corrective actions to ensure they are effective.

Corrective Action Examples

Corrective actions may include:

- Adopting new prepayment edits or document review requirements;
- Conducting mandated training;
- Providing educational materials;
- Revising policies or procedures;
- Sending warning letters;
- Taking disciplinary action, such as suspension of marketing, enrollment, or payment; or
- Terminating an employee or provider.

LESSON 2 PAGE 10

Indicators of Potential FWA

Now that you know about your role in preventing, reporting, and correcting FWA, let's review some key indicators to help you recognize the signs of someone committing FWA.

The following pages present issues that may be potential FWA. Each page provides questions to ask yourself about different areas, depending on your role as an employee of a Sponsor, pharmacy, or other entity involved in the delivery of Medicare Parts C and D benefits to enrollees.

LESSON 2 PAGE 11

Key Indicators: Potential Beneficiary Issues

- Does the prescription, medical record, or laboratory test look altered or possibly forged?
- Does the beneficiary's medical history support the services requested?
- Have you filled numerous identical prescriptions for this beneficiary, possibly from different doctors?
- Is the person receiving the medical service the actual beneficiary (identity theft)?
- Is the prescription appropriate based on the beneficiary's other prescriptions?

LESSON 2 PAGE 12

Key Indicators: Potential Provider Issues

- Are the provider's prescriptions appropriate for the member's health condition (medically necessary)?
- Does the provider bill the Sponsor for services not provided?
- Does the provider write prescriptions for diverse drugs or primarily for controlled substances?
- Is the provider performing medically unnecessary services for the member?
- Is the provider prescribing a higher quantity than medically necessary for the condition?
- Is the provider's diagnosis for the member supported in the medical record?

LESSON 2 PAGE 13

Key Indicators: Potential Pharmacy Issues

- Are drugs being diverted (drugs meant for nursing homes, hospice, and other entities being sent elsewhere)?
- Are the dispensed drugs expired, fake, diluted, or illegal?
- Are generic drugs provided when the prescription requires that brand drugs be dispensed?
- Are PBM~~s~~ being billed for prescriptions that are not filled or picked up?
- Are proper provisions made if the entire prescription cannot be filled (no additional dispensing fees for split prescriptions)?
- Do you see prescriptions being altered (changing quantities or Dispense As Written)?

ACRONYM	TITLE TEXT
PBMs	<i>Pharmacy Benefit Managers</i>

LESSON 2 PAGE 14

Key Indicators: Potential Wholesaler Issues

- Is the wholesaler distributing fake, diluted, expired, or illegally imported drugs?
- Is the wholesaler diverting drugs meant for nursing homes, hospices, and Acquired Immune Deficiency Syndrome (AIDS) clinics and then marking up the prices and sending to other smaller wholesalers or pharmacies?

LESSON 2 PAGE 15

Key Indicators: Potential Manufacturer Issues

- Does the manufacturer promote off-label drug usage?
- Does the manufacturer provide samples, knowing that the samples will be billed to a Federal health care program?

LESSON 2 PAGE 16

Key Indicators: Potential Sponsor Issues

- Does the Sponsor encourage/support inappropriate risk adjustment submissions?
- Does the Sponsor lead the beneficiary to believe that the cost of benefits is one price, only for the beneficiary to find out that the actual cost is higher?
- Does the Sponsor offer cash inducements for beneficiaries to join the plan?
- Does the Sponsor use unlicensed agents?

LESSON 2 PAGE 17

Lesson 2 Summary

- As a person who provides health or administrative services to a Medicare Parts C or D enrollee, you play a vital role in preventing FWA. Conduct yourself ethically, stay informed of your organization's policies and procedures, and keep an eye out for key indicators of potential FWA.
- Report potential FWA. Every Sponsor must have a mechanism for reporting potential FWA. Each Sponsor must be able to accept anonymous reports and cannot retaliate against you for reporting.
- Promptly correct identified FWA with an effective corrective action plan.

LESSON 2 PAGE 18

Lesson 2 Review

Now that you have completed Lesson 2, let's do a quick knowledge check. The following questions do not contribute to your overall course score in the Post-Assessment.

LESSON 2 PAGE 19

Knowledge Check

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?

Select the correct answer.

- 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

LESSON 2 PAGE 20

Knowledge Check

Your job is to submit a risk diagnosis to the Centers for Medicare & Medicaid Services (CMS) for the purpose of payment. As part of this job you verify, through a certain process, that the data is accurate. Your immediate supervisor tells you to ignore the Sponsor's process and to adjust/add risk diagnosis codes for certain individuals. What should you do?

Select the correct answer.

- A. Do what your immediate supervisor asked you to do and adjust/add risk diagnosis codes
- B. Report the incident to the compliance department (via compliance hotline or other mechanism)
- C. Discuss your concerns with your immediate supervisor
- D. Call law enforcement

**CORRECT
ANSWER**

B

LESSON 2 PAGE 21

Knowledge Check

You are in charge of payment of claims submitted by providers. You notice a certain diagnostic provider (“Doe Diagnostics”) requested a substantial payment for a large number of members. Many of these claims are for a certain procedure. You review the same type of procedure for other diagnostic providers and realize that Doe Diagnostics’ claims far exceed any other provider that you reviewed. What should you do?

Select the correct answer.

- A. Call Doe Diagnostics and request additional information for the claims
- B. Consult with your immediate supervisor for next steps or contact the compliance department (via compliance hotline, Special Investigations Unit (SIU), or other mechanism)
- C. Reject the claims
- D. Pay the claims

**CORRECT
ANSWER**

B

LESSON 2 PAGE 22

Knowledge Check

You are performing a regular inventory of the controlled substances in the pharmacy. You discover a minor inventory discrepancy. What should you do?

Select the correct answer.

- A. Call local law enforcement
- B. Perform another review
- C. Contact your compliance department (via compliance hotline or other mechanism)
- D. Discuss your concerns with your supervisor
- E. Follow your pharmacy's procedures

**CORRECT
ANSWER**

E

LESSON 2 PAGE 23

You completed Lesson 2: Your Role in the Fight Against FWA

Now that you have learned how to fight FWA, let's take a post-assessment to see how much you've learned!

Click the "MAIN MENU" button to return to the Web-Based Training (WBT) Main Menu. Then select "Post-Assessment" to begin the Post-Assessment.

POST-ASSESSMENT

POST-ASSESSMENT PAGE 1

Post-Assessment

This assessment asks you 10 questions about Medicare Parts C and D Fraud, Waste, and Abuse (FWA). It should take about 10 minutes to complete. Please choose the answer for each question by clicking on the button next to your answer. **You may change your answer to a question until you click on the “SUBMIT ANSWER” button, at which time your answer is submitted.** After you submit your answer, the “NEXT” button will appear, along with feedback on your answer. Click on the “NEXT” button to continue to the next question. You can only move forward in the Post-Assessment and you can answer each question only once.

Click the “NEXT” button to continue to the first Post-Assessment question.

POST-ASSESSMENT PAGE 2

Question 1 of 10

Once a corrective action plan is started, the corrective actions must be monitored annually to ensure they are effective.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 3

Question 2 of 10

Ways to report potential Fraud, Waste, and Abuse (FWA) include:

Select the best answer.

- A. Telephone hotlines
- B. Mail drops
- C. In-person reporting to the compliance department/supervisor
- D. Special Investigations Units (SIUs)
- E. All of the above

POST-ASSESSMENT PAGE 4

Question 3 of 10

Any person who knowingly submits false claims to the Government is liable for five times the Government's damages caused by the violator plus a penalty.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 5

Question 4 of 10

These are examples of issues that should be reported to a Compliance Department: suspected Fraud, Waste, and Abuse (FWA); potential health privacy violation, and unethical behavior/employee misconduct.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 6

Question 5 of 10

Bribes or kickbacks of any kind for services that are paid under a Federal health care program (which includes Medicare) constitute fraud by the person making as well as the person receiving them.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 7

Question 6 of 10

Waste includes any misuse of resources such as the overuse of services, or other practices that, directly or indirectly, result in unnecessary costs to the Medicare Program.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 8

Question 7 of 10

Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 9

Question 8 of 10

Some of the laws governing Medicare Parts 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 (LEIE); and the Health Care Fraud Statute.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 10

Question 9 of 10

You can help prevent Fraud, Waste, and Abuse (FWA) by doing all of the following:

- Look for suspicious activity;
- Conduct yourself in an ethical manner;
- Ensure accurate and timely data/billing;
- Ensure you coordinate with other payers;
- Keep up to date with FWA policies and procedures, standards of conduct, laws, regulations, and the Centers for Medicare & Medicaid Services (CMS) guidance; and
- Verify all information provided to you.

Select the correct answer.

- A. True
- B. False

POST-ASSESSMENT PAGE 11

Question 10 of 10

What are some of the penalties for violating Fraud, Waste, and Abuse (FWA) laws?

Select the best answer.

- A. Civil Monetary Penalties
- B. Imprisonment
- C. Exclusion from participation in all Federal health care programs
- D. All of the above

APPENDIX A: RESOURCES

RESOURCES PAGE 1 OF 1

Disclaimers

This Web-Based Training (WBT) course was current at the time it was published or uploaded onto the web. Medicare policy changes frequently so links to the source documents have been provided within the document for your reference.

This WBT course was prepared as a service to the public and is not intended to grant rights or impose obligations. This WBT course may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

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ACRONYM	TITLE TEXT
MLN	<i>Medicare Learning Network®</i> ,
WBT	<i>Web-Based Training</i>

Glossary

For the Centers for Medicare & Medicaid Services (CMS) Glossary, visit <https://www.cms.gov/apps/glossary> on the CMS website.

ACRONYM	TITLE TEXT
CMS	<i>Centers for Medicare & Medicaid Services</i>
HYPERLINK URL	LINKED TEXT/IMAGE
https://www.cms.gov/apps/glossary	https://www.cms.gov/apps/glossary

APPENDIX B: JOB AIDS

Job Aid A: Applicable Laws for Reference

Law	Available At
Anti-Kickback Statute 42 U.S.C. Section 1320a-7b(b)	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXI-partA-sec1320a-7b.pdf
Civil False Claims Act 31 U.S.C. Sections 3729–3733	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title31/pdf/USCODE-2015-title31-subtitleIII-chap37-subchapIII.pdf
Civil Monetary Penalties Law 42 U.S.C. Section 1320a-7a	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXI-partA-sec1320a-7a.pdf
Criminal False Claims Act 18 U.S.C. Section 287	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title18/pdf/USCODE-2015-title18-partI-chap15-sec287.pdf
Exclusion 42 U.S.C. Section 1320a-7	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXI-partA-sec1320a-7.pdf
Criminal Health Care Fraud Statute 18 U.S.C. Section 1347	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title18/pdf/USCODE-2015-title18-partI-chap63-sec1347.pdf
Physician Self-Referral Law 42 U.S.C. Section 1395nn	https://www.gpo.gov/fdsys/pkg/USCODE-2015-title42/pdf/USCODE-2015-title42-chap7-subchapXVIII-partE-sec1395nn.pdf

Job Aid B: Resources

Resource	Website
Health Care Fraud Prevention and Enforcement Action Team Provider Compliance Training	https://oig.hhs.gov/compliance/provider-compliance-training
OIG’s Provider Self-Disclosure Protocol	https://oig.hhs.gov/compliance/self-disclosure-info/files/Provider-Self-Disclosure-Protocol.pdf
Physician Self-Referral	https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral
A Roadmap for New Physicians: Avoiding Medicare Fraud and Abuse	https://oig.hhs.gov/compliance/physician-education
Safe Harbor Regulations	https://oig.hhs.gov/compliance/safe-harbor-regulations

Job Aid C: Where to Report Fraud, Waste, and Abuse (FWA)

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>

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

HHS and U.S. Department of Justice (DOJ): <https://www.stopmedicarefraud.gov>