

FRAUD WASTE AND ABUSE

2018 Training Provided By Community's
Special Investigations Unit

Objective

- **Define Fraud Waste & Abuse (FWA)**
- **Understand the Laws around FWA**
- **Understand Your role in an effective FWA Prevention & Detection Program**

Definition

- **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.

Waste & Abuse

- Waste includes practices that result in unnecessary costs to the Health Programs, such as overusing services.
 - Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources.
- Abuse includes actions that may result in unnecessary costs to the Health Programs.
 - Abuse involves paying for items or services when there is no legal entitlement to that payment, and the provider has not knowingly or intentionally misrepresented facts to obtain payment.



Definition

Fraud requires intent to obtain payment and the knowledge the actions are wrong.

Waste and Abuse may involve obtaining an improper payment or creating an unnecessary cost to the State and Federal Health Programs but do not require the same intent and knowledge.



Definition: Examples

Examples of actions that may constitute FRAUD include:

- Knowingly billing for services not furnished or supplies not provided, including billing Community for appointments the patient failed to keep
- Billing for nonexistent prescriptions
- Knowingly altering claim forms, medical records, or receipts to receive a higher payment, upcoding, unbundling

Examples of actions that may constitute WASTE include:

- Conducting and billing excessive office visits or writing excessive prescriptions
- Ordering excessive laboratory tests

Examples of actions that may constitute ABUSE include:

- Unknowingly billing for unnecessary medical services
- Unknowingly billing for brand name drugs when generics are dispensed
- Unknowingly excessively charging for services or supplies
- Unknowingly misusing codes on a claim, such as upcoding or unbundling codes

Understanding FWA Laws

- Civil False Claims Act,
- Health Care Fraud Statute, and Criminal Fraud
- Anti-Kickback Statute
- Stark Statute (Physician Self-Referral Law)
- Exclusions



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
- Conceals or improperly avoids or decreases an obligation to pay the Government
- Makes or uses a false record or statement supporting a false claim
- Presents a false claim for payment or approval



Health Care Fraud Statute & Criminal Health Care Fraud

- The Health Care Fraud Statute states, “Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud any health care benefit program ... shall be fined under this title or imprisoned not more than 10 years, or both.”
- Conviction under the statute does not require proof the violator had knowledge of the law or specific intent to violate the law.
- Persons who knowingly make a false claim may be subject to:
 - Criminal fines up to \$250,000
 - Imprisonment for up to 20 years
- If the violations resulted in death, the individual may be imprisoned for any term of years or for life.



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.



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



- A penalty of around \$24,250 can be imposed for each service provided. There may also be around a \$161,000 fine for entering into an unlawful arrangement or scheme.
- Exceptions may apply. For more information, refer to 42 USC Section 1395nn.

Excluded Individuals(Physician Self-Referral Law)

- No healthcare program payment may be made for any item or service furnished, ordered, or prescribed by an individual or entity excluded by the OIG.
- The U.S. General Services Administration (GSA) administers the Excluded Parties List System (EPLS), which contains debarment actions taken by various Federal agencies, including the OIG.



YOUR Role In the Fight Against FWA

VIGILANCE

Your Role: Vigilance

Member:

- Read Your Explanation of Benefits to ensure you are the only one using your Community ID card and you received the services Community for which Community paid.
- Keep your Community ID Card in a secure place

Provider

- Routinely review work done by your Billing staff
- Clearly document all interactions in the Medical Records to support your Claims Bills
- Verify that you are servicing the owner of the Community ID Card presented

Your Role: Report

Promptly report any compliance concerns to Community.

Community will ensure no retaliation for anyone who makes a Good Faith report.

Please Contact us at (877) 888-0002 to place an anonymous report or send us an email at SIU@CommunityHealthChoice.Org. Please provide as much information as you know to enable us investigate successfully