

MEDICARE ADVANTAGE AND PART D

GENERAL COMPLIANCE AND FRAUD, WASTE AND ABUSE TRAINING

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WHY THIS TRAINING?

CMS amended its Medicare Advantage (MA) and Part D regulations to clarify the obligations of MA organizations and Part D sponsors, such as Davis Vision, to include general compliance and fraud, waste and abuse training in their education plans for their providers and contractors and providers'/contractors' employees, managers, directors and subcontractors.

All providers, contractors, their employees and subcontractors must receive specialized training in issues posing compliance risks upon initial hire, at time of contracting and annually thereafter as a condition of employment.

TERMS YOU SHOULD KNOW

Theft by deception

The use of deception for unlawful gain or unjust advantage.

Fraud

Knowingly and willfully, 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, representation, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program.

Waste

The overutilization of services, or other practices that, directly or indirectly result in unnecessary costs to the Medicare program. (Misuse of Resources)

Abuse

Includes actions that may, directly or indirectly, result in: unnecessary costs to the Medicare Program, improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. (Knowledge and /or Intent is not required)

TERMS YOU SHOULD KNOW

Conspiracy

An agreement between two or more persons to perform together an illegal wrongful or subversive act.

Compliance Program

A program to ensure that Davis Vision, its employees and contractors comply with all applicable laws and contractual requirements, including those regulating the Medicare Advantage and Part D programs and those prohibiting waste, fraud and abuse.

EXPECTATIONS

Davis Vision's expectations of contractors:

- Conduct business activities and interactions with our members ethically and with integrity.
- Conduct business activities in full compliance with applicable statutory, regulatory and Medicare Program requirements.
- Maintain records that are accurate, complete and appropriately reflect treatment or interactions with members.
- Retain these records for ten years.
- Call the Davis Vision Fraud, Waste and Abuse Investigations Unit when you have compliance questions or concerns about potential fraud and abuse.
- Cooperate with Davis Vision's gifting policy.

COMPLIANCE WITH THE LAW

- The activities of Davis Vision and each of its providers, contractors and their employees, managers and directors must be carried out in accordance with applicable laws and related corporate policies and procedures.
- Federal and state laws may include matters such as; submission of data, record keeping, access to records, and privacy of protected health information.
- Special provisions apply to government programs such as Medicare Advantage and Part D.
- Violations of laws may subject you to individual civil or criminal liability, as well as disciplinary action.

CONFLICTS OF INTEREST

Conflict of interest with Davis Vision and its members should be avoided.

- Conflicts of interest may arise when outside personal interests, employment, or affiliations influence or appear to influence business or medical practice decisions.
- The self-referral law (Stark) prohibits physicians from referring Medicare patients for certain designated health services to an entity with which the physician or a member of the physician's immediate family has a financial relationship, unless an exception applies. It also prohibits an entity from presenting or causing to be presented under a Medicare Advantage plan a claim for a designated health service furnished as a result of a prohibited referral.

GIFTS, GRATUITIES AND ENTERTAINMENT

- Providers, Contractors and their employees may not offer any gift or entertainment that might be perceived to be primarily intended to gain favor or to compromise a business or health care decision under a Federal health care program.
 - For example, providing gifts to Davis Vision employees in a position to influence decisions about your participation is prohibited.
 - Offering gifts to Medicare beneficiaries may also violate the prohibition on beneficiary inducements.
- Accepting gifts that are not incidental to a business relationship, or might be perceived to be primarily intended to gain favor or to compromise a medical or business decision must be avoided.

COMPLIANCE WITH RELEVANT LAWS

Medicare Advantage organizations and Part D sponsors are paid in part using federal Medicare funds. Therefore, Medicare Advantage plans, Part D sponsors and contractors that furnish services are subject to laws applicable to individuals and entities receiving federal funds, including but not limited to, the Age Discrimination Act, the American with Disabilities Act, the Patient Protection and Affordable Care Act, HITECH, OIG/GSA Exclusion, applicable provisions of criminal law, the False Claims Act, Fraud Enforcement and Recovery Act (FERA) of 2009, Anti-Kickback Statute, and False Statements Statute.

HIPAA/HITECH

- The HIPAA Privacy Rule regulates the use and disclosure of Protected Health Information (PHI).
- If a covered entity discloses any PHI, it must make a reasonable effort to disclose only the minimum necessary information required to achieve its purpose.
- Encryption requirements are necessary for certain electronic transactions.

FRAUD, WASTE AND ABUSE LAWS

The False Claims Act

- Prohibits knowingly presenting (or causing to be presented) to the Federal government a false or fraudulent claim for payment or approval.
- Prohibits knowingly making, using, or causing to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government.
- Applies to claims made to Medicare Advantage Organizations and Part D Sponsors.
- Has been interpreted to mean that it is a potential violation of federal law if a provider, contractor, or subcontractor makes little or no effort to validate the truth and accuracy of his or her statements, representations, or claims or otherwise acts in a reckless manner as to the truth.

FRAUD, WASTE AND ABUSE LAWS

Fraud Enforcement and Recovery Act (FERA) of 2009

- Amended the False Claims Act.
- Eliminates need to show that the claimant intended to defraud; the only issue is whether statements were material to the payment of government funds.
- Eliminates the requirement to demonstrate a clear link between the alleged fraud and the government's payment—no need to prove that the defendant intended that the government pay or approve the false claim.

FRAUD, WASTE AND ABUSE LAWS

Anti-Kickback Statute

- Prohibits knowingly and willfully paying, offering, soliciting or receiving remuneration (anything of value)
 - to induce a referral of a patient for items or services for which payment may be made, in whole or in part, under a Federal health care program; or
 - in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program.
- There are certain exceptions specified in so-called “safe harbors” specified by law.

FRAUD, WASTE AND ABUSE LAWS

False Statements

- It is a violation of law (civil or criminal) to make a false statement to the government. It prohibits lying to or concealing information from a federal official.
- Anyone can be charged with making a false statement, who knowingly and willfully:
 - Falsifies, conceals, or covers up a material fact by any trick, scheme, or device.
 - Makes any materially false, fictitious, or fraudulent statement or representation.
 - Makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

FRAUD, WASTE AND ABUSE LAWS

Prohibition on Beneficiary Remuneration/Inducement

Prohibits offering or providing anything of value to beneficiaries to influence them to receive services from particular providers.

PAYMENT PROHIBITIONS

OIG/GSA Exclusions

- Part C & D Plan Sponsors shall not use federal funds to pay for services, equipment or drugs prescribed or provided by a provider, supplier, employee or FDR excluded by the DHHS OIG or GSA
- Under its contracts with the federal government, Davis Vision is prohibited by law from contracting or doing business with any person or entity that is currently debarred, suspended, excluded, proposed for debarment or declared ineligible to perform work under any government contract or subcontract.
- Sponsors and FDRs it contracts with must review the OIG List of Excluded Individuals and Entities and the GSA Excluded Parties List System prior to hiring or contracting of any new employee, temporary employee, volunteer, consultant, governing body member or FDR, and monthly thereafter, to ensure none of these persons or entities are excluded or become excluded from participation in federal programs.

PAYMENT PROHIBITIONS

Other

- Medicare Advantage Organizations and Part D sponsors are generally prohibited by law from paying:
 - Providers or Contractors who have been excluded from participation in a Federal Health Care Program such as Medicare, Medicaid or SCHIP.
 - Providers who have “opted out” of the Medicare Program, except for providing emergency services.
- Providers and Contractors may not contract with, or employ, such opted out or excluded individuals or entities to furnish services to members of Medicare Advantage Organizations and Part D sponsors.

EXAMPLES OF FRAUD, WASTE AND ABUSE

Professional Provider/Contractor

- Making false statements
- Misreporting/upgrading procedure codes to receive a higher payment
- Submitting to Davis Vision encounter, diagnostic or other data that the Provider/Contractor knows is incorrect
- Altering records inappropriately
- Accepting remuneration (payment) in exchange for services
- Performing or ordering inappropriate or unnecessary procedures/tests

EXAMPLES OF FRAUD, WASTE AND ABUSE

Beneficiary

- Permitting another person to use their Medicare ID number/card.
- Falsifying Coordination of Benefits information to collect duplicate payments from multiple insurance plans.
- Participating in schemes that involve conspiracy between a provider/supplier and beneficiary.

CONSEQUENCES OF COMMITTING FRAUD, WASTE AND ABUSE

Administrative
Recoupment/
Restitution

Criminal
and/or
Civil
Prosecution

Fines &
Penalties

Imprisonment

Suspension/
Loss of
Provider
License

Exclusion from
the Medicare
Program

IDENTIFYING POSSIBLE FRAUD, WASTE AND ABUSE

You are a vital part of the effort to prevent, detect, investigate and report possible fraud, waste and abuse issues. To do that you need to be able to identify various potential misconduct that reflects evidence of fraud, waste or abuse and report information to Davis Vision.

Read the following situations to better understand how to identify potential fraud, waste and abuse.

IDENTIFYING POSSIBLE FRAUD, WASTE AND ABUSE

Professional Provider/Contractor Situations

- Patient records, claim forms, and electronic claim forms show signs of alteration to obtain higher payments.
- “Double billing”- charging more than once for the same service, for example by an individual code then again as part of an automated or bundled set of services.
- Providing false information on reports of services provided.

IDENTIFYING POSSIBLE FRAUD, WASTE AND ABUSE

Facility Situations

- Billing for supplies, medications, procedures or lab services not provided to the patient.
- Billing for a higher level of care than the patient was receiving.

IDENTIFYING POSSIBLE FRAUD, WASTE AND ABUSE

Beneficiary Situations

- A member goes to a number of different doctors for prescriptions for the same controlled substance.
- A member gets a prescription from her physician allegedly for herself intending that her husband will take it.
- A member letting someone else use their Medicare Number or ID Card to obtain supplies or procedures or lab services.

YOUR INVOLVEMENT

Davis Vision engages in activities such as auditing, monitoring and other oversight to identify compliance issues. However, we need your assistance:

PROVIDERS AND CONTRACTORS

Establish a fraud, waste and abuse prevention policy

MANAGEMENT

Educate employees of the importance of fraud, waste and abuse prevention

ALL INDIVIDUALS

Report any potential incidents of fraud, waste or abuse to Davis Vision

POLICIES REGARDING INQUIRIES AND REPORTS

All inquiries are confidential, subject to limitations imposed by law. If an individual is unwilling to identify himself or herself despite this protection, they may make an anonymous report. If an individual does not identify himself or herself, we ask that he or she provide some method of future contact. This will allow the internal investigator to ask follow up questions. Corporate policy prohibits intimidation or retaliation against individuals who raise questions in good faith.

CONTACT INFORMATION

For information, inquiries or to report potential misconduct contact the Davis Vision Health Integrity and Compliance Department via mail, fax, or e-mail.

CONFIDENTIAL U.S. POST OFFICE BOX:

Davis Vision Fraud Waste
and Abuse Investigations
Unit - PO Box 1416, Latham
NY 12110

CONFIDENTIAL FAX:

(866) 999-4640

E-MAIL

antifraud@davisvision.com

FOLLOW UP

- For any credible report of potential fraud, waste and/or abuse, Davis Vision will undertake a reasonable investigation and may refer the issue, as appropriate, to a MEDIC, CMS or law enforcement.

MEDICARE ADVANTAGE AND PART D GENERAL COMPLIANCE AND FRAUD, WASTE AND ABUSE TRAINING

Thank you for completing this training.
You may print and complete this certificate as evidence that you completed this training.

Presented to:

For completion of the Medicare Advantage and Part D General Compliance and Fraud, Waste and Abuse Training course

DAVIS VISION
EYECARE REFRAMEDSM

Date

