

Home Health Foundation Orientation Corporate Compliance and Privacy Program



According to CMS Health care fraud is a serious problem

- ▶ **Fraud** includes obtaining a benefit through intentional misrepresentation or concealment of material facts
- ▶ **Waste** includes incurring unnecessary costs as a result of deficient management, practices, or controls
- ▶ **Abuse** includes excessively or improperly using government resources



Laws

- ▶ False Claims Act
- ▶ Civil Monetary Penalties
- ▶ Anti-Kickback Statute
- ▶ Gift-Reporting
- ▶ Physician Self-Referral Statute
- ▶ Exclusion Statute
- ▶ SOX
- ▶ HIPAA/HITECH



False Claims Act

A person wearing a dark grey, textured suit jacket is shown from the back. Their right hand is tucked behind their back, with the index finger pointing towards the left. The background is a plain, light color.

Prohibits the submission of false or fraudulent claims to the Government

Civil Liability If:

- **Knowingly presents or causes to be presented, a false or fraudulent claim record or statement for payment or approval**
- **Conspires to defraud the government by getting a false or fraudulent claim allowed or paid**

Risks: Incorrect Coding

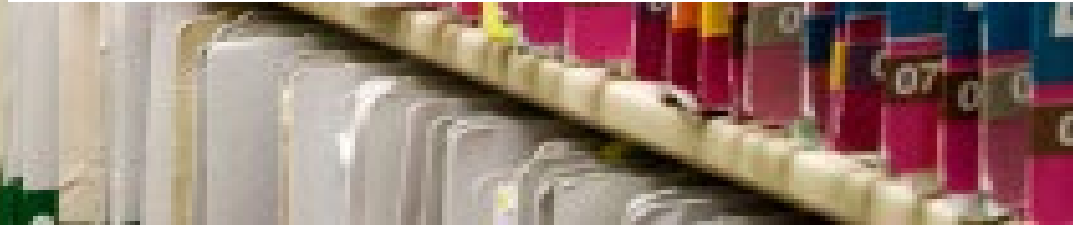
Civil Liability If:



Using a false record or statement to avoid or decrease an obligation to pay the Government



Risks: Inaccurate or late medical record documentation





Civil Monetary Penalties Law

**Penalties range from \$10,000 to
\$50,000
per violation**

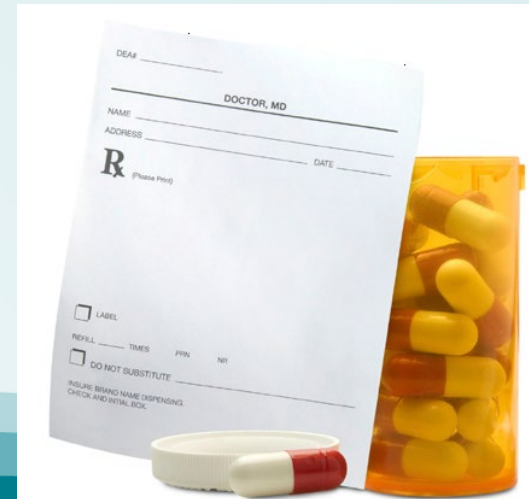
Anti-Kickback Statute



Prohibits asking for or receiving anything of value in exchange for referrals of Federal health care program business

Regulators believe Kickbacks can lead to:

- Over-utilization
- Increased costs
- Corruption of medical decision making
- Patient steering
- Unfair competition



Gift reporting requirements



Exclusion from Medicare and Medicaid

**HHF will not knowingly
employ or engage in
business with anyone who
is currently under
sanction or excluded from
Federal Health Care
Program participation**



SOX (The Sarbanes-Oxley Act of 2002)

- Protect shareholders and the general public from accounting errors and fraudulent practices
- The Sarbanes-Oxley Act states that all business records, including electronic records and electronic messages, must be saved for "not less than five years."
- The consequences for non-compliance are fines, imprisonment, or both.

**Compliance Guidance:
OIG has published recommendations
for healthcare entities to craft their
compliance programs**



**Compliance programs
keep you on track**

OIG Believes COMPLIANCE PROGRAMS

- ▶ Reduce the risk of unlawful or improper conduct
- ▶ Establish an effective method to assess and manage risks
- ▶ Reduce the potential for civil suits, liability if violations occur, and financial and other costs of litigation
- ▶ Establish a structure to disseminate legal and policy changes quickly
- ▶ Establish a mechanism for employee training thereby increasing their awareness and decreasing the possibility to breach the law.



Home Health Foundation

Our Commitment

HHF is fully committed to an effective and successfully implemented Compliance Program and ensures the development of written standards of conduct and policies and procedures promoting ensuring commitment to compliance of relevant laws.

Our Goals

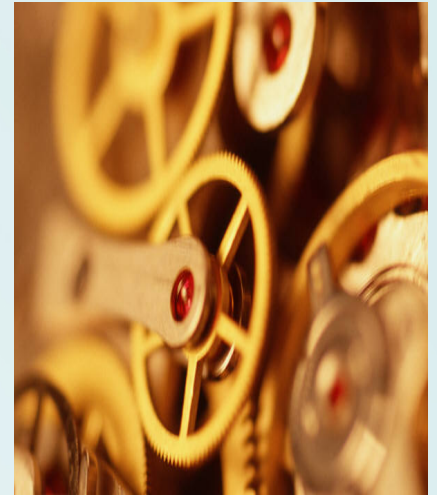
1. Assure bills are complete and accurate
2. Supply adequate documentation to support services billed
3. Detect wrongdoing and take corrective measures
4. Promote ethical behavior

HHF

Compliance Program Elements

Includes: Standards of Conduct and Compliance Plan

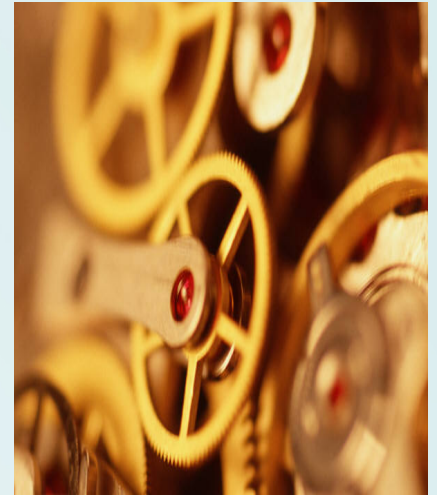
1. Designates a Compliance Officer and Compliance Committee
2. The development and implementation of effective training programs
3. Having a “Hotline” to receive complaints and procedures to protect the anonymity of complainants, as well as “whistle blower” protection



HHF

Compliance Program Elements

4. Systemically responding to allegations of improper/illegal activities and enforcement of appropriate disciplinary action against employees who have violated compliance policies.
5. Using audits and monitoring techniques to reduce problems
6. Having investigation and remediation procedures for identified systemic problems



Written Standards of Conduct

- ▶ Core Values
- ▶ Media Responsibility
- ▶ Employee/Patient Relationship
- ▶ Confidentiality
- ▶ Patient Bill of Rights
- ▶ Rights of Staff in the Care of Patients
- ▶ Ethics Committee
- ▶ Complaints from patients or families
- ▶ Marketing
- ▶ Safe Working Environment
- ▶ Education and Training
- ▶ Disclosure



Employee Compliance Screening

HHF ensures the National Practitioner Data Bank and Cumulative Sanction Report are checked with respect to all job candidates and employees on an annual basis. If listed, the person will usually not be hired or retained.



Compliance Training

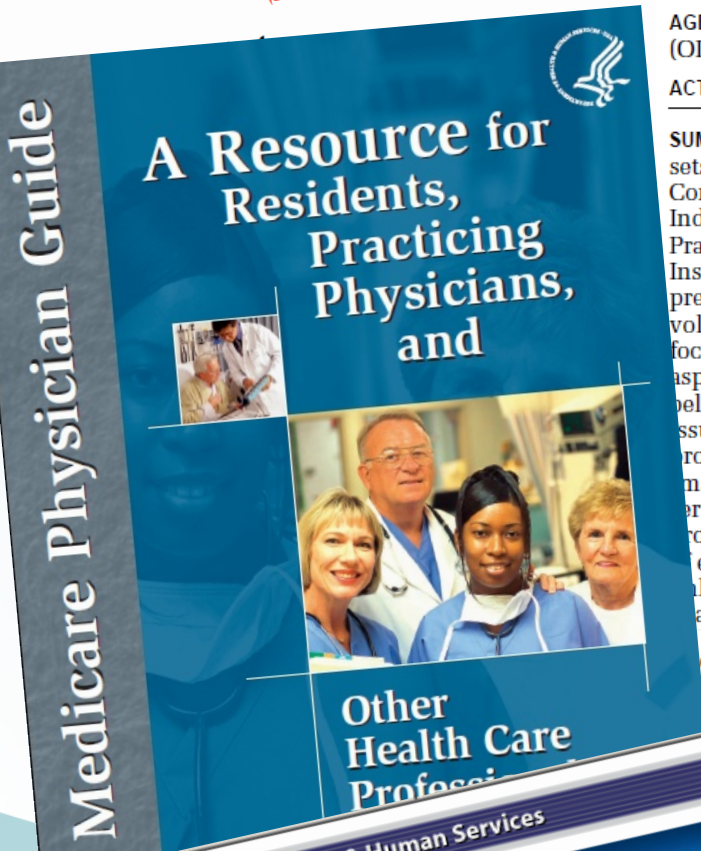
- ▶ Compliance Awareness
- ▶ Job Specific Training
- ▶ All supervisors must ensure staff have completed training



Medicare Program Integrity Manual

Chapter 1 - Medicare Improper Payments: Measuring, Correcting, and Preventing Overpayments and Underpayments

Table of Contents
(Rev. 313, 11-20-09)



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

OIG Compliance Program for Individual and Small Group Physician Practices

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice.

SUMMARY: This Federal Register notice sets forth the recently issued Compliance Program Guidance for Individual and Small Group Physician Practices developed by the Office of Inspector General (OIG). The OIG previously developed and published a voluntary compliance program guidance focused on several other areas of the health care industry. We believe that the development and issuance of this voluntary compliance program guidance for individual and small group physician practices will serve as a positive step toward providers in preventing the submission of erroneous claims or engaging in unlawful conduct involving health care programs.

Background

The creation



Special Fraud Alert

RENTAL OF SPACE IN PHYSICIAN OFFICES BY PERSONS OR ENTITIES TO WHICH PHYSICIANS REFER

Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

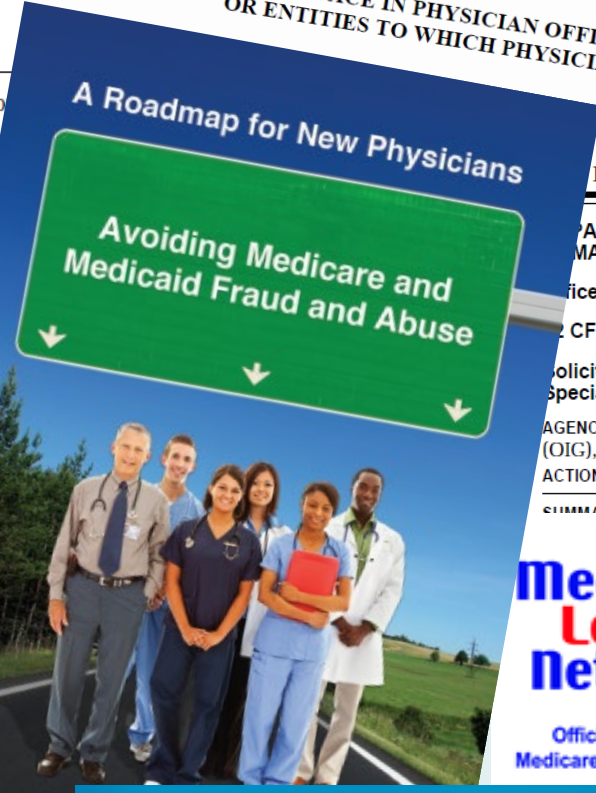
2 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Intent to develop regulations

SUMMARY: In accordance with section



U.S. Department of Health & Human Services
Office of Inspector General

CMS Centers for Medicare & Medicaid Services
U.S. Department of Health & Human Services

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People with Medicare & Medicaid | Questions | Careers

OIG.HHS.GOV/Recovery

Stop Medicare Fraud

Quick Links

[Exclusions Program](#)

[Online Exclusions Database](#)

[News Room](#)

[Fight Back Against Medical Identity Theft](#)

[Self-Disclosure Information](#)

[Enforcement Actions](#)

[Regulations & Guidance](#)

Reporting Compliance Issues

- ▶ Every employee has an obligation to make a good faith report of any activity within the agency that appears to violate compliance policies, procedures or statutes.
- ▶ An employee may report compliance issues by contacting:
 - Their supervisor, or
 - Donna Beaudin Compliance Officer x 4756 or
 - Compliance Hotline at extension x 4300



Protecting Health Information

Home Health VNA

Merrimack Valley Hospice

HomeCare, Inc.



The Leaders in Home Health and Hospice Care

What is Protected Health Information?

Patient Name

Address

Dates of Service

Date of Birth

Social Security Number

Phone numbers

Internet address

Or any unique identifying number or code.

Confidential information is any patient information collected during the patient's course of treatment.

Data collected through studies, education, audits, evaluations and corrective action is confidential.



Why Protect Confidential Information?

- ▶ Because it is the law. The Federal Government as well as State Laws protect patient information. HIPAA (Health Information Portability and Accountability Act) was a law put in place to protect the release of patient information
- ▶ The patient owns the information in the record

HIPAA Privacy and Security Rules

Privacy Rule (HIPAA) and Security Rule (HITECH) protects all “*individually identifiable health information*” held or transmitted by a CE or business associate, in any form or media, whether electronic , paper or oral.

Privacy Rules terms this information “*protected health information*”(PHI) and the Security Rules terms this information “*electronic protected health information*”

When can Information be Released?

An authorization is not needed from the patient when:

- ▶ It is an emergent medical situation
- ▶ For billing purposes for services provided
- ▶ For continued care such as acute hospital to rehab to PCP

An authorization is needed when:

- ▶ Requested by a family member not previously authorized by the patient
- ▶ Attorney
- ▶ Insurance Company not associated with billing for services provided.

What Can Happen if We Do Not Comply ?

An intentional unauthorized disclosure or non-compliance to regulations could result in penalties ranging from

- \$100.00 to \$250,000
- Incarceration (prison)



Actions YOU can take to Minimize Unauthorized or Incidental Disclosure

- Ask patient for approval to discuss their care when others are present in the room (family/friends)
- Keep voice lowered when discussing patient information: do not holler information across a room to a co-worker
- Obtain a signed patient authorization when required
- Do not leave medical records unattended in an open area; keep paper face down to hide patient name
- Put patient information in envelopes when forwarding to another department



Security Standards

Addresses three aspects of security:

- ▶ Administrative safeguards
- ▶ Physical Safe guards
- ▶ Technical Safeguards

Administrative Safeguards

- ▶ “Administrative actions and policies, and procedures to manage the selection, development, implementation and maintenance of security measures to protect electronic PHI and to manage the conduct of the workforce in relation to protection of that information”

Includes:

- ▶ Policies for staff access to systems
- ▶ Risk assessment
- ▶ Security Officer
- ▶ Controls in place to protect system
- ▶ Employee education
- ▶ Managing a security incident
- ▶ Data Backup and recovery plan
- ▶ Business associate agreements
- ▶ Process of deactivation when employee terminates

Physical Safeguards

- ▶ “Physical measures, policies, and procedures to protect electronic information systems, related buildings and equipment from natural and environmental hazards and unauthorized intrusion”
- ▶ Access to areas limited by physical protection—doors, card key, locks
- ▶ Controlling access to visitors, contractors etc.
- ▶ Workstations protected from public access
- ▶ Laptops as workstations
- ▶ Employees trained on security of PHI

Technical Safeguards

- ▶ “Technology and the policy and procedures for its use that protect electronic PHI and control access to it”
- ▶ Each user has a unique name/number assigned
- ▶ Define the access activity to system
- ▶ Automatic logoffs
- ▶ Encryption
- ▶ Terminate access to PHI in case of theft or loss of equipment
- ▶ Employee education on protection and safeguarding of data and systems
- ▶ Audit Controls

**Deliberate ignorance
Does not help us**



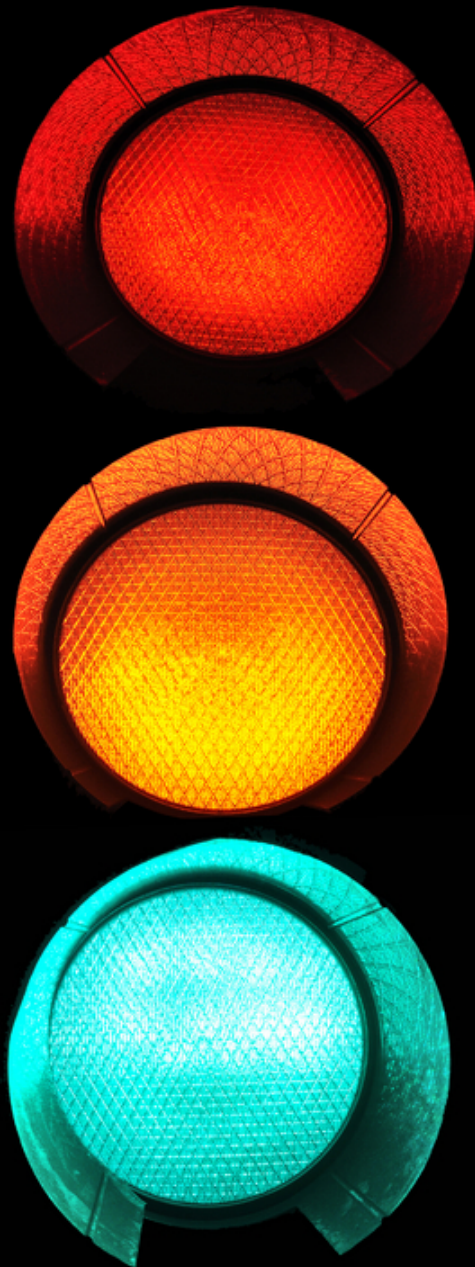
**External Investigation
(OIG, DOJ, CMS,
NGS, RAC, CERT)**

QUI TAM - Protection



Non-Retaliation Policy

HHF will not take action toward anyone that reports a possible violation



Caution Areas

- **Billing errors due to ignorance of Federal and State laws**
- **Billing for the same service more than once**
- **Incorrect coding—up-coding and de-bundling**
- **Charging for services not medically necessary**
- **Billing for services or supplies not provided**
- **Billing for services without documentation**
- **Waiving co-payments routinely**

Who is Responsible for Ensuring the Effectiveness of the Compliance Program?

Individuals with specific Compliance responsibilities include:

- You
- Compliance Committee
- Compliance Officer (CO)

Resources: HHF Education Website

