

Medicare (Pioneer) Accountable Care Organization

Annual Compliance Training

Overview

While health care professionals have long been concerned about patient safety, increased public awareness and transparency reports have demonstrated a need for deliberate action by health care providers to reduce medical errors and to improve patient safety. Similarly, consumers and the government are expecting deliberate action by health care providers regarding compliance matters. In response to this expectation, it is imperative that Medicare ACO participants have an effective compliance program that includes the necessary elements to ensure that all providers and suppliers are well educated and trained on the issue of compliance. It is critical that all providers and suppliers comply with the laws and perform all job duties with the highest levels of fairness, honesty, accuracy, and integrity.

Medicare ACO Contractual Requirements

- ACO must execute agreements with Provider/Suppliers that obligate them to abide by the Pioneer Innovation Agreement.
- ACO may not engage in cost shifting or requiring referrals only to ACO Participants, ACO Providers/Suppliers or to any other Providers/Suppliers except for existing employment or contractual agreement requirements that must allow referrals to be made based on Beneficiary preference, previous requirements and professional judgment.

Medicare ACO Contractual Requirements

- ACO must make medically necessary covered services available to Beneficiaries and may not limit medically necessary services.
- ACO must have procedures to protect the confidentiality of all information that identifies individual Beneficiaries and comply with all HIPAA Privacy and Security Rules. Data must be used only to coordinate or improve care.
- ACO must request its Medicare Providers/Suppliers to comply with and implement the designated processes and protocols and shall institute remedial processes and penalties, as appropriate, for those that fail to comply or implement a required process or protocol.

Medicare ACO Contractual Requirements

- ACO, including Providers/Suppliers and other individuals/entities performing functions or services related to Medicare ACO activities, must:
 - agree to cooperate with CMS's evaluation of the ACO
 - provide CMS the right to audit compliance with the Innovation Agreement, quality of services, amount due to or from CMS and ability to bear risk
 - maintain records and provide CMS access to all books, contracts, record documents sufficient to enable auditing of program requirements.

Goals of a Compliance Program

- A successful compliance program demonstrates our good-faith effort to comply with laws, regulations, and other healthcare requirements. The benefits include:
 - Reducing the risk of fraud and abuse
 - Enhancing healthcare operations
 - Improving quality of healthcare services
 - Reducing the overall cost of health care
- Compliance programs help demonstrate commitment to honest and responsible conduct and help them prevent the submission of false or inaccurate claims.

Compliance Defined

- What is compliance?
 - The act or process of complying
 - Conforming or adapting to a rule
 - Adhering to specific rules or regulations
- In health care, compliance rules have been established to ensure the accuracy of data and statements made to the government to ensure appropriate use of state and federal funds (Medicare and Medicaid) and resources.

Purpose of a Compliance Plan

- The purpose of a compliance plan, as defined in the Office of Inspector General model compliance programs, is as follows:
 - Fundamentally, compliance efforts are designed to establish an environment or culture that promotes self-monitoring, detection and resolution of problems. Compliance programs ensure that employees do not act with deliberate ignorance or reckless disregard of the truthfulness of the data, statements, or claims.
- Compliance programs are a way of taking everything up a notch—a team effort that promotes strict ethical and legal conduct.

Compliance Team

- Although facilities may appoint a Compliance Officer to lead compliance activities, other workforce members are essential to an effective program. This team effort generally includes:
 - Compliance Committees
 - Medical staff
 - Employees
 - Contractors
 - Volunteers

Elements of a Compliance Program

- A comprehensive compliance program revolves around a standard set of key elements.
- These key elements provide the main structural components of an effective compliance program:
 - Oversight, including a Compliance Officer and Compliance Committee
 - Policies and procedures, including a Code of Conduct
 - Specific and detailed training and education
 - Communication and the availability of a reporting mechanism such as a hotline
 - Disciplinary actions for those who have violated policy or engaged in wrongdoing
 - Auditing and monitoring to identify areas of potential risk
 - Investigation, problem resolution, and corrective action
- Each component should be tailored to meet the internal needs of your facility.

Code of Conduct

- The Code of Conduct clearly articulates expectations for how all employees should conduct themselves.
- The general elements include requirements for employees to:
 - Conduct all activities consistent with applicable laws, regulations, policies, and procedures.
 - Promote the highest standards of ethics and integrity.
 - Maintain patient, employee, and proprietary confidentiality.
 - Avoid potential conflicts of interest.
 - Report suspected violations.

Policies for the Medicare ACO Participants and Suppliers

- Privacy and Security Oversight and Structure
- Compliance Program Oversight and Structure
 - The purpose of these policies is to set forth the structure and some basic elements of the programs to assign/communicate the responsibility for implementing and administering the Compliance Program.

Policies for the Medicare ACO Participants and Suppliers

- Compliance Guidance Packet
 - An outline and tools for entities, Providers, and Suppliers to use in their Compliance activities.
- Confidentiality of Health Information
 - To ensure that health information is maintained as confidential information during its collection, use, disclosure, storage and destruction.
- Business Associate Agreements
 - Addresses the requirements for BA contracts and the procedures for their creation.
- Data Security
 - To provide additional standards for protecting Pioneer ACO data.

Policies for the Medicare ACO Participants and Suppliers

- Government Evaluations, Monitoring, and Investigations
 - Coordination of responses to government evaluations, monitoring, and investigations
- Reporting, Investigating, and Mitigating Compliance Program Violations
 - Facilitates the process of responding to and reporting violations, helps ensure consistency in responding, and assures the reporter protection from reprisal.
- Whistle Blowers
 - Reported violations will be discreetly and thoroughly investigated and no reprisals will be taken against employees who report in good faith.

Policies for the Medicare ACO Participants and Suppliers

- Record and Documentation Retention
 - It is a requirement to retain records for specified minimum periods of time.
- Self-Referral (Stark) Provisions
 - To ensure compliance with laws governing arrangements and relationships that might implicate the federal Stark Statute.
- Anti-Kickback Law
 - To ensure compliance with laws governing arrangements and relationships that might implicate the federal Anti-Kickback Statute.
- Antitrust
 - To ensure compliance with laws governing arrangements and relationships that might implicate the federal Antitrust laws.

Provider/Supplier Responsibility

- Every provider/supplier or other personnel has a responsibility to:
 - Follow the Code of Conduct.
 - Perform duties in accordance with established policies, procedures, laws, and regulations.
 - Report any potential or suspected violations of the Code of Conduct or policies and procedures.
- Failure to comply with the Code of Conduct, as well as Policies and Procedures, may result in disciplinary action.

Training and Education

- Every provider/supplier should know about the compliance program and the role he or she plays in it.
- Training programs are designed to keep employees up-to-date and informed. Training can be provided by:
 - Human Resources personnel
 - Chief Compliance Officer or designee
 - Administrative staff
- Training programs should be designed to meet the educational needs of all employees.

Training Programs

- Compliance training programs should be varied depending upon each employee's job duties and his or her relationship to high-risk compliance activities. At a minimum, each employee should receive training that is job-specific and focused
- Continual retraining for employees at all levels is essential to keep abreast of changing state and federal regulations.

Auditing and Monitoring

- Auditing and monitoring is used to check progress and keep the compliance program in high gear. It may include:
 - Routine and focused audits
 - Interviews and questionnaires
 - Risk Analysis
 - Trend analysis
 - Monitoring payer publications and settlements

Corrective Action

- If a problem is identified, it must be corrected. The process may include:
 - Investigating identified issues
 - Determining the severity of problem
 - Determining whether the problem is localized or systemic
 - Determining whether repayment or external reporting is required
 - Preparing corrective action plans
- This may mean repaying claims, rewriting policies, educating staff, and possible disciplinary action.

Excluded Providers

- A facility should not employ, or contract with, anyone who is excluded or suspended from participating in federal healthcare programs.
- To ensure this, all employees should be screened prior to hire—at a minimum against the OIG list and the General Services Administration list.
- In addition, all employees should be reviewed annually against the Exclusion Lists.
- Employees are also responsible for notifying the facility if they are involved in any healthcare-related investigation or become ineligible.

How to Report Issues

- If you become aware of a potential compliance issue, there are a number of methods for communicating your concerns:
 - Talk to your supervisor.
 - Contact the FPA Compliance office at 952-914-1846.
 - Call the Compliance Hotline:
 - Provides a safe and anonymous way for employees to ask for clarification or seek guidance
 - Compliance Hotline 612-672-2300, or toll-free 800-530-4694.

How Does Compliance Affect Me?

- The delivery of health care and adhering to the evolving rules and regulations is complex. Compliance risk exists in many job activities. Careful attention should be paid to:
 - Medical record documentation
 - Medical necessity for tests and procedures
 - Accuracy of coding
 - Charge capture and billing activities and ensuring charges are not submitted for services not performed
 - Collection of copayments and deductibles
 - Maintaining patient confidentiality
 - Medicare beneficiary notice of potentially non-covered services
 - Conflicts of interest

Information Privacy – Minimum Necessary

- **One basic requirement:** Only access or discuss patient information if it is required for your job. Even then, only use or disclose the minimum necessary information.
 - For example, when sending a spreadsheet with patient information to internal staff for billing purposes, only send the data elements necessary for the individuals to complete their job.
 - For example, when responding to or copying others on an email that contains patient identifiers, delete all unnecessary details.
- **Never access patient information out of curiosity or concern.**
 - For example, you learn that your neighbor is having health problems and was recently admitted to the hospital. You are concerned about him and would like to check on his condition. While your concern may be well-intended you may **not** access the patient's records out of curiosity or concern. You may only access the patient's information if it is required for your job.

HIPAA and State Privacy Laws

- **HIPAA (Health Insurance Portability and Accountability Act)**
 - HIPAA is a federal regulation requiring us to protect the privacy of patient information
 - Any health and billing information that is connected with an identifier is considered “protected health information” (PHI)
- **Minnesota Privacy Laws**
 - Minnesota has additional privacy laws that usually require the patient’s authorization before we release information outside of our practice— except in a treatment emergency

Information Privacy - Social Media

Do you use Facebook, Twitter or iConnect (or other similar social media sites)?

- Don't post any information about patients – even if you think it is de-identified
- Be careful when you “talk” about your work on-line
- Posts are immediate and seemingly insignificant details can add up to protected health information and HIPAA issues

Information Privacy – Concerns or Questions

- To report concerns or privacy incidents:
 - Talk to your manager
 - Contact Fairview’s privacy office at 612-672-5647, or FPA’s privacy office at 952-914-1846
 - Go online to [FPA’s web reporting system](#) found on the main web page at www.fpanetwork.org (anonymous)
 - Call the compliance hotline (anonymous)
 - 612-672-2300
 - 800-530-4694
- Questions? Contact the Fairview privacy office at 612-672-5647 or privacy1@fairview.org, or FPA’s privacy office at 952-914-1846