

Special Investigations Unit (SIU) Training

FRAUD, WASTE, AND ABUSE

4/2020



Objective

- Understand the role of the SIU
- Define Fraud, Waste, and Abuse (FWA)
- Understand who, what, why we investigate
- Understand who is impacted
- Understand YOUR role in an effective FWA Prevention & Detection Program
- Reporting actual or suspected FWA
- Understand the Laws around FWA
- Resources

Definition

FRAUD – an intentional deception, misrepresentation or submission of a document or statement that contains a material representation made by an individual/entity knowing that the document/statement contains false or misleading information for the purpose of receiving benefits to which they would not have otherwise been entitled. Fraud may also be the result of an act of omission.



Definition

Waste – is overutilization of services or other practices that, directly or indirectly, result in unnecessary costs to the healthcare system, including the Medicare and Medicaid programs. It is not generally considered to be caused by criminally negligent actions, but by the overutilization, inappropriate utilization or misuse of resources. Waste also includes incurring unnecessary costs resulting from inefficient or ineffective practices, systems or controls.

Abuse – involves actions that are inconsistent with sound fiscal, business or accepted behavioral healthcare practices and result in an unnecessary cost or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for healthcare. 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.

Differences: FWA

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 State and Federal Health Programs but do not require the same intent and knowledge.



Examples: FWA

- Billing for services not furnished or supplies not provided, including billing Community for appointments the patient failed to keep
- Misrepresentation of actual services provided
- Up-coding (billing or a more complex code that does not accurately reflect the services rendered)
- Double billing (billing for services that are identical or considered identical in nature)
- Un-bundling
- Billing for “free” services
- Medical identity theft
- Unlicensed providers
- Kickbacks
- Billing for nonexistent prescriptions or billing for non-dispensed medications
- Conducting and billing excessive office visits or writing excessive prescriptions
- Ordering excessive laboratory tests
- Billing for unnecessary medical services
- Billing for brand name drugs when generics are dispensed
- Excessively charging for services or supplies

Who do we investigate?

- Associates
- Members
- Physicians
- Dentists
- Hospitals
- Physical Therapists
- Podiatrists



- Mental Health Providers
- Chiropractors
- Labs
- DME Suppliers
- Brokers
- Pharmacies

Why do we investigate?

Financial Loss

The National Health Care Anti-Fraud Association (NHCAA) estimates that the financial losses due to healthcare fraud are in the tens of billions of dollars each year (in excess of 10% of the cost of health care).

Patient Harm

False medical history can cause harm to the patient as a result of improperly billed claims. Example: If you receive a diagnosis of diabetes and are not diabetic, you're found unconscious and admitted to the ER, you receive the wrong or delayed treatment.

Who else investigates healthcare fraud?

- Medicaid Fraud Control Unit (MFCU)
- Federal Bureau of Investigation (FBI)
- Drug Enforcement Agency (DEA)
- U.S. Department of Health and Human Services, Office of Inspector General (OIG)
- Internal Revenue Service (IRS)
- Police
- Prosecutor's Office
- U.S. Postal Service
- U.S. Department of Labor
- State Medical and Dental Boards
- State Licensing Boards

Who is impacted?

All of us! Taxpayer premiums are driven by rising costs due in part to FWA.

Providers

- Reimbursement
- Malpractice

Employers

- Premiums
- Uninsured

Subscriber

- Premiums
- Copay/Coinsurance/Deductibles
- Rx costs
- Network of Providers
- Quality of care concerns



Your Responsibilities

You have a duty to immediately report and escalate any incidents of potential non-compliance or suspected FWA.

- SIU is a regulatory function and is unable to provide updates to cases/referrals submitted due to the nature of this role.



**When in doubt,
report it out!**

Reporting actual or suspected FWA

You can report actual or suspected FWA via:



Fraud Tip Hotline: 1.877.888.0002 (also to place an anonymous report)



Email: SIU@CommunityHealthChoice.org.



Online: <https://www.communityhealthchoice.org/>

- You can also report suspected FWA issues to Federal and applicable state government agencies.
- If you make a good faith effort in reporting, you will not face reprisal.
- Reports are confidential and may remain anonymous.
- Please provide as much information as possible, including the who, what, where, how, and when details.

Your Role: Vigilance

Members:

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

Providers:

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



Understanding FWA Laws

- Civil False Claims Act (FCA)
- 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.



Health Care Fraud Statute & 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
- 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

- The Stark Statute (Physician Self-Referral Law) 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: Stark Statute

- 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.



FIGHT AGAINST FWA

**HELP FIGHT
FRAUD.
WASTE.
ABUSE.**

