2024 EOCCO Provider Fraud, Waste and Abuse Training

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Introduction-Why FWA Training?

- Every year billions of dollars are improperly spent because of Fraud, Waste and Abuse (FWA). Our provider partners play an important role in detecting, correcting and preventing FWA. You are part of the solution!

- This training will cover:
  - Defining Fraud, Waste and Abuse and proving examples of each
  - Relevant Federal and State laws related to FWA
  - Potential consequences and penalties associated with violations
  - How to report Fraud, Waste and Abuse
  - Proper billing practices

- After this training you will be asked to attest that you have reviewed and understand this training. If you have any questions, please reach out to EOCCO's Compliance Officer, Nick Gross, at EOCCOCompliance@eocco.com

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What is Fraud?

- Fraud is *knowingly* submitting, or causing to be submitted, false claims or making misrepresentation of fact to get health care payment when no entitlement would otherwise exist. Fraud requires *intent* to get payment and *knowledge* the actions are wrong.

- Examples of Fraud include:
    - Knowingly billing for services of higher complexity than services actually provided or documented in the patient medical records
    - Knowingly billing for services or supplies not provided, including falsifying records to sone item delivery
    - Knowingly ordering medical unnecessary patient items or services

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What is Waste?

- Waste describes practices that, directly or indirectly, result in unnecessary health plan costs, like over-using services. Waste is generally not considered to be criminally negligent but rather a misuse of resources.

- Examples of Waste include:
    - Conducting excessive office visits or writing excessive prescriptions
    - Prescribing more medications than necessary to treat a specific condition
    - Ordering excessive lab tests

What is Abuse?

- Abuse describes practices that, directly or indirectly, result in unnecessary health plan costs.

- Examples of Abuse include:
    - Any practice that does not provide patients with medically necessary services or meet professionally recognized standards
    - Unknowingly billing for unnecessary medical services
    - Unknowingly billing for brand name drugs with generics are dispensed
    - Unknowingly charging excessively for services or supplies
    - Unknowingly misusing codes on a claim, such as upcoding or unbundling

What are the Differences

- There are differences between fraud, waste and abuse. One of the primary differences is *intent* and *knowledge.*
    - Fraud requires *intent* to obtain payment and *knowledge* that actions are wrong
    - Waste and abuse may involve getting an improper payment or creating unnecessary health plan costs but do not require the same intent and knowledge

Understanding FWA Laws- False Claims Act

- In order to detect FWA you need to know the law. These slides outline pertinent FWA laws you should be familiar with.

- The **Civil False Claims Act (FCA)** (31 USC 3729-3799) makes a person liable to pay damages to the government if they knowingly:
    - Conspire to violate the FCA
    - Carry out other acts to get government property by misinterpretation
    - Conceal or improperly avoid or decrease an obligation to pay the Government
    - Make a false record or statement supporting a false claim
    - Present a false claim for payment or approval

- Penalties for violating the civil FCA may include recovery of up to 3 times the amount of the government's damages due to the false claims, plus $11,000 per false claim.

Understanding FWA Laws-Whistleblower Protections

- Exposing a false claim scheme can be rewarding!
- A whistleblower is a person who exposes information or activity that is deemed illegal, dishonest or violates professional or clinical standards.
- Those who report false claims or bring legal action to recover money paid on false claims are protected from retaliation.
- A person who brings a successful whistleblower lawsuit gets at least 15%, but not more than 30%, of the money the government collects.

Understanding FWA Laws-Criminal Health Care Fraud Statute

- The **Criminal Health Care Fraud Statute** (18 USC 1346-1349) states: "Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud any health care benefit program, or 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….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 it.

Understanding FWA Laws-Anti-Kickback Statue

- The **Anti Kickback Statue** prohibits knowingly and willfully soliciting, receiving, offering, or paying remunerations (including any kickback, bribe, or rebate) for referrals for services that are paid, in whole of in part, under a Federal health care program.

- Example: A physician operating Rhode Island pain management clinic

    - Solicited kickbacks for prescribing a highly addictive version of the opioid Fentanyl
    - Reported patients had breakthrough cancer pain to secure insurance payments
    - Got $188,000 in speaker fee kick backs from the drug manufacturer
    - Admitted to the kickback scheme cost Medicare and other payers more than $750,000
    - The physician was required to pay back more than $750,000 in restitution

Understanding FWA Laws- Physician Self-Referral Law

- The **Physician Self-Referral Law** (42 USC 1395nn), often called the Stark Law, prohibits a physician from referring a patient to get designated health services from a provider with whom a physician or physician's immediate family member has a financial relationship, unless an exception applies.

- A penalty of approximately $25,000 can be imposed for each service provided. There may also be a fine over $160,000 for entering into am unlawful arrangement or scheme.

Understanding FWA Laws-Civil Monetary Penalties Law

- The **Civil Monetary Penalties Law** (42 USC 1320a-7a), the Office of Inspector General (OIG) may impose penalties for several reasons, including:
    - Arranging for services or items from an excluded individual or entity
    - Violating the Anti-Kickback Statute
    - Making false statements of misrepresentations on applications or contracts to participate in federal health care programs
    - Failing to grant OIG access to records
    - Knowing of and failing to report and return overpayments
    - Submitting fraudulent claims
- Damages and penalties can be $15,000 to $70,000 depending on the violation. Violators are also subject to three times the amount claimed for each service or item of remuneration offered, paid, solicited or received.

Understanding FWA Laws-Exclusion Statute

- The **Exclusion Statute** (42 USC 1320a-7), requires the OIG to exclude individuals and entities convicted of these offenses from participating in all federal health care programs:
    - Medicare or Medicaid Fraud, as well as offenses related to delivering Medicare or Medicaid items or services
    - Patient Abuse or Neglect
    - Felony Convictions for other health care related fraud, theft, or other financial misconduct
    - Felony Convictions for unlawful manufacture, distribution, prescribing, or dispensing controlled substances
- For Medicaid, any excluded providers identified during the credentialing process must be immediately reported to HHS-OIG.

Understanding FWA Laws- Oregon Medicaid Anti-Fraud Statute and Oregon False Claims Act

- The **Oregon Medicaid Anti-Fraud Statute** (ORS), prohibits any person from submitting a fraudulent claim for payment with respect to the Medicaid program. Additionally, in Oregon it is a crime to knowingly make a false claim with respect to payment for health care items or services to knowingly conceal or fail to disclose a material fact with intent to obtain such payment. A person found to have violated this prohibition is liable to the State for three times the amount of damage incurred by the State.

- The **Oregon False Claims Act** (ORS 180.755) is similar to the federal False Claims Act and prohibits any person or entity from submitting a false claim to any public agency, including Oregon's Medicaid program. Penalties for violating the Oregon False Clams Act are the greater of $10,000 for each violation or an amount equal to twice the amount of damages incurred for each violation.

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Your Responsibilities- Reporting FWA

- It is your responsibility to report Fraud, Waste and Abuse directly to EOCCO and/or to the Medicaid Fraud Control Unit or OHA Office of Program Integrity.

Medicaid Fraud Control Unit (MFCU)
Oregon Department of Justice
100 SW Market Street
Portland, OR 97201
Phone: 971-673-1880
Fax: 971-673-1890

OHA Office of Program Integrity
3406 Cherry Ave. NE
Salem, OR 97303-4924
Fax: 503-378-2577
Hotline: 1-888-FRAUD01 (888-372-8301)

- Allegations can also be reported anonymously through EthicsPoint using this link: NAVEX - Incident Reporting (ethicspoint.com)

- Or you may contact EOCCO's Compliance Officer, Nick Gross, at EOCCOCompliance@EOCCO.com

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Your Responsibilities- Proper Billing Practices

- To ensure timely and accurate claims payment, please remember the following:
    - Timely filing is 120 days from the date of service
    - Verify member eligibility and prioritized line coverage at the time of service
    - Include all valid, appropriate ICD-10 codes, CPT codes and modifiers
    - Have an active DMAP number and use the correct NPI and TIN number
    - Use standard CMS 1500 or CMS1450 claim forms
    - Payment is made via EFT/ERA or Zelis
    - Medicaid is payer of last resort (except for VFC)
    - Participating providers agree to bill EOCCO for covered OHP services, members should not be asked for payment
    - Providers are required to report and return any overpayment promptly, but no later than 60 days after identification

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Provider Overpayment Refund Submission

- Providers who have identified a claim that has been overpaid, can submit a refund submission form to initiate a review and adjustment/reprocessing request

- Forms are located; www.modahealth.com/pdfs/provider_refund_form.pdf

Conclusion

- Thank you for taking the time to review this training and to be good stewards of public funds. You play a vital role in preventing, detecting and reporting potential FWA and EOCCO appreciates your continued partnership!

- If you have questions about the content of this training please contact

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- This training along with EOCCO's Fraud, Waste and Abuse policies can be found here for reference: EOCCO provider - education