

Broward Behavioral
HEALTH COALITION



Fraud Waste and Abuse Training March, 2015



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WELCOME

FRAUD, WASTE & ABUSE

Broward Behavioral Health Coalition
Concordia Behavioral Health

BBHC FWA Requirements

- BBHC subcontracted service providers are subject to federal and state laws designed to prevent fraud, waste and abuse in government programs and federally funded contracts.
- BBHC requires compliance with all applicable laws including:
 - Federal False Claims Act
 - State false claims laws
 - Applicable whistleblower protection laws
 - Deficit Reduction Act of 2005
 - American Recovery and Reinvestment Act of 2009
 - Patient Protection and Affordable Care Act of 2010
 - AND all applicable state and federal billing requirements for state-funded programs, federally funded health care programs (e.g., Medicare and Medicaid) and other payers.

Federal Requirements

- The Social Security Act and CMS regulations and guidance governing compliance and fraud, waste & abuse requirements:
 - Must have an effective compliance program which includes measures to prevent, detect and correct non-compliance as well as fraud, waste, and abuse.
 - Must have an effective training for employees, managers and directors, as well as their related entities.

FRAUD, WASTE & ABUSE Training

- Objectives

- Meet the regulatory requirement for training and education
- Provide information on the scope of fraud, waste, and abuse
- Explain obligation of everyone to prevent, detect and correct fraud, waste, and abuse
- Provide information on how to report fraud, waste, and abuse
- Provide information on laws pertaining to fraud, waste, and abuse

An Effective Compliance Program

- Is essential to prevent, detect, and correct non-compliance as well as fraud, waste and abuse.
- Must, at a minimum, include the 7 core compliance program requirements.
- Policies & Procedures; Standards of Conduct
- Compliance Officer, Committee, Oversight
- Training
- Lines of Communication
- Publicized Disciplinary Standards
- Internal monitoring, auditing and identification of risk
- System for prompt response

PREVENTION

How Do I Prevent Fraud, Waste, and Abuse?

- Make sure you are up to date with laws, regulations, policies.
- Have a Compliance & FWA Program
- Annual Training
- Ensure you coordinate with other payers.
- Ensure data/billing is both accurate and timely.
- Verify information provided to you.
- Be on the lookout for suspicious activity.

DETECTION

Understanding Fraud, Waste and Abuse

- In order to detect fraud, waste, and abuse you need to know definitions and the Law!

DEFINITIONS

Criminal FRAUD

- **BBHC:** an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person or entity. It includes any act that constitutes fraud under applicable federal or state law.
- **Federal:** Knowingly and willfully executing, 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, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program. (18 United States Code §1347)

What Does That Mean?

Intentionally submitting false information to the government or a government contractor in order to get money or a benefit.

Examples:

- Billing for services or procedures that have not been performed or have been performed by others.
- Submitting false or misleading information about services performed.
- Misrepresenting the services performed (e.g., up-coding to increase reimbursement).
- Retaining and failing to refund and report overpayments (e.g., if your claim was overpaid, you are required to report and refund the overpayment).

Differences Between Fraud, Waste, and Abuse

- There are differences between fraud, waste, and abuse. One of the primary differences is intent and knowledge. Fraud requires the person to have an intent to obtain payment and the knowledge that their actions are wrong. Waste and abuse may involve obtaining an improper payment, but does not require the same intent and knowledge.

Report Fraud, Waste, and Abuse

- Do not be concerned about whether it is fraud, waste, or abuse.
- Just report any concerns to your compliance department or BBHC compliance contact.
- Your compliance area and/or BBHC will investigate and make the proper determination.

HOW DO I REPORT FRAUD, WASTE, OR ABUSE?

Reporting Fraud, Waste, and Abuse

- Everyone is required to report suspected instances of fraud, waste, and abuse.
- Your Code of Conduct and Ethics (Standards) should clearly state this obligation.
- There can be no retaliation against you for making a good faith effort in reporting.

Reporting Fraud, Waste, and Abuse

- You are required to have a mechanism in place in which potential fraud, waste, or abuse may be reported by employees and related entities.
- You must be able to accept anonymous reports and cannot retaliate against reporters.
- When in doubt, call the your Compliance Department or BBHC.

CORRECTION

Correction

- Once fraud, waste, or abuse has been detected it must be promptly corrected.
- Correcting the problem saves the government money and ensures you are in compliance with CMS's and BBHC's requirements.

How Do I Correct Issues?

- Once issues have been identified, a plan to correct the issue needs to be developed.
- Consult your Compliance Officer or your BBHC compliance contact to find out the process for the corrective action plan development.
- The actual plan is going to vary, depending on the specific circumstances.

LAWS YOU NEED TO KNOW ABOUT

Laws

- The following slides provide very high level information about specific laws. For details about the specific laws consult the applicable statute and regulations concerning the law.

Civil Fraud and Civil False Claims Act

Prohibits:

- Presenting a false claim for payment or approval;
 - Making or using a false record or statement in support of a false claim;
 - Conspiring to violate the False Claims Act;
 - Falsely certifying the type/amount of property to be used by the Government;
 - Certifying receipt of property without knowing if it's true;
 - Buying property from an unauthorized Government officer; and
 - Knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay the Government.
 - (31 United States Code § 3729-3733)
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- Damages and Penalties: The damages may be tripled. Civil Money Penalty between \$5,000 and \$10,000 for each claim.

Criminal Fraud Penalties

If convicted, the individual shall be fined, imprisoned, or both. If the violations resulted in death, the individual may be imprisoned for any term of years or for life, or both. (18 United States Code §1347)

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 (which includes the Medicare program). (42 United States Code §1320a-7b(b))
- **Penalties:** Fine of up to \$25,000, imprisonment up to five (5) years, or both fine and imprisonment.

Stark Statute (Physician Self-Referral Law)

- **Prohibits** a physician from making a referral for certain designated health services to an entity in which the physician (or a member of his or her family) has an ownership/investment interest or with which he or she has a compensation arrangement (exceptions apply).
~ 42 United States Code §1395nn
- **Damages and Penalties:** Medicare claims tainted by an arrangement that does not comply with Stark are not payable. Up to a \$15,000 fine for each service provided. Up to a \$100,000 fine for entering into an arrangement or scheme.

HIPAA

- Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191)
- Created greater access to health care insurance, protection of privacy of health care data, and promoted standardization and efficiency in the health care industry.
- Safeguards to prevent unauthorized access to protected health care information.
- As a individual who has access to protected health care information, you are responsible for adhering to HIPAA.

Exclusion

No Federal health care program payment may be made for any item or service furnished, ordered, or prescribed by an individual or entity excluded by the Office of Inspector General.

42 U.S.C. §1395(e)(1)

42 C.F.R. §1001.1901

BBHC anti-FWA efforts include pre-qualification and credentialing process. Concordia conducts monthly monitoring of OIG/SAM exclusions lists.

CONSEQUENCES

Consequences of Committing Fraud, Waste, or Abuse

The following are potential penalties. The actual consequence depends on the violation.

- Civil Money Penalties
- Criminal Conviction/Fines
- Civil Prosecution
- Imprisonment
- Loss of Provider License
- Exclusion from Federal Health Care programs

THANK YOU!

You have completed the BBHC Fraud, Waste and Abuse Training based on Centers for Medicare & Medicaid Services Fraud, Waste and Abuse Training and BBHC's Fraud, Waste & Abuse Prevention Plan.

Resources:

BBHC 2014-15 FWA Prevention Plan

Centers for Medicare & Medicaid Services