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Annual First Tier, Downstream & Related Entity (FDR) Training

Sections

- Compliance Overview
- Fraud, Waste, and Abuse (FWA)
- Privacy - Health Insurance Portability and Accountability Act (HIPAA)
- First Tier, Downstream and Related Entity (FDR) Oversight

Objectives

- What is Compliance
- Purpose of Compliance
- Elements of an effective Compliance program
- Code of Conduct (COC)Overview
- Compliance areas, functions, and operations
- How to report a Compliance Concern

Your Universal American Compliance Team

Houston:

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Your Universal American Compliance Team

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What is Compliance?

- Compliance simply means following the rules and making sure you always *Do the Right Thing*
- Compliance consists of all the processes within Universal American (UAM) that prevent, detect and correct unwanted acts in the workplace.
- At UAM, these rules refer to the laws, regulations, policies, procedures and other standards used to serve our members.
- Following the rules also refers to knowing what to do when you think a rule may not have been followed.

Purpose of Compliance

The compliance program helps create and maintain an "open environment" which encourages everyone to report any potential compliance concerns in a setting free from retaliation.

Our UAM compliance program provides us with the tools to address compliance concerns immediately. This enables us to:

- Improve the quality of care we provide;
- Demonstrate to our community that we operate in an ethical environment; and
- Reduce the costs associated with health care.

Elements of an Effective Compliance Program

- Written policies and procedures and standards of conduct
- Compliance Officer, Compliance Committee, and high level oversight
- Effective training and education
- Effective lines of communication
- Well-publicized disciplinary guidelines and policies regarding dealings with ineligible persons
- Effective system for routine monitoring and identification of Compliance risks
- Procedures and system for prompt response to Compliance issues
- Comprehensive Fraud, Waste and Abuse (FWA) plan to prevent, detect and correct potential issues of FWA
- Effective oversight of First Tier, Downstream, and Related (FDR) entities

Code of Conduct

All employees, temporary workers, Board Members, and delegated entities are expected to adhere to the Code of Conduct and act in an ethical and compliant manner.

The **Code of Conduct** articulates UAM's commitment to comply with all applicable Federal and State standards and requires all to report suspected violations to UAM.

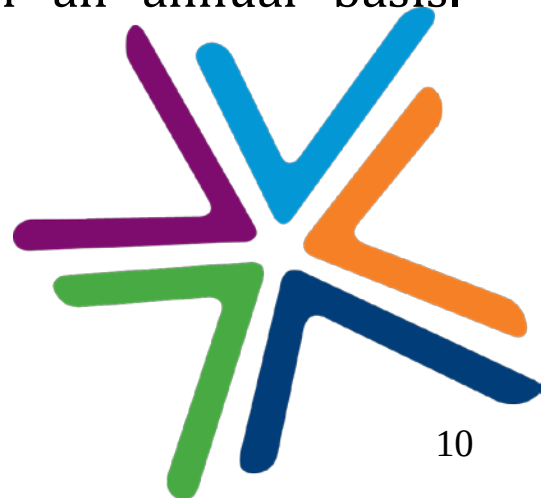
UAM has established a Code of Conduct that has been reviewed and approved by the Compliance Committee and subsequently by the Board of Directors.

Code of Conduct

The Code of Conduct is provided to each employee (including temporaries and contractors), including officers, the Board of Directors and FDRs at the time of employment (or contracting) and annually thereafter.

The Code of Conduct specifies the disciplinary actions that can be imposed for non-compliance including warnings, reprimands, suspensions, terminations or financial penalties.

The Code is reviewed, revised and approved on an annual basis.



Compliance is Everyone's Responsibility

- As a member of the Universal American family, you are expected to comply with the Code of Conduct. No code of conduct can cover all the guidelines, therefore, you are expected to comply with all the regulations, standards, policies and procedures that apply to your particular role in our organization.

- As part of your obligation to the organization and its Members, you are required to report any concerns about how to comply with regulatory requirements or if you think someone may have violated or not followed a rule or company policy.

Questions to Ask Yourself . . .

- Do you have all the facts?
- If you need more information, how do you find it?
- Who is affected?
- What are the possible consequences?
- Who can help you?
- Does your action support the UAM compliance commitment?
- Is doing nothing the best decision?

UAM Compliance Areas & Officers

- Medicare Advantage (MA) – Celeste Panaro
- Accountable Care Organizations (ACO) – Paul Dominianni
- Medicaid – Paul Dominianni

UAM Compliance Functions

- Compliance Operations
- Monitoring and Delegation Oversight
- Compliance - Sales & Marketing Oversight

Compliance Operations

Compliance Operations is responsible for:

- The Centers for Medicare & Medicaid Services (CMS) Relationships
- Policy Guidance, Interpretations, and Implementation
- Policies and Procedures (P&P) Oversight
- Sales, Marketing and Member Material Oversight
- Site Visit Preparations
- HIPAA Privacy Compliance
- Corporate Integrity Agreement (CIA) Compliance

Monitoring & Delegation Oversight

Monitoring & Delegation Oversight is responsible for:

- Internal Monitoring & Audits of Business Areas
- External Audits and Oversight of FDRs
  - Pre-Delegation
  - Annual
- External Monitoring & Audits of all ACO Partners
- Annual FDR Compliance Training and Education
- Preventing, Detecting, and Correcting Compliance Concerns

Compliance - Sales & Marketing Oversight

Compliance - Sales & Marketing Oversight is responsible for:

- Auditing and Monitoring
  - Scheduling events and Market Event Surveillance (MES)
  - Clipping Service Oversight
  - Agent Risk Assessments
  - Monitoring Agent Enrollment Activity
- Complaint Handling
  - Investigations of all Agent Related Complaints
  - Internal Complaint Investigations
- Risk Analysis and Reporting
  - Agent Quality at Universal American (AQUA) database management
  - Agent Activity/Compliance Reporting
- Traditional Regulatory Compliance
  - Complaint Handling
  - Market Conduct Examinations

UAM Compliance Activities

Annual Training

- Mandatory (Internal/External)
  - ✓ Code of Conduct
  - ✓ Privacy & Security
  - ✓ FWA
  - ✓ CIA

Compliance Ongoing Training

- Non-mandatory
- Subject Matter Specific

Compliance Awareness & Communication

- Compliance Alerts
- Educational Events

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General Questions:
complianceq&a@universalamerican.com

Compliance Hotline
1-800-388-1563

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Fraud, Waste, and Abuse

Objectives

- Define Fraud, Waste, & Abuse (FWA)
- Review of Laws Enacted to Enforce FWA Provisions
- Examples of FWA
- How to Report FWA

Fraud, Waste and Abuse

Who requires us to have a comprehensive plan to detect, prevent and control FWA?

- Our clients such as CMS, State Medicaid Agencies, or any client who receives, directly or indirectly, any type of federal program funds

Defining Fraud, Waste and Abuse

- *Fraud*:
  - The **intentional** deception or misrepresentation that an individual **knows** to be false or does not believe to be true and makes, knowing that deception could result in some unauthorized **benefit**.
- *Waste*:
  - Acting with gross negligence or reckless disregard for the truth in a manner that could result in an unauthorized **benefit**.
- *Abuse*:
  - Those incidents that are inconsistent with accepted medical or business practices, improper or excessive.

Federal False Claims Act (FCA)

The FCA:

- is a civil statute under which the United States can recover monetary damages from parties who file fraudulent claims for payment of funds by the federal government
- prohibits anyone from knowingly submitting false or fraudulent claims to the government for payment or reimbursement
- prohibits knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay the government
- can be enforced by the Department of Justice, the United States Attorney's Office, or through *qui tam* actions, where an individual sues on behalf of the government

Fraud Enforcement and Recovery Act (FERA)

The enactment of the FERA in May 2009:

- amended the Federal False Claims Act
- with these amendments the Federal False Claims Act now prohibits knowingly:
  - submitting a claim known to be false or fraudulent for payment or reimbursement
  - making or using a false record or statement material to a false or fraudulent claim or to an 'obligation' to pay money to the government
  - engaging in a conspiracy to defraud by the improper submission of a false claim
  - concealing, improperly avoiding or decreasing an 'obligation' to pay money to the government

Deficit Reduction Act of 2005 (DRA)

- Requires certain providers to provide FCA education to their employees
- Applies to any entity that receives Medicaid payments of at least $5M annually
- Requirements include:
  - Written policies providing detailed discussion of False Claims Act for employees, contractors and agents
  - Written policies for all employees describing provider's strategies for detecting and preventing FWA

Anti-Kickback Statute

- Makes it illegal for individuals or entities to knowingly or willfully offer, pay, solicit, or receive remuneration in order to induce or reward business payable or reimbursable under government funded health care programs
- Prohibits payments for referring patients for particular items or services
- Safe Harbors, however, do exist

Who Commits Fraud, Waste and Abuse?

- Anyone with a motive, means, and opportunity can commit fraud, waste, and abuse.
- Fraud, waste, and abuse can be committed by:
  - Behavioral Health Providers
  - Physicians, Group Practices
  - Managed Care Organizations or Other State Contractors
  - Hospitals
  - Durable Medical Equipment Suppliers
  - Home Health Agencies
  - Labs
  - Nursing Facilities
  - Pharmacies
  - Beneficiaries (members)
  - Employees
  - Other types of subcontractors and vendors
  - *or* any combination of the above

Examples of Fraud, Waste and Abuse Committed by Beneficiaries (Members):

- *Misrepresentation of Status*
  - A beneficiary misrepresenting personal information, such as identity, eligibility, or medical condition in order to receive a benefit
- *Selling Information*
  - Beneficiary sells their government program identification to unscrupulous third parties who then defraud the government
- *Prescription Forging or Altering*
  - Beneficiary alters a prescription to increase quantity or number of refills
- *Drug Diversion and Inappropriate Use*
  - A beneficiary obtains a prescription then gives or sells the medication to someone else
- *Theft of Services*
  - Beneficiaries loaning their Medicare ID Cards and member identification cards to family members

Examples of Fraud, Waste and Abuse Committed by Physicians

- Billing for unnecessary services or overutilization in order to increase payments
- Billing twice (or more) or double billing for the same service
- Billing separately or unbundling for services that are normally billed collectively in order to be reimbursed at a higher rate
- Billing for services not provided or never performed
- Billing for more expensive services or upcoding than was actually performed
- Billing for services not provided by a licensed practitioner or false billing

Examples of Fraud, Waste and Abuse Committed by Managed Care Organizations or Other State Contractors

- Procurement of government contract
  - Inadequate provider network
  - Fraudulent providers
  - Solvency issues
  - Collusion
- Marketing and enrollment
  - Enrolling ineligible members
  - Billing for non-existent (or dead members)
- Utilization
  - Untimely first contact with beneficiaries
  - Defining appropriateness of care in a manner inconsistent with standards of care
  - Failure to provide outreach
  - Cumbersome appeal processes for beneficiaries or providers
  - Ineffective grievance process
  - Unreasonable prior authorization requirements

How to Report Fraud, Waste and Abuse

Provide the details of the suspicion or concern

- Subject of investigation
- Applicable member information (ID number, name, phone number)
- Date of incident
- Has the incident been reported internally to any other employee? If yes, who?
- Has the incident been reported externally to any other agency. If yes, who?
- All reports are confidential and may be anonymous
- You will not be retaliated against for reporting suspected FWA

How to Report Fraud, Waste and Abuse

Suspicions of or concerns about Fraud, Waste, and Abuse can be reported to:

UAM Compliance Officer at Compliance@UniversalAmerican.com

or

UAM's Compliance Helpline

1-800-388-1563

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Privacy Program Overview

Objectives

- HIPAA
- Protected Health Information (PHI)
- Minimum Necessary Rule
- Protecting Individual Data (PII)
- When to report a potential Privacy or Security violation

What is HIPAA?

Health Insurance Portability and Accountability Act

Endorsed by Congress in 1996 (and as amended, 2003), this act includes what is commonly known as the HIPAA Privacy Rule.

The Privacy Rule provided the first nationally-recognizable regulations for the use of an individual's health information. Essentially, this rule defines how covered entities use Protected Health Information (PHI).

HIPAA is enforced by the Office of the Inspector General (OIG).

Purpose of HIPAA

Striking a Balance

The Privacy Rule strives to find the balance between delivery of health care and the need to protect individual's health information.

Because of this there are a number of situations in which the sharing of PHI is permitted.

What is Protected Health Information?

- Officially:

Individually identifiable health information, held or maintained by a covered entity or its business associates acting for the covered entity, that is transmitted or maintained in any form or medium (including the individually identifiable health information of non-U.S. citizens). This includes identifiable demographic and other information relating to the past, present, or future physical or mental health or condition of an individual, or the provision or payment of health care to an individual that is created or received by a health care provider, health plan, employer, or health care clearinghouse. For purposes of the Privacy Rule, genetic information is considered to be health information.

- What?!?

Anything you wouldn't want people to know about you

Minimum Necessary

Basic standard of the Privacy Rule

The Privacy Rule generally requires covered entities to take reasonable steps to limit the use or disclosure of, and requests for, protected health information to the minimum necessary to accomplish the intended purpose.

How Does UAM Protect Member Data?

- Policies and Procedures
- Team Track Process
- Training
- Desk Audits
- Encryption of Devices
- Privacy Community

- YOU!

How Can You Protect Member Data?

- Lock your Computer (ctrl+alt+delete)
- Shred documents which contain PHI
- Don’t leave documents on the printer/fax machine
- Lock your drawers and cabinets

How Can You Protect Member Data?

- Send secure emails
- Don't share passwords
- Don't allow tailgating
- Escort Visitors in the building
- Don't take paper files home
- Turn papers over when you walk away from your desk
- Report…Report…Report!

Always Ask:

What would I do if it were *my* information?

How do you know when to report?

- When a Privacy or Security Policy has been violated
- When something doesn't seem right and you aren't sure
- When you know you wouldn't want it to happen to you

It's easy really…

Do the Right Thing!

Your Universal American Privacy and Security Team

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Patrick Kittell
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General Questions:
PrivacyOffice@UniversalAmerican.com

Compliance Hotline
1-800-388-1563

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First Tier, Downstream & Related (FDR) Entity Oversight

CMS Definitions

- First Tier - is any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program.

CMS Definitions

- Downstream - is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.

CMS Definitions

- Related Entities - means any entity that is related to an MAO or Part D sponsor by common ownership or control and
- (1) Performs some of the MAO or Part D plan sponsor's management functions under contract or delegation;
- (2) Furnishes services to Medicare enrollees under an oral or written agreement; or
- (3) Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than $2,500 during a contract period.

UAM Responsibilities

- Accountable for overseeing FDR adherence to Medicare Program requirements
- To have a system in place to monitor FDR compliance with Medicare program requirements
  - Pre-Delegate Reviews
  - Annual Reviews
  - Privacy and Security Reviews
  - Quarterly Risk Assessment
- To demonstrate the method of monitoring FDR is effective

FDR Responsibilities

- Signed and executed contract to include Medicare flow-down language
- Effective Training and Education
  - FWA
  - Medicare Compliance
  - Privacy (HIPAA)
- Monthly OIG/SAM Exclusion
- Effective Lines of Communication

FDR Responsibilities

- Communication and Enforcement of Disciplinary Standards
- Monitoring of Downstream and Related Entities
- 10 Year Record Retention
- Performance Reporting furnished to UAM Business Owner

General Questions:
DelegationOversight@UniversalAmerican.com

Compliance Hotline
1-800-388-1563