

FDR compliance newsletter

March 2021 – Issue 28

Code of Conduct distribution: What do FDRs need to know?

As a First Tier, Downstream or Related Entity (FDR) to CVS Health®, your organization must distribute a Code of Conduct to all employees. It must be within 90 days of when an employee is hired or begins work on the CVS Health account, when changes are made to the Code, and annually.

You have the option of distributing to employees working on the CVS Health account either the CVS Health Code of Conduct, or your organization's own Code of Conduct. As long as it is comparable to or exceeds the CVS Health Code of Conduct.

When you distribute either your organization's own Code of Conduct or the CVS Health Code of conduct, be sure to keep evidence of the distribution to your employees.

Evidence of distribution can vary by organization, but it must clearly show that your employees were provided with a Code of Conduct. Some examples include:

- An email to employees with a link to the Code of Conduct and an instruction to review it
- A screenshot of an intranet posting with a notification to employees to review it

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- Prevent, detect and report fraud, waste and abuse
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Quick links

- [Archived newsletters](#)
- [Aetna FDR Guide](#) (updated June 2019)
- [Medicare managed care manual](#)
- [Medicare prescription drug benefit manual](#)
- [CVS Health Code of Conduct](#) (updated November 2020)

Exclusion list links:

- [OIG's list of excluded individuals and entities \(LEIE\)](#)
- [GSA's System for Award Management \(SAM\)](#) If the link does not work due to internet browser issues, please access the site directly at [SAM.gov/SAM/](https://www.sam.gov/SAM/)

Aetna® maintains a comprehensive Medicare compliance program. It includes communication with Aetna Medicare FDRs. Patrick Jeswald is our dedicated Medicare Compliance Officer. You can send questions or concerns to Patrick at MedicareFDR@Aetna.com.

- Code of Conduct attestations
- Evidence of Code of Conduct training

Prevent, detect and report fraud, waste and abuse

As of January 2019, FDRs were no longer required to complete general compliance and fraud, waste and abuse (FWA) training issued by Centers for Medicare and Medicaid Services (CMS). But it's still a critical component of an effective Medicare compliance program. We want our FDRs to know how to prevent, detect and report fraud, waste and abuse. You play an important role in protecting the integrity of the Medicare program. To combat fraud, waste and abuse, you need to know how to prevent your organization from engaging in abusive practices and/or civil or criminal law violations.

Fraud, waste and abuse defined

- **What is fraud?** Intentional misuse of information in order to persuade another to part with something of value or to surrender a legal right. It could also be an act of planned deception or misrepresentation.
- **What is abuse?** Providing information or documentation for a health care claim in a manner that improperly uses program resources for personal gain or benefit, yet without sufficient evidence to prove criminal intent.
- **What is waste?** To use, consume, spend or expend thoughtlessly or carelessly.

Medicare fraud and abuse laws:

Federal laws governing Medicare fraud and abuse include all of the following:

- Federal False Claims Act (FCA)
- Anti-Kickback Statute (AKS)
- Physician Self-Referral Law (Stark Law)
- Social Security Act
- United States Criminal Code

These laws state the criminal, civil and administrative remedies the government may impose when they find evidence of fraud and abuse. Violating these laws may result in nonpayment of claims, civil money penalties, exclusion from all federal health care programs and criminal and civil liability. The CMS website provides more information, including FWA training options.

How to report to us. If you see potential fraud, waste or abuse that affects our Medicare contracts, let us know right away. We have a [reporting poster](#) available for you.

Performing offshore services

Medicare plan sponsors must provide details to CMS about offshore services involving protected health information (PHI) performed by FDRs. We rely on our FDRs to give us offshore information prior to performing certain services offshore. And prior to subcontracting with downstream entities to perform certain services offshore.

What locations are considered offshore?

Offshore refers to any country that is not one of the 50 United States (U.S.), or a U.S. territory such as American Samoa, Guam, Northern Marianas, Puerto Rico and the Virgin Islands. Some examples of offshore countries include Mexico, Canada, India, Germany and Japan. Offshore subcontractors can be American-owned companies with portions of their operations outside of the U.S. Or they can be foreign-owned companies with operations outside of the U.S.

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Performing offshore services (continued)

Offshore subcontractors provide services performed by workers located in offshore countries. This is whether they're employed by American or foreign companies.

What offshore services do CVS Health need to report to CMS?

Medicare plan sponsors must submit an attestation to CMS to disclose offshore services performed by CVS Health or its FDRs that involve the receipt, process, transfer, handling, storage or access to beneficiary PHI. The information can be verbal or written.

Examples of PHI include:

- Beneficiary name
- Birth date
- Address

- Social Security number
- Health insurance claim number
- Patient identifier
- Medical diagnosis
- Medical history
- Treatment records
- Type of provider visited
- Use of health care services
- Payment information
- Evidence of insurance coverage
- Any information that could reasonably identify a beneficiary

How and when do I report offshore activities to CVS Health?

Medicare plan sponsors must approve your offshore services **in advance**. Reach out to your Relationship Manager/Business Owner to notify us of offshore services prior to services beginning to get appropriate approvals. FDRs providing services to Aetna and/or SilverScript® can also send an inquiry to MedicareOffshoreAttestations@aetna.com.

This newsletter is provided solely for your information and is not intended as legal advice. If you have any questions concerning the application or interpretation of any law mentioned in this newsletter, please contact your attorney.

“Aetna” refers to a subsidiary company of CVS Health, including but not limited to Aetna Health companies, Aetna Better Health companies, Aetna Life Insurance Company, Coventry Health and Life Insurance Company, Coventry Health Care companies, First Health Life & Health Insurance Company, SilverScript Insurance Company, and those joint venture entities in which a CVS Health subsidiary company has ownership interests who offer or administer, under contract with CMS, Medicare Advantage, Medicare-Medicaid Plans (MMPs), Dual Special Needs Plans (DSNPS), and Medicare prescription drug plans (PDP) (“Aetna Medicare business”).

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