

Medicare Advantage Downstream Compliance Requirements
 HCCA Annual Regional Conference-Boston, MA
 September 9th, 2016

Agenda

Topic

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Meet your speakers

Maureen Weaver



Maureen Weaver is a partner at Wiggins and Dana LLP and chairs the firm's Health Care Practice. For the last 25 years, Maureen has advised health care clients on regulatory and compliance matters. She has also represented a variety of health care clients in government audits and investigations, internal reviews and self-disclosures. Maureen primarily represents health care providers, but has also worked with an association of specialty health plans and Part D sponsors to develop model compliance program guidance and training, including education on contracting with and monitoring First-tier, Downstream and Related Entities (FDREs).

Daniel Seifried



Dan Seifried is a Deloitte Advisory Manager, specializing in Health Plans. Dan has over 10 years of experience in consulting and the Medicare health plan space. Prior to joining Deloitte Advisory, Dan consulted for more than five years focusing on risk management and internal audit (including one year consulting for a mid-size Medicare Part D plan). Dan has been working for the past six years in the health plans sector – specifically with a focus on government programs (Medicare, Health Insurance Exchanges (HIX)). Dan has been implementing compliance and operational compliance programs for health plans with an emphasis on development of FDR oversight programs.

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Polling question

What type of organization do you work for?

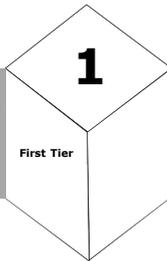
- a) Hospital or Health System
- b) Independent physician practice
- c) Other health care provider or supplier
- d) Health insurance company
- e) Pharmacy Benefit Manager (PBM)
- f) Other third-party firm



Background - What is an FDR?

A First Tier, Downstream or Related Entity (FDR) is an entity, other than the plan sponsor, that performs specific services to Medicare eligible individuals.

A First Tier Entity 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

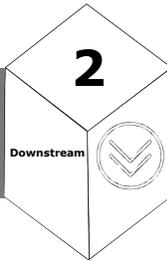


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Background - What is an FDR?

A First Tier, Downstream or Related Entity (FDR) is an entity, other than the plan sponsor, that performs specific services to Medicare eligible individuals.

A Downstream Entity 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



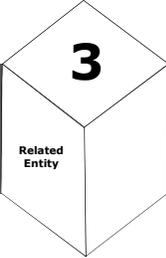
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Background - What is an FDR?

A First Tier, Downstream or Related Entity (FDR) is an entity, other than the plan sponsor that performs specific services to Medicare eligible individuals.

A Related Entity means any entity that is related to the sponsor by common ownership or control and:

- performs some of the MAO or Part D plan sponsor's management functions
- furnishes services to Medicare enrollees under an oral or written agreement
- leases real property or sells materials to sponsor at a cost of more than \$2,500



Source: Prescription Drug Benefit Manual Chapter 9 - Compliance Program Guidelines and Medicare Managed Care Manual Chapter 21 - Compliance Program Guidelines
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Background - Examples of first tier and downstream entities

CMS has provided broad examples of entities that meet the definition of a first tier or downstream entity

First Tier Examples

Health Services/Hospital Groups

Independent Practice Associations

PBMs

Fulfillment Vendors

Field Marketing Organizations

Credentialing Vendors

Downstream examples

Providers

Pharmacies

Hospitals

Mental Health Providers

Agents

Claims Processors

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Background - Health plan obligations

As the contract holder with CMS, Health Plans are responsible for validating compliance with CMS regulations for their internal operations as well as their FDRs



Identify FDRs appropriately with clearly defined processes and criteria to evaluate and categorize all vendors



Validate FDRs receive both general compliance and FWA (Fraud, Waste and Abuse) training



Audit and monitor to validate FDRs are in compliance with CMS requirements

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Background – FDR obligations

Although health plans are ultimately responsible to CMS for the administration of their plan, FDRs also must do their part

-  Provide training on general compliance and FWA and health plans' compliance policies/Code of Conduct to all employees (and downstream entities)
-  Conduct monthly OIG/GSA exclusion checks
-  Report compliance and FWA concerns to plans
-  Monitor Downstream Entities (First Tier Entities)
-  Maintain documentation of training and other obligations and submit annual attestations to health plans

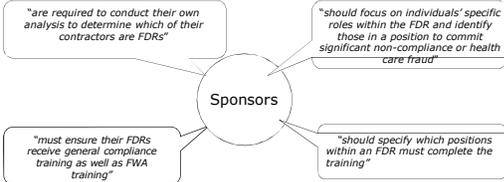
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Background – CMS updates and training methods

In response to concerns from FDRs regarding being subject to multiple trainings, CMS has suspended review of FDR training certification in program audits

Additional Guidance from CMS



Source: HPMS Memo: Additional Guidance - Compliance Program Training Requirements and Audit Process Update, February 10, 2016.

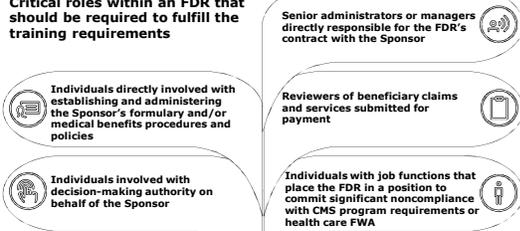
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Background – CMS updates and training methods

Health Plans must define evaluation criteria for FDRs and work with those FDRs to define what resources must meet the training requirements

Critical roles within an FDR that should be required to fulfill the training requirements



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Some key considerations to stakeholders

The FDR relationship is a two-way relationship, and Health Plans and FDRs should work together to achieve a common goal

Lack of Standard Categorization and Monitoring Process

The evaluation criteria and categorization process is left to the discretion of sponsors. Additionally, CMS does not provide specific guidance on how to monitor and document compliance of FDRs which will be a challenge for FDR organizations contracted with multiple sponsors

Delegated vs Non-delegated Personnel

Sponsor should work with their FDR organizations to segregate delegated and non-delegated personnel in order to train them and maintain documentation required to show case compliance

Identifying, Educating and Monitoring Downstream Entities

First Tier Entities must identify, educate and monitor their subcontractors and vendors that are Downstream Entities and provide a list to health plan or CMS when requested. Not all subcontractors and vendors will be Downstream Entities, so process is required to identify, as well as train and monitor

Training Methods/Distribution of Standard of Conduct

Despite CMS's suspension of CPE review of training for health plans, FDRs must still comply with training requirement. FDRs must clarify with each health plan regarding training methods and means for distributing compliance policies and code of conduct

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Polling Question

Do you (or do the Health Plans you contract with) treat non-delegated personnel as FDRs?

- a) Yes
b) No
c) Unsure

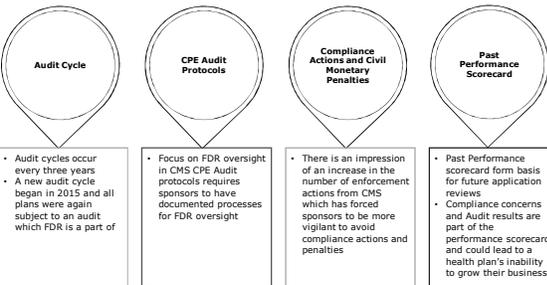


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Increased oversight

FDRs may be asking themselves why they have seen an increase in oversight activities by the health plans they support



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Questions?



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Contact your speakers



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