

Medicare Compliance Training for Molina Contractors



2012

Why do I have to take this training?

The Centers for Medicare and Medicaid Services (CMS), the Federal agency that regulates the Medicare program, requires that all Medicare Advantage plans, like Molina Medicare, train their contractors on Medicare Compliance requirements.



**Lesson 1:
Compliance Laws,
Regulations, and Policy**

False Claims Act (1863)

Social Security Act (1964)

Medicare and Medicaid Patient Protection
Act (1987)
aka Anti-Kickback Statute

Omnibus Budget Reconciliation Act
(1989)

Social Security Amendments
(1994)



Compliance

Balanced Budget Act
(1995)

Medicare Modernization Act
(2003)

Health Insurance Portability
and Accountability Act
(1996)

Deficit Reduction Act (2005)

Fraud Enforcement Recovery Act (2009)

American Recovery and Reinvestment Act (2009)

Medicare laws

The compliance requirements specific to the Medicare program are contained in Title XVIII of the Social Security Act.



Other Federal Laws

Additional Federal laws related to Medicare compliance are:

1. The Federal False Claims Act:

Prohibits any individual or company from:

- *knowingly **submitting false or fraudulent** claims payable by the federal government;*
- *causing such claims to be submitted;*
- *making a false record or statement material to a claim for payment from the federal government;*
- *conspiring to get such a claim allowed or paid*

Other Federal Laws

2. Patient Protection and Affordable Care Act of 2010 (PPACA, also known as the Health Care Reform Law) revised the Federal False Claims Act by:

- *expressly requiring health care providers and others—including Medicare Advantage plans--to **report and return overpayments.***
- *providing that an overpayment must be reported and returned **within 60 days** after the date on which the overpayment was identified.*

Other Federal Laws

3. Anti-Kickback Statute:

- *provides criminal penalties for individuals or entities that knowingly and willfully offer, **pay, solicit, or receive remuneration in order to induce or reward** business payable or reimbursable under the Medicare or other Federal health care programs.*



Other Federal Laws

4. Health Insurance Portability and Accountability Act (HIPAA):

- *addresses the privacy of individuals' health information by establishing a nationwide federal standard concerning the privacy of health information and how it can be used and disclosed.*



“Somehow your medical records got faxed to a complete stranger. He has no idea what’s wrong with you either.”

Other Federal Laws

5. Stark Statute:

- *similar to the Anti-Kickback Statute, but more narrowly defined and applied. It applies specifically to Medicare and Medicaid services provided only by physicians, rather than by all health care practitioners.*



Other Federal Laws

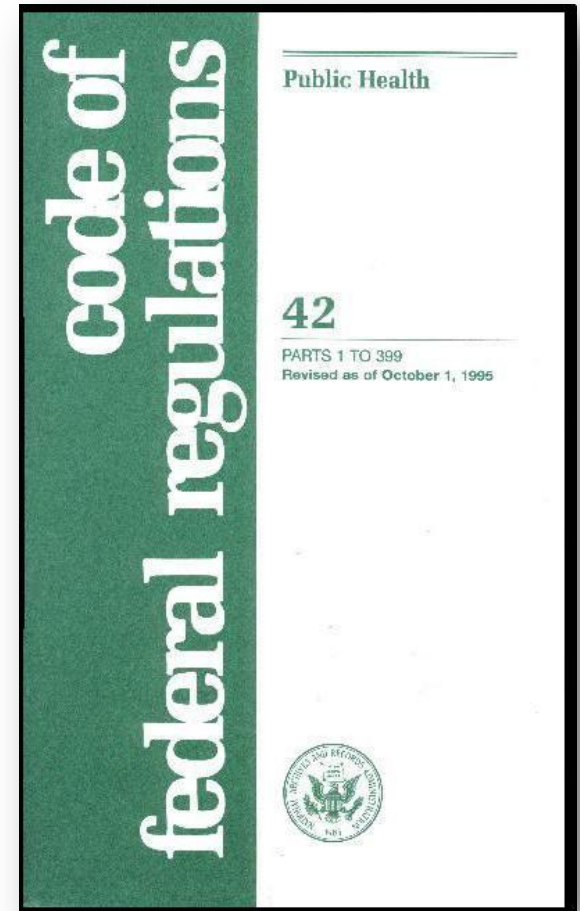
6. Sarbanes-Oxley Act of 2002:

- requires *certification of financial statements* by both the CEO and the CFO. The Act states that a corporation must assess the effectiveness of its internal controls and report this assessment annually to the Securities and Exchange Commission.



Medicare Regulations

The Medicare Part C and Part D regulations (42 CFR §422 and §423) implement the provisions of the Medicare program in the Social Security Act. (In other words, they provide more specific guidance on how Medicare plans implement the Medicare laws.)



Medicare Policy

CMS provides even more specific policy and guidance through a variety of sources:

- *Medicare Managed Care Manual (Part C)*
- *Prescription Drug Benefit Manual (Part D)*
- *Policy Memos issued through the health plan management system (HPMS)*
- *Managed Care Manual (Part C)*
- *User Group Calls*
- *Direct communication between Molina and CMS staff*

Lesson 3:
The Molina Medicare Compliance
Plan

Why does Molina Medicare have a Medicare Compliance Program?

1. CMS requires all Medicare Advantage (MA) and Prescription Drug (PDP) plans to have a Medicare-specific compliance plan in place.
2. The Compliance Program provides direction and structure for Molina Medicare to meet its goals of a fully-compliant MA program.



Goals of the Compliance Program

- 1. Demonstrate commitment to compliance and ethical and legal business conduct.*
- 2. Prevent, identify and correct non-compliant behavior and fraud, waste, and abuse.*
- 3. Develop and implement internal controls and processes to promote compliance with State and Federal laws and regulations.*
- 4. Establish an environment of open communication that encourages employees and contractors to identify and report potential non-compliant practices, and that disciplines non-compliant behavior.*

What are the components?

There are **3 components** of the Molina Medicare Compliance Program:

- 1. The Molina Code of Business Ethics and Conduct;*
- 2. The Molina Medicare Compliance and Fraud, Waste and Abuse (FWA) Plan;*
- 3. Compliance Policies and Procedures.*

Distribution of Compliance Program

*The Molina Medicare Compliance Program is posted to **the Molina Medicare internet site**. Molina periodically updates the Molina Medicare Compliance Program. Molina notifies contractors via blast fax that the updated version of the Molina Medicare Compliance Program is available on **the Molina Medicare internet site**.*

Attestation

Following contract signature and annually thereafter, the Molina Medicare Compliance Department obtains a signed attestation from each Molina contractor that the Molina Medicare Compliance Program has been distributed to all employees who work in the Medicare program.



1. Code of Business Ethics and Conduct

Describes the guiding principles of business conduct applicable to all activities conducted by Molina management, staff, and directors. Although Molina contractors are not held to the Molina Code of Business Ethics and Conduct, it is important to read and understand Molina's guiding principles.



10 Areas in the Code of Business Ethics and Conduct

Use of Funds,
Accurate Books
and Records

Conflicts of
Interest

Protecting
Company
Assets

Proprietary
Information

Compliance
With Laws

Speaking Out

Responsibilities
of Employees

Responsibilities
of Executives

Waivers

Reporting
Violations

2. The Medicare Compliance and FWA Plan

CMS compliance plan requirements include the following **7 elements**:



Element 1: Written Policies and Procedures and Standards of Conduct

Molina's compliance policies and procedures (P&Ps) and standards of conduct (the Molina Code of Business Ethics and Conduct) are two of the three components of the Molina Medicare Compliance Program.



P&Ps

- *Define operational processes and outcomes.*
- *Comply with all applicable Federal and state statutory, regulatory and other requirements related to the Medicare program.*
- *Revised as necessary to meet regulatory guidelines.*
- *Available on the Molina Medicare internet site.*



Element 2: Compliance Officer and Compliance Committee

Compliance Officer

The Medicare Compliance Officer has primary responsibility for Molina Medicare's compliance with federal, state and local laws, rules and regulations affecting the Medicare program. S/he is responsible for the day-to-day operation and oversight of the Molina Medicare Compliance/FWA Program.

(A complete list of responsibilities of the Medicare Compliance Officer are described in MMCD-09, Medicare Compliance Officer.)



Medicare Compliance Committee

The Molina Medicare Compliance Committee takes direction from the Molina Medicare Compliance Officer, and **advises and supports** him/her with respect to implementing the Molina Medicare Compliance Program.



(A complete list of responsibilities of the committee are described in MMCD-07, Medicare Compliance Committee.)

Medicare Compliance Committee

The Compliance Committee is comprised of representatives from the following Molina departments:

- *Sales and Marketing*
- *Claims*
- *Pharmacy*
- *Membership Services/Appeals and Grievance*
- *Medical Management*
- *Enrollment*
- *Provider Relations*
- *Medicaid Compliance Directors*

Element 3: Effective Training and Education



Effective Training and Education

CMS mandates that MA and PDP plans conduct, at a minimum, effective training in the following areas for their contractors:

1. General *Medicare compliance training* (this course), within 60 days of contract signature and annually thereafter;

- Required for contractors;*
- Requires attestation of completion;*
- Effectiveness evaluated through final exam.*

Effective Training and Education

2. **Fraud, waste and abuse (FWA) training, within 60 days of contract signature and annually thereafter.**



- *Required for contractors;*
- *Requires attestation of completion;*
- *Effectiveness evaluated through final exam.*

Three Options for Compliance/FWA Training

Option 1

- If the contractor offers its own Medicare compliance or FWA training, it may obtain permission from Molina to provide that training in lieu of Molina's training. (Note: Contractors who have met the FWA certification requirements through enrollment into the Medicare program are deemed to have met the training requirements for fraud, waste, and abuse.)

Option 2

- If the contractor does not offer its own Medicare compliance training, or if Molina determines the contractor's training is not sufficient, the contractor is required to provide the Molina Compliance training to its employees.

Option 3

If the contractor does not offer its own Medicare FWA training, or if Molina determines the contractor's training is not sufficient, the contractor is required to offer either the CMS FWA training or the Molina FWA training to its employees.

<http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/WebBasedTraining.html>

Effective Training and Education

3. Specialized training:

Molina Medicare requires all contractors to provide Medicare-specific specialized training to its employees who work on the Molina Medicare product. Contractors must submit attestations to the Molina Medicare Compliance Department so they can ensure contractors are meeting this requirement.



Element 4: Effective Lines of Communication

"I JUST INVENTED THE DARN THING
YESTERDAY, AND THIS MORNING,
WATSON CALLS IN SICK!"



Effective Lines of Communication

*In order for Molina to be able to respond quickly, effectively and thoroughly to any potential compliance and/or fraud, waste and abuse issues, **it is critical to have and implement effective lines of communication** between the Compliance Officer and his/her designee and employees, members, contractors, directors, the Medicare Compliance Committee, and Molina leadership.*

Effective Lines of Communication

It is Molina's policy that any suspected instances of non-compliance or FWA must be reported to the Medicare Compliance Officer, either directly or indirectly through the Medicare hotline.

*Timeframes: report must be made within **10 days** of suspected incident, or within 1 day if there is potential harm to a Molina Medicare member(s).*

Mechanisms to report non-compliance

Molina has a dedicated compliance hotline number:

(866) 665-4626



Other reporting mechanisms:

Although the compliance hotline is the preferred method of reporting potential non-compliance, there are several other options for reporting:

- 1. The Medicare or Corporate Compliance Officer via secure voicemail, email, or mail.*
- 2. Your immediate supervisor;*
- 3. Your Compliance Officer (if applicable);*
- 4. Email-- (corporatecompliance@molinahealthcare.com)*

Compliance questions

The Medicare Compliance Officer is also available by phone, email, or in person, to answer and address any compliance questions from Molina contractors.



Whistleblower protections

Molina contractors who report potential or suspected compliance concerns in good faith are not subject to Molina Medicare disciplinary action based on the act of reporting the compliance concern, unless the Medicare Compliance Officer determines that the contractor was involved in wrongdoing, or knowingly reported false information.



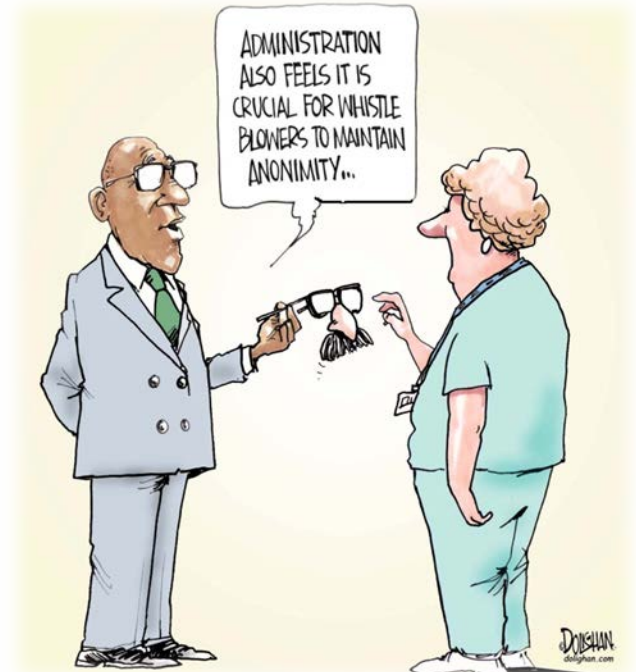
Whistleblower protections

In order to promote an environment of open communication and reporting, Molina has and enforces a policy of **non-retaliation and non-retribution** toward any party—including contractors—reporting suspected instances of non-compliance or fraud, waste or abuse.

Whistleblower protections

Confidentiality: the Medicare Compliance Officer and any other Molina Medicare staff that is assigned to investigate the compliance concern maintains the confidentiality of contractors who report compliance concerns, as well as those who are the subject of the allegation, to the extent possible and permitted by law. Any documentation related to the reporting and investigation of the compliance concern is maintained in a secure site for a minimum of ten (10) years.

If the Molina Medicare contractor wishes to provide an anonymous report of a compliance concern, they may submit the concern through the Medicare compliance hotline, without leaving their name or other identifying information.



Non-retaliation

Neither the Medicare Compliance Officer, nor any other Molina employee involved in the receipt, investigation, and/or follow up of a compliance concern, will intimidate, threaten, coerce, discriminate against, or take any other retaliatory action against any Molina contractor who reports a compliance concern.

Any Molina Medicare employee who retaliates against a Molina contractor who reports a compliance concerns or who refuses to participate in a violation of law, regulations, or policy, is subject to Molina Medicare's disciplinary policy, up to and including termination.



Element 5: Enforcement of Standards

Molina contractors are expected to conduct Medicare activities in conformance with Federal and state requirements and internal policies and procedures. Contractors who fail to meet this standard, including managers and department directors who condone or fail to prevent improper conduct, are subject to disciplinary action, up to and including termination of the contract with Molina.



Disciplinary Policy

Following an investigation that confirms a Molina contractor has violated one or more of the elements of the Code of Business Conduct and Ethics and/or a provision of the Compliance/FWA Plan, **disciplinary action will be taken.**



Disciplinary Policy

Molina contractors are informed of the disciplinary process **via the contract** and MMCD-12, which is posted to the Molina Medicare website..



It is the responsibility of the Molina Medicare contractor to educate and inform its employees of the possibility of sanctions, up to and including contract termination, for violations of federal laws, regulations, guidance, or Molina Medicare contract terms.

Disciplinary Policy

When a situation has been identified in which a Molina Medicare contractor has failed to comply with applicable federal laws, regulations or policy, CMS guidance, Molina Medicare policies and procedures, the Molina Code of Conduct and Business Ethics, or for misconduct or unsatisfactory performance, disciplinary and/or corrective may include, but is not limited to, the following:

- Verbal and/or written counseling;
- Training and/or re-training;
- Written warning;
- Corrective action plan;
- Termination of the contract.

Disciplinary Policy

When it is determined that disciplinary action is necessary and appropriate, the type of action taken is determined by:

- *the seriousness of the offense;*
- *the risk at which is places Molina Medicare's contract with CMS;*
- *impact on current or potential Molina Medicare members;*
- *other criteria as determined by the Medicare Compliance Officer, the Medicare Compliance Committee, and other senior Molina management as appropriate.*



Disciplinary Policy

The violation of certain laws or regulations may require Molina Medicare to report the violation to a regulatory or law enforcement agency and may subject the contractor to criminal and/or civil penalties.



Element 6: Effective Internal Monitoring and Auditing



Effective Internal Monitoring and Auditing

To address risks posed both by non-compliance with CMS Part C and D requirements as well as activities that may constitute fraud, waste, or abuse, the Medicare Compliance Department **performs an annual risk assessment**. Results are used to develop an overall internal Medicare monitoring and auditing work plan for the year.



Internal Monitoring

Internal Monitoring: analysis of performance and compliance conducted by a department on its own operations.

Internal monitoring includes:

- *Self-audits;*
- *Data analysis;*
- *Key Performance Indicators (KPIs);*
- *Metrics derived from KPIs.*



Internal Audits

In addition to internal audits conducted at the corporate level, the Medicare Compliance Department conducts internal audits on all functional areas of the Medicare program, including those performed by Molina contractors.



Internal Audits

Frequency and scope is determined by the results of the annual risk assessment.



Internal Audits

Areas of non-compliance are subject to **corrective action plans (CAPs)**.

Those areas are then re-audited after implementation of the CAP to ensure operations are now compliant.



Element 7: Prompt Response to Detected Offenses

When a potential compliance violation is reported or discovered, the Medicare Compliance Department takes the following **3 steps:**

- 1. Investigation*
- 2. Corrective/Disciplinary Action*
- 3. Referral, when applicable*

Investigation

All reports of suspected improper conduct, non-compliance, and/or fraud, waste or abuse are investigated promptly (within 2 weeks) and thoroughly by the Medicare compliance department, under the direction of the Medicare Compliance Officer.



Corrective/Disciplinary Action

Investigation results are communicated both **verbally and in writing** by the Medicare Compliance Officer to relevant parties, including individuals or entities against whom the allegation was made.

The written communication includes the proposed disciplinary and/or corrective action plans for the detected offense as approved by the Medicare Compliance Officer as well as **timeframes for correction and a description of the method of evaluation** to determine whether the violation has been corrected.

Referral

In the event that the investigation confirms non-compliant activity, or there is a high likelihood that the activity is non-compliant, the Medicare Compliance Officer reports the activity to the relevant government and/or law enforcement agencies, including but not limited to CMS (the MEDIC) and the Office of the Inspector General (OIG).

Molina participates in and cooperates with investigations by such agencies as requested.



Reviewing Exclusion Lists

As a first line of defense against non-compliant behavior, Molina ensures that contractors and their employees that work in the Medicare program have not been **debarred, excluded, or have otherwise become ineligible** for participation in federal healthcare programs.

To ensure this, the corporate procurement department conducts a background check during the contracting process and annually thereafter, which includes review of the Office of Inspector General's list of excluded individuals/entities (LEIE) and the General Services Administration's excluded parties list system (EPLS).

In addition, the Molina Medicare compliance department requires contractors to annually provide attestations that the contractor has verified that none of its employees are on the lists.

Resources

For more information on the information contained in this training, refer to:

Medicare statute: Title XVIII, Social Security Act

Medicare regulations: 42 CFR §422 (Part C) and 42 CFR §423 (Part D)
(<http://ecfr.gpoaccess.gov>)

Medicare Managed Care Manual (MMCM)

(<http://www.cms.gov/Manuals/IOM/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=1&sortOrder=ascending&itemID=CMS019326&intNumPerPage=10>)

Medicare Prescription Drug Benefit Manual (PDBM), Chapter 9

(http://www.cms.gov/PrescriptionDrugCovContra/12_PartDManuals.asp)

Molina Medicare Compliance and FWA Plan (Molina Compliance intranet)

Molina Code of Business Ethics and Conduct (Molina Compliance intranet)

Compliance P&Ps (Molina Compliance intranet)

Final Exam



Final Exam

- 1. All Molina contractor employees that work in the Medicare program must take the compliance training course within 60 days of contract signature and then every year thereafter.**
 - A. True
 - B. False



Final Exam

2. Which of the following laws must Medicare Advantage plans comply with:

- A. The Social Security Act
- B. The Federal False Claims Act
- C. Sarbanes-Oxley Act
- D. The Stark Statute
- E. A and B.
- F. All of the above.



Final Exam

- 3. The Molina Medicare Compliance Program is comprised of how many components?**
- A. 2
 - B. 3
 - C. 5
 - D. 7



Final Exam

4. **Molina Medicare contractors may obtain a copy of the Molina Medicare Compliance Program documents in the following way: (Check all that apply)**
- A. At the Medicare compliance training
 - B. Electronically via the Molina Medicare website
 - C. In the Employee Handbook



Final Exam

5. Oversight of compliance for Molina Medicare rests with:

- A. The Corporate Compliance Officer
- B. The VP of Medicare Services
- C. The Medicare Compliance Officer
- D. The Director of Medicare Corporate Operations



Final Exam

6. CMS requires which of the following types of training? (Choose all that apply)

- A. Compliance
- B. Fraud, Waste, and Abuse
- C. Ethics
- D. Cultural Competency
- E. Specialized Medicare training



Final Exam

7. **Molina requires that any suspected instances of non-compliance or FWA must be reported to the Medicare Compliance Officer, either directly or indirectly through the compliance hotline.**
- A. True
 - B. False



Final Exam

8. Questions about Medicare compliance should be directed to (Choose all that apply) :

- A. Your Medicare compliance officer, if applicable
- B. The Molina Healthcare Medicare Compliance Officer
- C. The Human Resources Department



Final Exam

9. **Molina is able to receive reports of potential non-compliance from contractors both confidentially and anonymously.**
- A. True
 - B. False



Final Exam

- 10. It is Molina's policy to take disciplinary action against an contractor who has violated one or more of the provisions of the Compliance/FWA Plan.**
- A. True
 - B. False



Final Exam

- 11. Which of the following disciplinary actions may be taken for confirmed non-compliance with Medicare requirements? (Check all that apply.)**
- A. Verbal and/or written counseling
 - B. Training and/or re-training
 - C. Written warning
 - D. Corrective action plan
 - E. Termination of the contract
 - F. A combination of any of the above



Final Exam

12. Internal monitoring includes which of the following activities? (Check all that apply.)

- A. Self-audits;
- B. Data analysis;
- C. Key Performance Indicators (KPIs);
- D. Metrics derived from KPIs.



Final Exam

13. Molina conducts audits of Medicare operations that are conducted by contractors.

- A. True
- B. False



Final Exam

- 14. In the event an investigation confirms non-compliant activity, or there is a high likelihood that the activity is non-compliant, Molina refers the case to law enforcement and/or government entities.**
- A. True
 - B. False

