

# FDR Compliance Newsletter

Mercy Care Advantage 4755 S. 44th Place Phoenix, AZ 85040

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## In this issue

**Code of Conduct distribution**  
**Offshoring**  
**Fraud Waste and Abuse**  
**Correction Action Plans (CAPS)**

### MCA Compliance Team

#### Chris Macias

Medicare Compliance Officer  
909-792-3937

#### Wendy Jones

Medicare Compliance Manager  
602-414-7541

#### La Retha Taylor

Medicare Compliance Analyst  
602-453-6169

FDRs can have their own internal processes in place for reporting Fraud Waste & Abuse OR non-compliance, however, non-compliance or FWA involving the MCA plan must be reported using one of the methods below:

You can report compliance concerns free from retaliation to the MCA Compliance Team. Or you can call the **Ethics Line** anonymously toll-free at **1-877-227-2040** (24/7).

Visit ALERTLINE at:  
<https://aetna.alertline.com>  
Email: [MercyCareAdvantage@AETNA.com](mailto:MercyCareAdvantage@AETNA.com)



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

As a First Tier, Downstream or Related Entity (FDR) of Mercy Care, your organization must distribute a Code of Conduct (Code) to all employees. This action must occur within 90 days of an employee's hire date, when changes are made to the Code, annually thereafter or when employees begin doing work for the Mercy Care account.

Mercy Care is administered by CVS Health and abides by the CVS Health Code of Conduct. As a contracted FDR you have the option of distributing to employees working on the Mercy Care account your organization's own Code of Conduct or the CVS Health Code of Conduct. Your organization's Code of Conduct must be comparable to or exceed the CVS Health Code of Conduct. When distributing the 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
- Code of Conduct attestations
- Evidence of Code of Conduct training

This type of documentation can be requested for regulatory audits.

A copy of the CVS Health Code of Conduct which can be found here: [CVS Health Code of Conduct](#)

## Offshore Services Reminder

While CMS permits the use of offshore services involving protected health information (PHI), Mercy Care's Medicaid contract with AHCCCS does not permit services to be performed offshore. Please contact Mercy Care if your organization has questions.

## Fraud, Waste and Abuse (FWA) — Highlights and examples for FDRs to consider

As an FDR participating in the Medicare program, it's important to understand what fraud, waste, and abuse is and what's the differences among them. One of the primary differences is intent and knowledge. Fraud requires intent to obtain payment and the knowledge the actions are wrong. Waste and abuse may involve obtaining an improper payment or creating an unnecessary cost to the Medicare program, but do not require the same intent and knowledge.

### Fraud

Fraud is 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. The Health Care Fraud Statute makes it a criminal offense to knowingly and willfully execute a scheme to defraud a health care benefit program. Health care fraud is punishable by imprisonment for up to 10 years. It is also subject to criminal fines of up to \$250,000. In other words, fraud is intentionally submitting false information to the Government or a Government contractor to get money or a benefit.

### Examples of actions that may constitute Medicare fraud include:

- Knowingly billing for services not furnished or supplies not provided, including billing Medicare for appointments the patient failed to keep.
- Billing for nonexistent prescriptions
- Knowingly altering claim forms, medical records, or receipts to receive higher payment

### Waste

Waste includes practices that, directly or indirectly, result in unnecessary costs to the Medicare program, such as overusing services. Waste is generally not considered to be caused by criminal actions but rather by the misuse of resources.

### Examples of actions that may constitute Medicare waste include:

- Conducting excessive office visits or writing excessive prescriptions
- Prescribing more medications than necessary for treating a specific condition
- Ordering excessive laboratory tests

### Abuse

Abuse includes actions that may, directly or indirectly, result in unnecessary costs to the Medicare program. Abuse involves payment for items or services when there is not legal entitlement to that payment, and the provider has not knowingly or intentionally misrepresented facts to obtain payment.

### Examples of actions that may constitute Medicare abuse include:

- Unknowingly billing for unnecessary medical services
- Unknowingly billing for brand name drugs when generics are dispensed
- Unknowingly excessively charging for services or supplies
- Unknowingly misusing codes on a claim, such as up-coding or unbundling codes

If you have identified a compliance, fraud, waste, or abuse concern involving MCA, please make a report to the MCA Compliance Team or our Ethics Line at **1-877 CVS-2040. (1-877-227-2040)**



## Document retention requirements

FDRs are required to retain **all Medicare documentation** for at least 10 years. This includes any documentation related to the services your organization performs for Mercy Care Advantage, including (but not limited to) documentation related to:

- OIG/GSA Exclusion Screenings
- Policies and Standards of Conduct, including records of updates and distribution
- Reports of and responses to suspected non-compliance and /or fraud, waste, or abuse
- Human resources records, including disciplinary
- Auditing and monitoring
- Corrective Actions taken

Be sure that your organization has a policy in place that outlines your organization's document retention policy and process. Also make sure that your organization regularly self-reviews to ensure that your policy is understood by employees, and that all Medicare documentation are retained for at least **10 years**.



## Corrective Action Plans (CAPs) and Root Cause Analyses

As an FDR to Mercy Care Advantage, your organization is required to comply with the combined Compliance Program Guidelines Chapters 9 of the Prescription Drug Benefit Manual and Chapter 21 of the Medicare Managed Care Manual. If an FDR does not comply with the requirements outlined in Chapters 9 and 21, a Corrective Action Plan (CAP) will be issued to the FDR. Part of the CAP process requires an FDR to conduct a root cause analysis to understand the reason the deficiency occurred.

### What's a CAP?

A CAP is an organized, step-by-step action plan for fixing a non-compliance issue and preventing that non-compliance from recurring. It also provides a mechanism for monitoring your progress towards compliance.

Your CAP must be thoroughly documented and include reasonable timelines for specific achievements. To be effective, the actions outlined in your CAP must address what caused the noncompliance issue to arise in the first place. That's where the root cause analysis comes in.

### What's a Root Cause Analysis?

A root cause analysis explains "why" a noncompliance issue occurred. It ensures you understand the underlying problem so you can create actions items that correct it appropriately.

### How do I perform a Root Cause Analysis?

Analyze your workflows to find out the cause-and effect chain that created the issue. A variety of problem-solving techniques can be used to do this. For example, you could form a small team of people familiar with your processes to brainstorm possible causes of the deficiency and identify the symptoms of the issue to root out its actual cause. The team's analysis could result in the discovery of multiple root causes. One "why" may actually lead to another, as there can be multiple causes for a problem.

People	
Root Cause	CAP Action
Employees weren't aware of CMS requirements or were inadequately trained.	Train staff on requirements.
Staffing levels were inadequate.	Hire new personnel to support process needs.
Downstream contractor refuses to be compliant.	Terminate contractual relationship with contractor.
Processes	
Root Cause	CAP Action
Policy was unclear or inaccurate for the CMS requirements.	Revise policy to clearly include CMS requirements and train staff on new policy.
There was a lack of oversight to ensure process compliance.	Develop and implement ongoing monitoring process to validate compliance with CMS requirements.

These are just a few examples. Your Root Causes and CAPs will be specific to your deficiency and organization. It may be helpful to ask yourself "Does the Root Cause actually identify why the deficiency occurred? And, does the CAP Action actually resolve what went wrong?" If you can answer "Yes!" to both questions, your organization is likely on the right path towards remediating a deficiency.