

# Pharmacies' Medicare Part D Training Obligations and Medicare Training Resources

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- ***Your obligation*** - CMS regulations require that all pharmacies contracted with Medicare Part D Plan Sponsors, such as the Medco PDP, participate in **annual compliance training** and provide this training to **new employees** as part of **orientation**.
  
- ***Monitoring and audit*** - Medco will monitor compliance; pharmacies may be required to provide **attendance logs and training attestations**.
  
- ***Training Resources*** - To train your employees, you must use one of the following:
  - > A training module provided by a training organization or industry association that covers CMS-required topics. One such training is offered by LearnSomething and may be accessed through the link, [www.medco.learnsomething.com](http://www.medco.learnsomething.com). By using this portal your pharmacy's participation will be tracked by LearnSomething. **OR**
  - > **The training module that begins on the following page.** You will need to track your employees' participation. **OR**
  - > Any other training module that meets CMS requirements, as outlined in Medco's pharmacy letter, distributed and posted December 2011 at [www.medco.com/rph](http://www.medco.com/rph).

# Medicare Compliance Fraud, Waste and Abuse Training for Medicare Part D-Contracted Pharmacies

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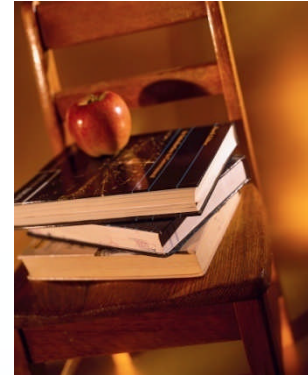
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# Training Introduction



- In this training, you'll learn about:
  - > Medicare prescription drug plans' compliance requirements and laws that apply to the submission of prescription claims under the Medicare Part D program.
  - > Examples of fraudulent practices which violate these laws.
  - > Certain practices required by Medicare Part D.
  - > How to report potential fraud, waste and abuse.
  - > Resources that will provide you with more information regarding Medicare Part D requirements.

# Medicare Part D Requirements

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- Medicare Prescription Drug Plan sponsors are required to have a program to prevent, detect, and correct fraud, waste and abuse
- The Centers for Medicare and Medicaid Services (CMS) requires all sponsors to have a training and education program as part of its compliance plan
- Pharmacies contracted to provide Medicare Part D services must have training in place and policies and procedures to help prevent, detect, and correct Medicare fraud, waste and abuse

# The False Claims Act

Medicare Part D prescription claims are subject to the Act

It is a violation of the False Claims Act to knowingly present, or cause to be presented, a “false or fraudulent claim” to the federal government. “Knowingly” includes deliberate ignorance or reckless disregard of the truth.



- There are harsh penalties for false claims:
  - > Civil fines of up to \$11,000 per claim
  - > Statutory treble damages (i.e., three times the amount of the false claim)
- Many states have comparable statutes, leading to possible dual state and federal liability for the submission of false or fraudulent claims under the Medicare Part D Plan

# How does the False Claims Act apply to me?

As a pharmacy employee, you play an important role in identifying fraud and ensuring that all prescription claims are accurate and legal.

The following are examples of practices that could be subject to the False Claims Act:

- Inappropriate billing practices - as described on the next page
- Knowingly shorting prescription drugs
- Prescription forging and altering
- Dispensing expired or adulterated prescription drugs
- Illegal payment schemes to pharmacies
- TrOOP manipulation and refill errors
- Failure to offer negotiated Medicare Part D prices

# A closer look at Fraud (Cont'd)

Inappropriate billing practices include knowingly:



- **Billing multiple payers** the full cost of the same drug to increase reimbursement or incorrectly billing secondary payers
- Billing for:
  - > non-existent prescriptions, or a brand when the generic is dispensed; uncovered, non-Part D drugs, as covered drugs;
  - and**
  - > prescriptions never picked up (i.e., **not** reversing claims when required)

## A closer look at Fraud *(Cont'd)*

**Inappropriate billing practices include knowingly:**



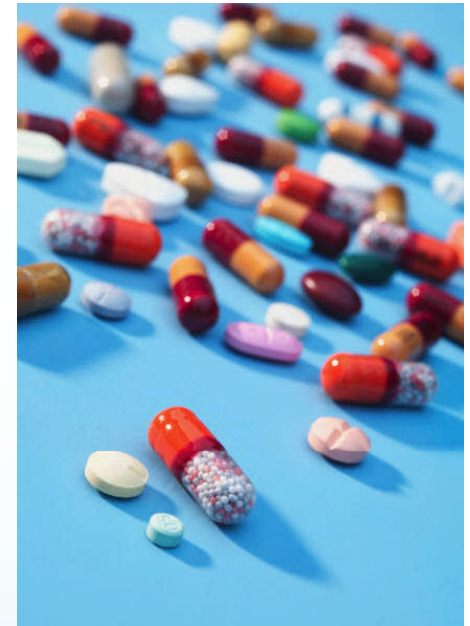
- Billing based on “gang visits”
  - > (e.g., a pharmacist visits a nursing home and bills for numerous pharmaceutical prescriptions without furnishing any specific service to individual patients)
- Inappropriate use of dispense as written (“DAW”) codes
- Prescription splitting to receive additional dispensing fees
- Drug diversion



## A closer look at Fraud *(Cont'd)*

### Other examples of Fraud are:

- **Prescription drug shorting:** knowingly providing less than the prescribed quantity and billing for the fully-prescribed amount
- **Prescription forging or altering:** filling a prescription that has been forged or altered without the prescriber's permission to increase quantity or number of refills
- **Expired or adulterated prescription drugs:** dispensing drugs that are expired, or have not been stored or handled in accordance with manufacturer and FDA requirements



# A closer look at Fraud *(Cont'd)*

## ■ **TrOOP manipulation is when a pharmacy:**

- > Tampers with TrOOP to either push a beneficiary through the coverage gap, so the beneficiary can reach catastrophic coverage before they are eligible

OR

- > Manipulates TrOOP to keep a beneficiary in the coverage gap so that catastrophic coverage is never realized

## ■ **Bait and switch pricing:** when a beneficiary is led to believe that a drug will cost one price, but at the point of sale the beneficiary is charged a higher amount



# False Claims Act – Summing Up



## ■ Some key points to remember:

1. Financial penalties under the False Claims Act are substantial
2. Fraudulent Part D claims activities are subject to the Act
3. Fraudulent activity includes not only intentional fraud but also those acts that result from deliberate ignorance or reckless disregard

# Anti-Kickback Act (AKA)

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■ **The AKA makes it illegal to offer, pay, solicit or receive anything of value in return for:**

> The referral of patients for items or services covered by a federal health care program such as Medicare;

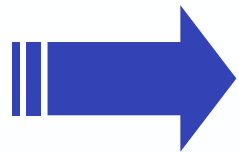
OR

> Buying, leasing, arranging or recommending any items or services reimbursable by a federal health care program

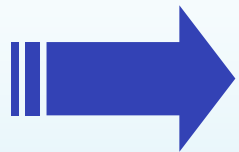
**The AKA is violated even if only one purpose (among others) of the payment is to induce referrals**

## Anti-Kickback Act (AKA) *(Cont'd)*

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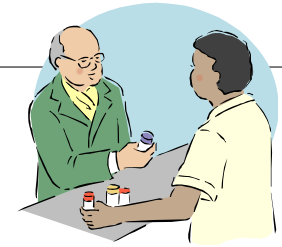


**Violation of AKA is punishable by a fine of up to \$25,000, five years in prison and exclusion from the Medicare program.**



Violators may be subject to civil monetary penalties as well as prosecution under the False Claims Act

# How does the AKA apply to me?



- ✓ As a pharmacy employee, Medicare beneficiaries may often look to you and your pharmacy for recommendations and advice
- ✓ Keep in mind that you **may not refer patients for items or services covered by a federal health care program** such as Medicare, in return for a payment

- ✓ **Additionally, pharmacies contracted with a Part D plan cannot:**
  - > Direct, urge, or attempt to persuade, a Medicare beneficiary to enroll in a particular plan or to insure with a particular company based on financial or any other interest of the pharmacy (or subcontractor)
  - > Inappropriately offer, pay, solicit, or receive unlawful remuneration to switch patients to different drugs or influence prescribers to prescribe different drugs

# Anti-Kickback Act – Summing Up



## ■ Some key points to remember:

1. Financial penalties under the AKA are substantial; violators may be subject to imprisonment
2. Payments for referring patients for particular items or services are not permitted under Part D
3. Payments for referring patients to particular Part D plans are prohibited

# Health Insurance Portability and Accountability Act

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- Beginning in 2003, “HIPAA” and the broad set of federal regulations adopted by the Federal Department of Health and Human Services (HHS):
  - > established minimum standards for the transmission, use, and disclosure of health information;
  - > provided certain privacy rights for individuals;
  - and
  - > established security requirements to protect data



# American Recovery and Reinvestment Act

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- **Adopted in 2009, “ARRA”, known as the Stimulus Bill, makes significant changes to existing provisions of the HIPAA Privacy Rule:**

- > regarding privacy and security to make them more stringent;
- > expanding the obligations and potential legal exposure of covered entities, business associates such as Medco and its subcontractors, and their employees;
- > provides new restrictions on the use and disclosure of protected health information (PHI);

and

- > affords individuals more rights

# How does HIPAA and ARRA apply to me?

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- As a pharmacy employee, you play an important role in protecting patients' medical conditions, identification numbers, and medication records.
  - > It's **your** responsibility to know and comply with your pharmacy's privacy and security policies.
  - > It's another important way to prevent Medicare fraud, waste, and abuse.

# Fraud Detection and Prevention at Work

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**Pharmacy staff play a critical role in detecting and preventing potential fraud**

Let's take a look at a possible fraud case at Green Apple Pharmacy:

**Alan Jones, a new customer at the Green Apple, drops off his prescription for Oxycodone. It is clear that someone has written over the physician's original writing and has substantially increased the prescription dosage from 10 mg to 40 mg.**

# Fraud Detection and Prevention at Work...Continued

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Jay, the pharmacy technician, brings the suspicious change to Pharmacist Goodsafe's attention. Jay wonders if Mr. Jones made the change himself?

Pharmacist Goodsafe calls Mr. Jones' physician, Dr. Wellstone, to find out if the change in the dosage was intentional. Dr. Wellstone indicates that she made the dosage change and that the script should be filled.

**As it turned out, there was no fraud committed, but Pharmacist Goodsafe took the right action. Knowingly filling an altered or forged prescription is a violation of the law.**



# Reporting

How can you report actual or suspected Medicare fraud?



- Your supervisor is often in the best position to address most issues
- You may **always** report anonymously to Medco's Medicare FWA Hotline— **1.800.303.9373**
- Reports of potential fraud, waste or abuse or compliance concerns **are treated confidentially**
- Employees are **protected from retaliation** under the False Claims Act for False Claims Act complaints

# Required Medicare Part D Practices

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In addition to helping prevent fraud, pharmacies contracted with Medicare Part D plan sponsors or their PBMs are required to comply with numerous CMS requirements

■ Some of these include:

- > **Screening of employees** against the OIG/GSA lists to ensure that no employee is prohibited from participation in the Medicare program.
- > **Distribution of the CMS form 10147 “Medicare Prescription Drug Coverage and Your Rights”** when a Medicare Part D enrollee’s prescriptions can not be filled by the Part D plan and the rejection can not be resolved at the pharmacy
- > **Retention of prescription records for 10 years** and the provision of these records and other documents to CMS, or those designated by CMS, upon request.

# Medicare Resources

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## Websites

- > CMS Part D website for pharmacies:  
<http://www.cms.hhs.gov/pharmacy/>
- > Medco's Medicare Prescription Plan website:  
<http://www.Medcomedicare.com/>
- > Chapter 9 Part D Program to Control Fraud, Waste and Abuse

## Important Phone Numbers:

- > **Medco Medicare FWA Hotline— 1.800.303.9373**

**Thank you for participating in our training module:**

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**Medicare Compliance, Fraud, Waste and Abuse  
Training for Medicare Part D-Contracted Pharmacies**