Healthy Blue℠
BlueChoice® HealthPlan of SC

Healthy Connections

Fraud, Waste and Abuse

Fraud, Waste and Abuse

Do you know who our biggest ally is in the fight against insurance fraud?
You are!

We all end up paying the price for health care fraud, waste and abuse. While the majority of members and health care professionals act honestly, a small percentage of individuals take advantage of the system. According to the National Health Care Anti-Fraud Association (NHCAA), an estimated $100 million is lost daily to health care fraud.

We work with federal, state and local law enforcement agencies to prosecute fraud cases. Tips from customers and providers help us do our job.

Responsibilities

You are a vital part of the effort to prevent, detect and report Medicaid and Medicare noncompliance and possible fraud, waste and abuse.

- You are required to comply with all applicable statutory, regulatory and other South Carolina Medicaid Managed Care requirements, including adopting and implementing an effective compliance program.
- You have a duty to the Medicaid and Medicare programs to report any violations of laws you are aware of.
- You have a duty to follow your organization's Code of Conduct, which articulates your and your organization's commitment to standards of conduct and ethical rules of behavior.

Definitions

Fraud is an intentional deception or misrepresentation that an individual or entity makes, knowing that it could result in some unauthorized benefit to the individual, the entity or some other party.

Four key elements of fraud are:

- Intent to defraud through deliberate deception.
- Knowledge of wrongdoing.
- Misrepresentation in making a false impression.
- Reliance on receiving a benefit to which the recipient is not legally entitled.

Definitions (continued)

Waste is using health care benefits or spending health care dollars without real need.

- Note: Waste is not generally considered to be caused by criminally negligent actions, but by the misuse of resources.

Abuse is an activity that is not consistent with generally accepted business or medical standards or practices, or a payment for items or services that providers bill by mistake, but Medicaid should not pay for (for example, payment for services that fail to meet professionally recognized standards of care or services that are medically unnecessary).

- Note: This is not the same as fraud.

Compliance

Our ***Code of Conduct*** sets expectations for our employees (and those with whom we contract) to understand and comply with all laws, regulations and policies concerning our business. We are committed to integrity, conducting ourselves in a legal and ethical manner, and doing business with health care professionals, entities, agents and vendors who are equally committed to adhering to our *Code of Conduct*.

Compliance (continued)

To support our mutual commitment, all organizations that provide Medicaid services must know and comply with our Code of Conduct. Contracted providers are required to have policies and procedures in place to ensure compliant and ethical conduct.

Additionally, providers are required to ensure their employees are trained on:

- Ethical conduct.
- Fraud, waste and abuse.
- The False Claims Act.

Compliance (continued)

Expectations include:

- Complying with all CMS laws, regulations and guidance, and laws and regulations pertaining to privacy and security of protected health information.
- Submitting truthful and accurate reports of required or requested data.
- Conducting business with integrity; demonstrating ethical behavior.
- Ensuring that employees and others who provide Medicaid services receive training on Code of Conduct compliance, including the consequences of noncompliance.

Compliance (continued)

Expectations include:

- Cooperating with government investigations.
- Encouraging adherence to the Code of Conduct.
- Monitoring and eliminating relationships that may result in conflicts of interest.
- Adhering to a nonretaliation policy.

False Claims Act

The False Claims Act (FCA) is a federal statute that covers fraud involving any federally funded contract or program (including Medicare and Medicaid programs).

Some important points about the FCA:

- Under the FCA, any individual or organization that knowingly submits a claim he or she knows (or should know) is false, and knowingly makes or uses (or causes to be made or used) a false record or statement to have a false claim paid or approved under any federally funded health care program, is subject to civil penalties.
- The FCA includes cases in which an individual or organization obtains money to which they may not be entitled, and then uses false records or statements to retain the money. It also includes instances where a provider retains overpayments.

False Claims Act

The False Claims Act (FCA) is a federal statute that covers fraud involving any federally funded contract or program (including Medicare and Medicaid programs).

More important points about the FCA:

- Under the federal FCA, a person, provider or entity is liable for up to triple the damages and penalties for each false claim it knowingly submits, or causes to be submitted, to a federal program (between $5,500 and $11,000).
- In addition to civil penalties, individuals and entities can also be excluded from participating in any federal health care program for noncompliance.

False Claims Act violations

Examples include:

- A provider who submits a bill for services that weren't rendered to Medicare or Medicaid.
- A government contractor who submits records and knows (or should know) they are false, and indicates compliance with certain contractual or regulatory requirements
- Inserting a diagnosis code that was not obtained from a physician or other authorized individual.
- Misrepresenting the services performed (for example, up-coding to increase reimbursement).
- Submitting false information about services performed or charges for services performed.

Whistleblower Protections

To encourage individuals to come forward and report misconduct involving false claims, the FCA includes a qui tam, or whistleblower provision.

This provision allows any person with actual knowledge of false claims activity to file a lawsuit on behalf of the United States government. Under federal law, the whistleblower may be awarded a portion of the funds recovered by the government, typically between 15 and 30 percent. The whistleblower may also be entitled to reasonable expenses, including attorney's fees and costs for bringing the lawsuit.

Whistleblower Protections (continued)

In addition to a financial award, the FCA entitles whistleblowers to other relief:

- Employment reinstatement.
- Back pay.
- Any other compensation arising from employer retaliatory conduct against a whistleblower for filing an action under the FCA or committing other lawful acts (for example, investigating a false claim, providing testimony or assisting in an FCA action).

Whistleblower Protections (continued)

The FCA includes specific provisions to protect whistleblowers from retaliation by their employers. Any employee who initiates or assists with an FCA case is protected from discharge, demotion, suspension, threats, harassment and discrimination in the terms and conditions of his or her employment. A person who brings a ***qui tam*** action that a court later finds was frivolous may be liable for fines, attorney fees and other expenses.

Other laws and regulations related to fraud, waste and abuse

- Anti-Kickback statute
- Beneficiary Inducement law
- Exclusion statute
- Physician Self-Referral Prohibition law (also known as the Stark law)
- Civil Monetary Penalties law
- Health Insurance Portability and Accountability Act (HIPAA)
- Deficit Reduction Act of 2005

Report Fraud, Waste and Abuse

Do you suspect fraud? We encourage you to let us know. You can reach us several ways:

- Call our confidential fraud hotline at 800-763-0703.
- Fax the form to located at https://www.southcarolinablues.com/web/public/brands/sc/assistance/report-fraud/ to our anti-fraud unit at 803-870-8356
- Call the South Carolina Department of Health and Human Services fraud hotline at 888-364-3224 or email them at fraudres@scdhhs.gov.
- Write to us:

  BlueCross BlueShield of South Carolina Anti-Fraud Unit
  Mail Code: AC-200
  P.O. Box 24011
  Columbia, SC 29224-4011

Remember, you can remain anonymous! Please include as many details as possible.

HEALTHY BLUE ◆ PO BOX 100317 ◆ COLUMBIA, SC ◆ 29202-3317

Customer Service: 866-781-5094 (TTY: 866-773-9634) Monday – Friday from 8 a.m. – 6 p.m.
24-Hour Nurseline: 800-830-1525 (TTY: 711)

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