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# FDR Compliance Newsletter

October 2015 – Issue 7

## Final Rule: Changes for 2016

The Centers for Medicare & Medicaid Services (CMS) issued a **Final Rule** that aims to reduce the training burden for FDRs.

We must ensure FDRs provide general compliance and fraud, waste and abuse (FWA) training to their employees. They need to complete them within 90 days of hire or contracting, and annually thereafter.

### Changes to training for 2016

Starting in 2016, CMS will provide FDRs two options to complete their training requirements for employees:

#### (1) Complete CMS training on the MLN website

FDRs and their employees can complete the general compliance and/or FWA training modules and testing on the CMS Medicare Learning Network (MLN) website. Once an individual completes the training, the MLN system will generate a certificate of completion. To complete the training, all plan sponsors must accept the MLN certificate of completion.

#### (2) Use the CMS training within your own training

FDRs and their employees can download or print the content of the CMS standard training modules. They can also download the testing from the CMS website. They can add it to their organization's existing training that covers topics specific to their organization. But you can't modify the CMS training content. This will ensure the integrity and completeness of the training.

## In this issue

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- Offshore attestations
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## Quick links

- Medicare Managed Care Manual
- Medicare Prescription Drug Benefit Manual
- Office of Inspector General (OIG) exclusion list
- General Services Administration exclusion list
- Aetna's Code of Conduct **\*\*Updated\*\***
- CMS' Medicare Parts C and D Fraud, Waste and Abuse Training and General Compliance and Fraud Waste and Abuse Training

**NOTE:** The course is dated February 2013 and is the most current version of training. Employees and downstream entities can still complete this training to satisfy the Medicare compliance program training requirements.

Aetna maintains a comprehensive Medicare Compliance Program. It includes communication with Aetna Medicare FDRs. John Wells, Medicare Compliance Officer, is dedicated to Aetna's Medicare Compliance Program. He's based in Maryland. You can send questions or concerns for John and/or his Medicare compliance subject matter experts to [MedicareFDR@aetna.com](mailto:MedicareFDR@aetna.com).

## Keep proper records

Keep completion certificates or other proof of training for at least 10 years. If you use training logs or reports as evidence of completion, they must include:

- Employee names
- Dates of employment
- Dates of completion
- Passing scores (if captured)

## Additional help

For more details about these changes, you can review the memo CMS released in **June**. And CMS will issue new guidance, so stay tuned. If you have questions about these changes, just send us an **e-mail**.

# Offshore Attestations

We're committed to protecting the privacy of our members. We make sure that we securely manage and store their protected health information (PHI). To do this, we require all FDRs to notify us if they do work offshore.

Do you or any of your downstream entities handle PHI? Do you or your downstream entities have a location offshore? If you answer yes to either of these questions, you may need to complete an offshore attestation. If you're unsure, we can help.

## CMS requirements

CMS requires we report to them any subcontractors that receive, process, transfer, handle, store, or access member PHI. This includes PHI in oral,

written, or electronic form. We must do this within 30 days of contracting. Attestations should be reviewed annually for any changes.

## Definitions

CMS defines "subcontractor" as any organization that we contract with to fulfill or help fulfill requirements in our Part C and/or Part D contracts. All FDRs are subcontractors.

The term "offshore" refers to any country that is not one of the fifty United States or one of the United States Territories (American Samoa, Guam, Northern Marianas, Puerto Rico, and Virgin Islands). Some examples include Mexico, Canada, India, Germany, and Japan.

**Offshore subcontractors** provide many services. They hire workers located in these countries. It doesn't matter if the workers are employees of American or foreign companies.

## What is considered PHI

Examples of PHI include:

- Birth date
- Social security number
- Health insurance claim number
- Patient identifier
- Medical history

## Need more information

If you or your downstream entities do work offshore and you have not notified us, please do so **immediately**. You should also contact us if you are in the negotiation stages of an offshore contract or if you're unsure. You can contact your Aetna Relationship Manager or send us an email at **MedicareOffshoreAttestations@aetna.com**.

## Report to Aetna actual or potential fraud, waste and abuse OR non-compliance:

FDRs can have their own internal processes for reporting. But, you must use one of the methods below to report back instances that impact Aetna's Medicare business.



By phone:  
1-888-891-8910  
(7 days a week, 24 hours a day)



Online:  
<https://aetna.alertline.com>



By mail:  
Corporate Compliance  
P.O. Box 370205  
West Hartford, CT 06137-0205

# Why exclusions matter

Our Medicare Advantage and Prescription Drug plans are federally funded health programs. As such, we are prohibited from making payments to anyone on an exclusion list.

Aetna and our FDRs must check employees and downstream entities against the exclusion lists. Conducting timely screenings may help you avoid costly actions in the future. You need to do these screenings before you hire or contract and monthly thereafter.

## What are the exclusion lists?

The exclusion lists include the **Office of Inspector General** (OIG) List of Excluded Individuals/Entities (LEIE). And also the **General Services Administration** (GSA) System for Award Management (SAM).

## Consequences of improper payment

The OIG, U.S. Department of Health and Human Services and/or CMS can take serious actions against Aetna and/or our FDRs for paying an excluded individual.

For example:

- 1) A nursing home entered into a settlement of more than \$179,000. The OIG's investigation revealed that one of their employees was on the excluded list. This employee was a housekeeper and health information specialist, who provided patient services that were billed to Federal health care programs.
- 2) After a self-disclosure, a cardiology clinic agreed to pay more than \$134,000. The clinic employed an individual that it knew, or should have known, was on the excluded list.
- 3) A community-based health system entered into a settlement of more than \$129,000. The OIG's investigation revealed they employed an excluded individual. The employee was a laboratory technician that provided items and services that were billed to Federal health care programs.

You can look up these and other actions on **OIG's website**.

## Protect yourself

Check employees and downstream entities against the exclusion lists before you hire or contract and monthly thereafter.

Let us know if you have questions. Just send us an e-mail to **MedicareFDR@aetna.com**.



## What is an FDR

### CMS definitions of First Tier, Downstream and Related Entity:

**First Tier Entity** is any party that enters into a written arrangement, acceptable to CMS, with a Medicare Advantage Organization or Part D plan sponsor or applicant to provide administrative services or healthcare services to a Medicare eligible individual under the Medicare Advantage program or Part D program.

**Downstream Entity** is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the Medicare Advantage benefit or Part D benefit, below the level of the arrangement between a Medicare Advantage Organization 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.

**Related Entity** means any entity that is related to a Medicare Advantage Organization or Part D sponsor by common ownership or control and:

- Performs some of the Medicare Advantage Organization or Part D plan Sponsor's management functions under contract or delegation; or
- Furnishes services to Medicare enrollees under an oral or written agreement; or
- Leases real property or sells materials to the Medicare Advantage Organization or Part D plan Sponsor at a cost of more than \$2,500 during a contract period.

This newsletter is provided solely for your information and is not intended as legal advice. If you have any questions concerning the application or interpretation of any law mentioned in this newsletter, please contact your attorney.

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SM-0189-15