



Fraud, Waste and Abuse Awareness Training for  
Pharmacies  
*2010/2011*

# Pharmacy FWA Training

## *Table of Contents*



This training module will cover the following topics:

- The Costs of Fraud, Waste and Abuse
- Why Do I Need This Training?
- Requirement for Policies and Procedures
- How to Report Suspected FWA to Envision
- What Envision Does with Suspected FWA
- Related Laws
- FWA Definitions
- Examples of FWA Schemes

# Pharmacy FWA Training

## *The Costs of Fraud, Waste and Abuse (FWA)*



Billions of dollars are lost to Medicare fraud each year. The pharmaceutical industry is particularly vulnerable.

The National Health Care Antifraud Association (NHCAA) estimates fraud accounts for 3% of total health care dollars.

The NHCAA says that prescription drugs are now more prevalent in illegal narcotic activity than illegal drugs.

The addition of the Medicare Part D program in 2006 presents an opportunity for those who wish to defraud the system.

CMS is keenly aware of this fact, and so is Envision.

You are the most important factor in our fight to prevent FWA.

# Pharmacy FWA Training

## *Why Do We Need This Training?*

- ☞ As highlighted on the previous slide, fraud in the pharmaceutical industry is a growing trend. CMS wants Part D Sponsors and their downstream partners to work together to combat instances of FWA. EnvisionRx Plus is a CMS approved Part D Sponsor.
- ☞ In accordance with our pharmacy contract, you have agreed to conduct Fraud, Waste, and Abuse (FWA) training annually of your pharmacists and pharmacy employees engaged in delivering any Medicare services, as required by Medicare regulations (42 C.F.R. § 423.504 (b)(4)(vi)).
- ☞ Reviewing this training module is one way to meet this requirement. If you use another Medicare fraud, waste and abuse training, it must cover the following topics at a minimum;
  - Laws and regulations related to Medicare Part D FWA,
  - Your obligation to maintain appropriate policies and procedures regarding detecting, preventing and reporting potential Part D FWA,
  - Your obligations to assure employees who report suspected FWA are protected from reprisals,
  - Types of FWA associated with Medicare prescription drug coverage,
  - Resources for reporting suspected FWA.

Your awareness is the most important factor of any Compliance and FWA Program.

# Pharmacy FWA Training

## *Requirement for Policies and Procedures*

EnvisionRx Plus maintains a “Compliance Plan” and associated policies and procedures that establishes the company’s commitment to assuring employees and partners conduct business in an ethical manner and in full compliance with applicable statutes, regulations, federal health care program requirements.

As a partner of EnvisionRx Plus regarding the administration and delivery of Part D benefits, your organization (pharmacy or pharmacy chain) is required to maintain policies and procedures that assist personnel within your organization to prevent, detect and correct instances of fraud, waste and abuse.

You must also maintain policies that protect personnel from any retaliation due to good faith referrals of suspected FWA.

Envision, CMS and/or a CMS contractor may ask to review your policies and procedures relative to fraud, waste and abuse prevention during a routine or focused audit.

# Pharmacy FWA Training

## *How to Report Suspected FWA to Envision*

Envisions downstream partners are required to report any suspected FWA, unethical conduct, or compliance violations. Failure to report potential violations could result in termination of your contract.

- Reports may be made to EnvisionRx Plus in writing, or by phone.
- Reports shall be treated as confidential to the extent reasonably possible.
- There shall be no retaliation against anyone who submits a good faith report of noncompliance.

### Report Potential violations or FWA by

Emailing [complianceofficer@envisionrxplus.com](mailto:complianceofficer@envisionrxplus.com), or

Dialing the FWA hotline @ (866) 417-3069

This contact information can also be found on EnvisionRx Plus' website at [www.envisionrxplus.com](http://www.envisionrxplus.com)

**EIC and its subcontractors shall ensure there will be no retaliation against anyone who submits a good faith report of non-compliance.**

# Pharmacy FWA Training

## *What Envision Does with Suspected FWA*

Suspected FWA reported to EnvisionRx Plus shall be documented and investigated promptly. If EnvisionRx Plus determines that a referral to the MEDIC or law enforcement is appropriate, the case shall be forwarded to these authorities no later than 30 days from the date received. Each report, regardless of the source, shall be assigned a control number, and a record shall be made containing the following data:

- ∞ The date the report was made;
- ∞ The person who received the report;
- ∞ The allegations;
- ∞ The actions taken in response; and
- ∞ The name of the person making the report, if not made anonymously.

# Pharmacy FWA Training

## *Related Laws*

There are many other related state and federal laws that apply to Envision associates and its downstream entities. False Claims Act, Anti-Kickback Act and HIPAA are some of the important laws that you should be aware of.

### Civil and Criminal False Claims (42 U.S.C. §1320a-7b(a))

Envision associates or downstream entities shall not knowingly and/or willfully make or cause to be made any false statement or representation of material fact in any claim or application for benefits under any federal health care program or health care benefit program. In addition, Envision associates or downstream entities shall not, with knowledge and fraudulent intent, retain federal health care program or health care benefit program funds, which have not been properly paid.

Examples of prohibited conduct include, but are not limited to:

- misrepresenting services which were rendered;
- falsely certifying that services were medically necessary;
- billing for services not actually rendered; making false statements to governmental agencies about compliance with any state or federal rules; and,
- failing to refund overpayments made by a federal health care program

# Pharmacy FWA Training

## *Related Laws*

### **Anti-Kickback Act (42 U.S.C. §1320a-7b(b)) and Anti-Kickback Act of 1974 (74 O.S. 1991, § 3401, et seq. )**

Envision associates or downstream entities shall not knowingly and/or willfully solicit, offer to pay, pay, or receive, any remuneration, either directly or indirectly, overtly or covertly, in cash or in kind, in return for:

- a. Referring an individual to a person for the furnishing, or arranging for the furnishing, of any item or service for which payment may be made, in whole or in part, under any federal health care program;
- b. Purchasing, leasing, ordering, or arranging for, or recommending the purchasing, leasing, or ordering of any goods, facility, service or item for which payment may be made in whole or in part, under any federal health care program; or
- c. Remuneration may include kickback payments, bribes, or rebates.

### **Health Insurance Portability and Accountability Act (HIPAA)**

Envision associates or downstream entities shall abide by HIPAA regulations concerning managing and maintaining adequate controls in the use and handling of member protected health information.

# Pharmacy FWA Training

## *Related Laws*

### **Other important laws and regulations for reference...**

- Civil Monetary Penalties Act (42 U.S.C. §1320a-7a)
- Ethics in Patient Referrals Act of 1989 (42 U.S.C. §1395nn)
- Health Care Fraud (18 U.S.C. §1347)
- Criminal False Statements Related to Health Care Matters (18 U.S.C. §1035)
- Civil False Claims Act (31 U.S.C. §3729)
- Criminal False Claims Act (18 U.S.C. § 286, §287)
- Criminal Wire and Mail Fraud (18 U.S.C. §1341, §1343)
- Criminal False Statement Act (18 U.S.C. §1001)
- Theft or Embezzlement in Connection with Health Care (18 U.S.C. §669)
- Obstruction of Criminal Investigations of Health Care Offenses (18 U.S.C. §1518)
- Criminal Conspiracy (18 U.S.C. §371)
- RICO and Money Laundering Acts (18 U.S.C. §1956, §1961 et. seq.)

# Pharmacy FWA Training

## *FWA Definitions*

### ***Fraud:***

Health insurance, “fraud” is the intentional submission of a “document or statement” that contains a material misrepresentation made by an individual/entity knowing that the document/statement contains false or misleading information for the purpose of receiving benefits to which they would not have otherwise been entitled.

The Three Elements of Fraud:

1. Misrepresentation - A lie, false information, or an act of omission (failing to disclose a material fact)
2. Intentional - Purposeful
3. Material - A benefit is gained

*All three of these must be present to prove an allegation of fraud. Anything less could fall under waste and/or abuse.*

# Pharmacy FWA Training

## *FWA Definitions*

### **Waste:**

Waste is defined as a loss through carelessness, inefficiency, or ignorance.

An example of waste is:

When a practitioner prescribes more of an antibiotic than the patient needs, just in case.

### **Abuse:**

Abuse is considered an action that is not consistent with generally accepted standards and practices related to that industry.

An example of abuse is:

A beneficiary, who is addicted to drugs, going to four different emergency rooms (every week) in an effort to receive numerous pain medications to be filled at various pharmacies.

# Pharmacy FWA Training

## *Examples of FWA Schemes*



### Who perpetrates FWA?

Fraud, waste and abuse can be perpetrated by

- *Members*
- *Pharmacies*
- *Prescribing Doctors*
- *Part D Sponsors (Insurance company employees)*
- *Pharmacy Benefit Managers (PBMs)*
- *Wholesalers*
- *Pharmaceutical Manufacturers*

The following slides identify some of the common types of fraud initiated by each of these entities.

# Pharmacy FWA Training

## *Examples of Member FWA Schemes*



**Forging or Altering Prescriptions:** Forging or altering of a prescription to obtain medications from a pharmacy that were not prescribed.

**Identity Theft:** Perpetrator obtains medications by using another person's Medicare card to obtain prescriptions, or uses another person's identity to enroll for benefits.

**Drug Diversion:** Beneficiary falsely reports the loss or theft of drugs or fakes illness to obtain drugs for resale on the black market.

**Improper Coordination of Benefits:** Beneficiary fails to disclose multiple coverage policies, or leverages various coverage policies to receive additional drugs, benefits or reimbursement.

# Pharmacy FWA Training

## *More Examples of Member FWA Schemes*



**Shopping:** When a beneficiary consults a number of doctors or emergency rooms for the purpose of inappropriately obtaining multiple prescriptions.

**Stockpiling:** An inappropriate method of obtaining and storing large quantities of medications.

**Misrepresentation of Eligibility:** It is illegal for a Medicare beneficiary to misrepresent personal information in order to receive the benefit, that they would have otherwise not have been eligible to receive.

# Pharmacy FWA Training

## *Examples of Pharmacy FWA Schemes*



**Dispense as Written (D.A.W.) Codes:** Pharmacies could inappropriately add the code D.A.W. to a claim in order to bill for brand name (more expensive) drugs.

**Restocking but not Retracting:** If a claim is billed for a prescription that was never picked up, the pharmacy should retract the claim. However, some pharmacies inappropriately restock the medication for resale and fail to retract the claim.

**Inappropriate Billing Practices:** When pharmacies prescription split to receive additional dispensing fees, bill for non-covered prescriptions as covered items, bill for brand when generics are dispensed, bill multiple payers for the same prescriptions (except as required for COB transactions), and bill for non-existent prescriptions.

# Pharmacy FWA Training

## *More Examples of Pharmacy FWA Schemes*



**Dispensing Expired or Adulterated Prescription Drugs:** Pharmacies dispense drugs that are expired, or have not been stored or handled in accordance with manufacturer and FDA requirements.

**Prescription Forging or Altering:** Where existing prescriptions are altered, by an individual without the prescriber's permission to increase quantity or number of refills.

**TrOOP Manipulation:** When a pharmacy manipulates 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.

**Prescription drug splitting or shorting:** Pharmacist provides less than the prescribed quantity and intentionally does not inform the patient or make arrangements to provide the balance but bills for the fully-prescribed amount.

# Pharmacy FWA Training

## *Examples of Prescriber FWA Schemes*



**Script Mill:** Where a provider writes prescriptions for drugs that are not medically necessary, often in mass quantities, and often for persons who are not their patients.

**Illegal Remuneration:** Prescriber is offered, or paid, or solicits, or receives unlawful remuneration (money) to induce or reward the prescriber to write prescriptions for drugs or products.

**Script Writing Parties:** In this scheme, the prescriber will write numerous scripts and give them to the pharmacy for cash or a medication kickback.

**Falsifying Medical Information:** In this scheme, a prescriber falsifies information (not consistent with the medical record) submitted through a prior authorization or other formulary oversight mechanism in order to justify coverage for the drug.

# Pharmacy FWA Training

## *Examples of Insurance Company FWA Schemes*

### FWA Diversion Schemes:

A FWA Diversion Scheme can occur when sponsors identify inappropriate billings, but allow providers to keep overpayments.

### Formulary Schemes:

Sponsors must ensure that they only provide coverage for covered drugs as listed in their approved formularies, and in accordance with all state and federal regulations.

### Failure to Provide Medically Necessary Services:

By failing to provide medically necessary services and items, a sponsor would pay fewer claims, which could increase profits.

### Marketing Schemes:

- Requiring a beneficiary to pay up front for premiums.
- Promising coverage that is not part of the plan (bait and switch scheme).
- Stating that a marketing agent/broker works for or is contracted with the Social Security Administration or CMS.
- Use of unlicensed agents.
- Offering beneficiaries a cash payment (kickback) as an inducement to enroll.
- Unsolicited door-to-door marketing.

# Pharmacy FWA Training

## *Examples of PBM FWA Schemes*

### Prescription drug switching:

The PBM receives a payment to switch a beneficiary from one drug to another or influence the prescriber to switch the patient to a different drug.

### Unlawful remuneration:

PBM receives unlawful remuneration in order to steer a beneficiary toward a certain plan or drug, or for formulary placement. Includes unlawful remuneration from vendors beyond switching fees.

### Inappropriate formulary decisions:

PBMs or their P&T committees make formulary decisions where cost takes precedence over clinical efficacy and appropriateness of formulary drugs.

# Pharmacy FWA Training

## *Examples of Wholesaler FWA Schemes*

**Counterfeit and adulterated drugs through black and grey market purchases:** This includes but is not limited to fake, diluted, expired, and illegally imported drugs.

**Diverters:** Brokers who illegally gain control of discounted medicines intended for places such as nursing homes, hospices and AIDS clinics. Diverters take the discounted drugs, mark up the prices, and rapidly move them to small wholesalers. In some case the pharmaceuticals may be marked up six times before being sold to the consumer.

**Inappropriate documentation of pricing information:** Submitting false or inaccurate pricing or rebate information to or that may be used by any Federal health care program.

# Pharmacy FWA Training

## *Examples of Pharmaceutical Manufacturer FWA Schemes*

**Inappropriate relationships with physicians:** Potentially inappropriate relationships between pharmaceutical manufacturers and physicians include:

- “Switching” arrangements, when manufacturers offer physicians cash payments or other benefits each time a patient’s prescription is changed to the manufacturer’s product from a competing product.
- Incentives offered to physicians to prescribe medically unnecessary drugs.
- Consulting and advisory payments, payments for detailing, business courtesies and other gratuities, and educational and research funding.
- Improper entertainment or incentives offered by sales agents.

**Illegal usage of free samples:** Providing free samples to physicians knowing and expecting those physicians to bill the federal health care programs for the samples.

**Illegal off-label promotion:** Illegal promotion of off-label drug usage through marketing, financial incentives, or other promotion campaigns.

# Pharmacy FWA Training

## *Examples of Other FWA Schemes*

**Theft of a Prescriber's DEA Number or Prescription Pad:** Prescription pads and/or DEA numbers can be stolen from prescribers. Once obtained, this information could illegally be used to write prescriptions for controlled substances or other medications often sold on the black market.

**Duplicate Billing:** Claims could be submitted by a provider under both medical for Part B and pharmacy for Part D.

**Home Infusion Schemes:** Home infusion pharmacies are often paid delivery and dispensing fees for certain self-injectable medications (e.g., Epogen, Procrit) even if the beneficiary self-administers.

**Differential Co-pays:** Beneficiaries may have different cost sharing obligations if a crossover drug is paid under Part B versus Part D, or vice versa. A beneficiary could lower their cost sharing obligations by improperly submitting a claim to the inappropriate payer.

# Pharmacy FWA Training

## *Conclusion*

You have completed this training module. Remember, if you suspect FWA, you may report it to EnvisionRx Plus for further investigation.

**Report Potential violations or FWA by**  
Emailing [complianceofficer@envisionrxplus.com](mailto:complianceofficer@envisionrxplus.com), or  
Dialing the FWA hotline @ (866) 417-3069

For more information, visit our website at [www.envisionrxplus.com](http://www.envisionrxplus.com)

**Thank you!**