

# CMS General Compliance Training

Part I

# What Is an Effective Compliance Program?

An effective compliance program fosters a culture of compliance within an organization and, at a minimum:

- Prevents, detects, and corrects non-compliance;
- Promotes prompt response and prevention;
- Includes written policies and procedures;
- Promotes an ethical culture; and
- Establishes clear lines of communication for reporting non-compliance.

# How to Report Potential Non-Compliance

Network providers have a duty to report potential violations when they occur.

- Call/Email the Integrity Hotline; or
  - (603) 223-1166
  - [IntegrityReporting@nedelta.com](mailto:IntegrityReporting@nedelta.com)
- Report to our Compliance Officer
  - Neiko Lavery, Associate General Counsel
  - [nlavery@nedelta.com](mailto:nlavery@nedelta.com)

# What Happens After Non-Compliance Is Detected?

After non-compliance is detected, it must be investigated immediately and corrected promptly.

Internal monitoring should continue to ensure:

- No recurrence of the same non-compliance;
- Ongoing compliance with CMS requirements;
- Efficient and effective internal controls; and
- Enrollees are protected.

# Fraud, Waste, and Abuse Training

Part II

# Fraud, Waste, and Abuse

- 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.
- Waste includes overusing services, or other practices that, directly or indirectly result in unnecessary costs to the Medicaid or Medicare Program. Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources.
- Abuse includes actions that may, directly or indirectly, result in unnecessary costs to the Medicaid or Medicare Program. Abuse involves payment for items or services when there is not legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment.

# Additional Statutes related to Fraud

- False Claims Act;
- Anti-Kickback Statute;
- Unlawful Patient Inducement

# False Claims Act

- Knowingly submitting a “false or fraudulent” claim
  - “Knowingly” means actual knowledge, deliberate ignorance and/or reckless disregard.
  - Simple error is not enough.
- As a provider to Medicare Advantage beneficiaries, the False Claims Act may apply to claims submitted to Delta Dental under this program.

# Anti-Kickback Statute

- Knowingly and willfully offering, paying, soliciting or receiving anything of value, directly or indirectly, in return for referrals or to induce referrals for services for which payment may ultimately be made in part under a federal health care program.
  - Claims that are submitted as a result of an unlawful kickback may be subject to the False Claims Act.

# Unlawful Patient Inducement

- It's against the law to provide remuneration to patients if that individual or entity knows (or should know) that doing so is likely to influence the patient's decision to order or receive items or services from a particular provider.
  - Exception: Items and services less than \$15 and less than \$75 per year.

# Potential Penalties for Violations of FWA

- Civil lawsuits and monetary penalties
- Criminal prosecution and monetary penalties
- Treble damages (three times the actual damages)
- Suspension or exclusion from participation in the Medicare and Medicaid programs
- Penalties for network providers
  - Providers can also face the termination of their provider agreement
  - Loss or suspension of license

# What Are Our Responsibilities?

We play a vital part in preventing, detecting, and reporting potential FWA

- FIRST, we must comply with all applicable statutory, regulatory, and other CMS requirements, including adopting and using an effective compliance program.
- SECOND, we have a duty to the Medicaid and Medicare Programs to report any compliance concerns, and suspected or actual violations that we may be aware of.
- THIRD, we have a duty to follow the standards of conduct and ethical rules of behavior.