

Medicare Advantage and Part D Contract Compliance & Oversight Overview

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Session Overview

- CMS Compliance/Oversight Structure
- Oversight Strategy
- Oversight Activities
- Alignment of Audit Approach
- Statutory & Regulatory Updates
- Compliance Plans/Programs
- What's on the Horizon?



New CMS Compliance and Oversight Structure

June 2008 Reorganization - Key Changes

- New name - “Center for Drug and Health Plan Choice” (“CPC”) (formerly “Center for Beneficiary Choices”)
- New - Program Compliance and Oversight Group - exclusively devoted to developing and implementing a more effective, comprehensive strategic compliance and oversight program
- Medicare Drug Benefit and C & D Data Group – consolidated C & D data collection, measurement development and performance analysis



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New CMS Compliance and Oversight Structure

June 2008 Reorganization - Key Changes (cont'd)

- Medicare Drug & Health Plan Contract Administration Group – consolidated C & D marketing policy and financial solvency reviews
- Regional Consortium for Medicare Health Plans Operations (CMHPO) - consolidated C & D account management.



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New CMS Compliance and Oversight Structure

June 2008 Reorganization - Key Changes (cont'd)

- Note:
 - CMS Office of Financial Management/Program Integrity retains responsibility for Part C/D fraud, waste and abuse compliance requirements.
 - Key partnerships exist between CPC and CMHPO (contract compliance oversight) and between CPC and OFM/PI (FWA oversight)

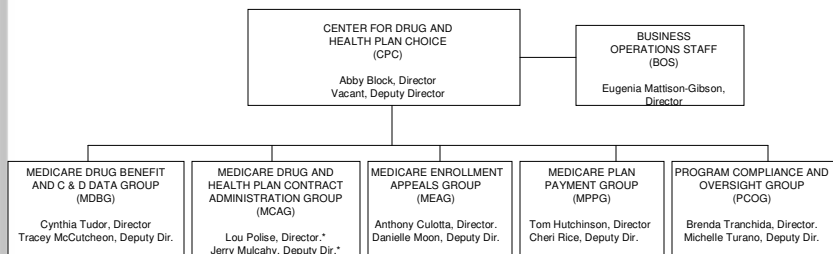


New CMS Compliance and Oversight Structure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

APPROVED
LEADERSHIP

As of
February 1, 2009
*Denotes Acting



New CMS Compliance and Oversight Structure

June 2008 Reorganization - Key Goals

- Enhance focus on:
 - Compliance/oversight activities
 - Data collection and tools to analyze data
 - Risk assessment and risk management
 - Integration of C/D oversight activities
 - Communication/collaboration
 - CMHPO (regions) and other involved CMS oversight entities (e.g., OFM program integrity re: fraud, waste and abuse, OFM financial management re: 1/3 financial audits)
 - Consistency
 - Transparency to stakeholders (internal and external)



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Oversight Strategy

- Paramount goals = protecting Medicare beneficiaries enrolled in Part C/D plans and promoting efficiency and sustainability of Medicare program
- Foundation = data-driven monitoring and quantifiable performance measures (e.g., “star” ratings/plan report cards)
- Strategies/resources based on assessment of risks and targeted to proactively address these risks
- Promotes early alerts and consistent, prompt corrective responses at lowest level possible using a progressive compliance model where appropriate



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Oversight Strategy

- Provides supports for implementation of necessary, sustainable compliance and/or enforcement actions (intermediate sanctions, civil monetary penalties, terminations) that protect beneficiaries and the Medicare program and have positive effect on plan sponsor performance
- Flexibility to be proactive and responsive to new challenges/risks as they emerge

Oversight Strategy

- Ensure stakeholders (plan sponsors, States, SHIPs, beneficiary advocates, program integrity, law enforcement, etc.) provide needed “front line” feedback and are appropriately informed of our priorities and expectations
- Transparency of compliance organizational structure, plan performance data and compliance/enforcement actions

Oversight Activities

- Day-to-day account management and monitoring
- Comprehensive plan sponsor data collection/reporting, measurement development and plan sponsor performance assessment
- Improved oversight tools and more rigorous enforcement of requirements (e.g., use of MEDICS for compliance activities)
- Audit/review activities (bid reviews, risk adjustment validation reviews, financial reviews, program audits, Part D LIS readiness audits, LTC pharmacy reviews, compliance plan audits, etc.)

Oversight Activities

- Surveillance activities (e.g., secret shopping, call center monitoring, review enrollment calls, clipper service, etc.)
- Complaint/information exchanges with State Departments of Insurance (DOIs)
- Compliance/enforcement actions (address individual sponsor and programmatic issues)
- Information/feedback from plan sponsors (e.g., required reporting, internal monitoring, self-audits, compliance plan/program assessment activities)

Alignment of Audit Approach With Oversight Strategy

- Shift from routine audits to more targeted data-driven/risk-based audits (beginning in 2009)
- More real-time and focused on known risks or identified concerns with plan sponsors
- Primary focus on outcomes – *not* policies/procedures)
- Targeted on plan sponsors that demonstrate problematic performance and/or high risk areas with greatest potential for beneficiary harm (e.g., enrollment operations, appeals & grievances, etc.)
- Includes some comprehensive audits and random selection

Alignment of Audit Approach With Oversight Strategy

- Gap analysis of available data/information to determine items that cannot be evaluated other than through audit process
- Earliest possible detection and correction of issues before they become full-blown problems
- Quantifiable, meaningful results for CMS and plan sponsors upon which to make corrections and improvements and facilitate decision-making
- Focused on improving performance and overall quality improvement

Alignment of Audit Approach With Oversight Strategy

- Use of audit support staff for assistance in focused compliance reviews/audits (e.g., MEDICS)
- Audit findings will be integrated in comprehensive, real-time management reports and performance data on plan sponsor (“dashboard”) to be used by account managers and CMS senior leadership to monitor accounts, oversee programs and take any needed actions

Statutory & Regulatory Updates

Final Compliance Regulation (CMS 4124-FC) 72 Fed Reg 68700 (published 12/7/07)

- Title: Medicare Program; Revisions to the Medicare Advantage and Part D Prescription Drug Contract Determinations, Appeals, and Intermediate Sanctions Processes
- Certain Provisions Effective 1/4/08 & 1/1/09

Statutory & Regulatory Updates

Final Compliance Regulation (CMS 4124-FC) 72 Fed Reg 68700 (published 12/7/07)

- Provisions Effective 1/4/08: intermediate sanctions, non-renewals, terminations and civil money penalties
 - Simplified and made consistent appeal procedures for all contract determinations (including intermediate sanctions, terminations, and non-renewals)
 - Removed reconsideration process for contract determinations
 - Provide regulatory appeal procedures in 422 and 423 for civil money penalties



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Statutory & Regulatory Updates

- Provisions effective 1/1/09:
 - Removed requirement for separate FWA compliance plan – included in compliance plan requirement
 - Amended language re: requirement for effective training and education and lines of communication to use new terms - “first tier, downstream and related entities”
 - Added language previously contained in separate FWA compliance plan requirement to a separate section which requires procedures to voluntarily self-report fraud or misconduct
 - Clarified that same access is required to facilities and records of first tier, downstream and related entities as to plan sponsor



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Compliance Plans/Programs

- Term “compliance” generally refers to two (2) fundamental and inter-related requirements as reflected by the most recent regulatory changes to 42 CFR 422.503(b)(4)(vi) and 42 CFR 423.504(b)(4)(vi).
- “Compliance” refers to: (1) all contract compliance requirements; and (2) includes FWA compliance elements and requirements

Compliance Plans/Programs

- Implementing effective and comprehensive compliance plans/programs are key to achieving compliance with CMS requirements, which include the requirement to implement programs to control and combat fraud, waste and abuse (FWA)
- An effective compliance program ensures your organization meets all CMS requirements and addresses both set of inter-related requirements

Compliance Plans/Programs

- CPC and CMHPO (AMs) have responsibilities for all contract compliance matters
- Office of Financial Management/Program Integrity has responsibility for FWA compliance plan requirements (e.g., Chapter 9 of the Prescription Drug Benefit Manual)
- CPC and OFM/PI closely collaborate on contract compliance matters

Compliance Plans/Programs

- In addition to PDP compliance plan audits conducted by OFM/PI, all CPC audits will include compliance plans/programs to ensure plan sponsors are meeting the requirements of 42 CFR 422.503 and 423.504
- Will not be limited to a “policies and procedures” inquiry
- Will focus on all seven basic requirements for an effective compliance plan/program with a particular focus on whether compliance plan/program achieves required outcomes (i.e., find and fix problems -prevent, detect, and respond timely and effectively to compliance issues)

Compliance Plans/Programs

- Note: expect plan sponsors to have metrics, effective internal controls, monitoring and reporting and risk assessment/management programs to exercise proper oversight of internal operations and any delegated entities, contractors, etc.
- i.e., you did not know or you did not have control over will not be an excuse for compliance violations caused by failures to implement proper internal controls or exercise proper oversight – these are a part of plan sponsors' basic and fundamental compliance plan/program responsibilities

Compliance Plans/Programs

- We will be looking for you to show artifacts/evidence to support outcomes in these and other areas of compliance:
 - Do you have a vigorous, meaningful compliance program that, at a minimum, meets all of our requirements and produces outcomes that effectively prevent, detect and respond to compliance issues?
 - Do you conduct training for all those persons critically involved in compliance (your employees, first-tier, downstream and related entities, etc.) in a meaningful way and focused on a proper risk assessment (to beneficiaries and the Medicare program)?

Compliance Plans/Programs

- Do you conduct internal monitoring and audits?
- Do you exert the proper internal controls over all of your operational processes and any delegated entities you rely upon to perform those operational functions?
- Do you take prompt, effective, corrective action on compliance issues when they are detected through internal monitoring, audits, employee complaints, etc?
- Do you use your ongoing efforts and information to make improvements in your plan/program?

Compliance Plans/Programs

- Compliance “Checklist” (2/10/09 Wash Post article – “A Team Approach & A Checklist Reduce Infections”)
- Team-based approach where everyone feels responsible for outcomes
- Creation of a “culture of compliance”
- GAO and OIG studies on these topics (GAO-08-760, July 2008; OEI-03-08-00230, October 2008).
- CMS and external oversight interest will continue to be heightened in this key area – pay attention!

What's On the Horizon?

- Stepped up oversight - more rigorous, proactive, data-driven, targeted monitoring and oversight with stricter requirements and expectations for responsiveness from plan sponsors
- Future changes in audit approach and processes – more timely, targeted on known risks, outcome-based
- Compliance plans/programs - CPC will conducting targeted reviews/audits of compliance plan/program requirements (excluding FWA requirements oversight conducted by OFM/PI) to ensure your programs are yielding proper outcomes.

What's On the Horizon?

- Industry compliance training and educational initiatives targeted to Chief Compliance Officers and their compliance staff
- Expectation = internal controls over operations, delegated entities, especially in areas that have the potential to directly and adversely affect beneficiaries (e.g., issuing timely and correct ANOCs/EOCs, oversight of delegated entities, marketing and agent broker compensation)

What's On the Horizon?

- CMS will exercise authority to impose enforcement sanctions and CMPs as determined necessary when we uncover lack of internal controls or adherence to our requirements
- Not acceptable response to say you did not know or your vendor made a mistake or did not meet a requirement that you were ultimately responsible for meeting especially if it directly affects beneficiaries (e.g., issuing timely and correct ANOCs/EOCs, properly processing appeals and grievances, preventing and responding to marketing abuses)

What's On the Horizon?

- “Dashboard” implementation – vehicle for consolidation of data for management oversight and decision-making about a plan sponsor, a product type, analysis of emerging compliance trends, etc.
- Improved coordination and exchange of information with the States to better support our respective oversight and enforcement roles

What's On the Horizon?

- Expectation for plan sponsors to provide ongoing feedback and information from front lines (internal monitoring, auditing and self-disclosure of issues)
- Note: OIG work plan and GAO and congressional interests – expect appeals and grievances, agent/broker compensation requirements, compliance plans/programs to be focus in 2009 (expect similar heightened focus from CMS)

Questions?

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