

# Developing Processes for Reporting Organizational Compliance Risks



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## Setting the Stage

- Become aware of an organizational risk or incidents of noncompliance through self-audit or self-report
- Investigate the situation
- Conduct a compliance risk assessment
- Determine what corrective actions are being taken to address the underlying problem

## Then comes the question: Who ya gonna call?

- ***Policies and Procedures*** detailing the actions a plan will take when risks or incidents of noncompliance are discovered.
- ***Reporting Mechanisms*** to Compliance Committees and Governing Bodies.

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## Elements of an Organization's Approach

- Identifying and creating process for escalating risks and issuing alerts.
- Drafting policies and procedures that clearly identify when the compliance officer will issue a risk alert and to whom.

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## Elements of an Organization's Approach

- Classifying a compliance risk as low, medium or high.
- Evaluating the severity of the consequences and the likelihood of occurrence/reoccurrence.
- Educating management about levels and seriousness of the risks, viewing risks differently than Medicare Operations does.

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## Elements of an Organization's Approach

- Identifying risks that are internal audit findings which may be covered by attorney-client privilege
- Determining when it is appropriate to notify CMS of non-compliant activities.

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## **What makes a compliance risk low, medium or high?**

- Single incident, repeat issue or systemic, ongoing problem.
- Frequency or knowledge of violation.
- Is a fix planned or proposed.
- Sensitivity of issue (privacy) or information.

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## **What makes a compliance risk low, medium or high?**

- High priority area for CMS (sales and marketing, beneficiary notices, risk adjustment, call centers, appeals and grievances, enrollment, access to providers and benefits, vulnerable beneficiaries).
- Beneficiary Impact (enrollment operations, appeals and grievances).

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## What makes a compliance risk low, medium or high?

- Financial ramifications for plan
- Delegation to 3<sup>rd</sup> party
- Previous audit findings
- Civil or Criminal Fraud or Abuse

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## What makes a compliance risk low, medium or high?

- **One of the Nine CMS Performance Dimensions for 2009**
  - Compliance Letters
  - Performance Metrics
  - Part C Routine Audit CAPS
  - Multiple Ad Hoc CAPs
  - Beneficiary Impact of Problems
  - Financial Instability
  - Disruptive Mutual Terminations
  - Enforcement Actions
  - Open Significant Compliance Problems

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## What makes a compliance risk low, medium or high?

- Overall risk to company using possible CMS compliance sanctions:
  - Notice of Non-Compliance;
  - Warning Letter;
  - Various suppressions and exclusions - MPDPF suppression, Medicare and you Handbook exclusion, On-line enrollment center exclusion, fewer formulary update windows, no reassignments

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## What makes a compliance risk low, medium or high?

- CMS Sanctions (continued)
  - Request for Corrective Action Plan (CAP),
  - New Application/SAE Denials;
  - Audit Selection;
  - Enforcement and Termination

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## **Risk Alerts - Who Needs to Know, What, and When**

- Role of the Compliance Officer – proactive v. reactive, undertaken following adverse findings from internal audit, monitoring activities, self-reports, third party regulatory reviews, and complaints from consumers or other stakeholders.

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## **Risk Alerts - Who Needs to Know, What, and When**

- Need for a policy and procedure clearly identifying when Compliance Officer will issue a risk alert and to whom

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## **Risk Alerts - Who Needs to Know, What, and When**

- Educating management regarding level and the seriousness of the risks, viewing risks differently than Medicare operations does
- Identify risks that are internal audit findings that may be covered by attorney-client privilege (IA)

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## **Risk Alerts - Who Needs to Know, What, and When**

- Risks presented to Medicare Compliance Committee, which is accountable for escalating critical issues and high risk areas to Audit and Compliance Committee of the Board and the Corporate Compliance Officer
- Risks also escalated informally on a need-to-know basis

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## **Our Reporting Structure in Flux**

Medicare Compliance reports to the Chief Compliance Officer through the Chief Legal Counsel. The Committee has dual reporting requirements to the Chief Compliance Officer and the Regence Board of Directors Audit and Compliance Committee.

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## **When to notify CMS of non-compliant activities?**

- CMS Operations and Oversight Conference, Surveillance Best Practices, 10/19/09: Report self-identified issues to CMS & Self-disclose in timely manner
- Beneficiary Impact
- High Priority Area for CMS
- Self-reporting v. notice of non-compliance
- Relationship with Account Manager

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## Questions/ Contact Information

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Thank you!

