

# **New Training Requirement for Medicare Advantage Organizations**

## **Summary of Final Rule**

According to 42 C.F.R. §§ 422.503 (b) (4) (vi) and 423.504 (b) (4) (vi) Medicare Advantage Organizations (MAOs) must implement and maintain an effective compliance program. Part of maintaining an effective compliance program is providing sufficient oversight to First-Tier, Downstream and Related Entities (FDRs). A core element of maintaining an effective compliance program is education and training. The purpose of this document is to explain The Centers for Medicare and Medicaid Services (CMS) recent policy change about this core element.

### History

Prior to the Final Rule published in the Federal Register / Vol. 83, No. 73 / April 16, 2018, MAOs were required to educate and train FDRs on fraud, waste and abuse, and general compliance requirements. However, this resulted in a significant burden on FDRs as they were required to complete each MAO's training. Some FDRs contract with hundreds of MAOs, therefore, this created a significant burden on FDRs. In an attempt to standardize training and lessen the burden on FDRs, CMS created a web-base training module that FDRs could complete, receive a certificate, and present it to all MAOs as evidence of completing the training requirement<sup>1</sup>. However, the problem continued because MAOs had difficulty adopting CMS's training as a standard. Therefore, they continued requiring FDRs to complete their respective training. Additionally, MAOs refused to identify which positions within the FDR's organization that would be subject to the training requirement.

### Elimination of the Training Requirement

In response to these concerns, CMS has decided to eliminate this requirement. Several factors led to this decision. First, most MAOs have well-developed compliance programs capable of training and educating employees and FDRs on Medicare program requirements. Secondly, CMS Parts C and D audits are sufficient to ensure MAOs continually improve their compliance programs. Therefore, CMS no longer considers the training requirement to be a driver of performance with Medicare program requirements.

However, CMS still holds MAOs accountable for FDR's performance and compliance with all Medicare program requirements including education and training. CMS's contract is with the MAO organization and not with FDRs. Thus, CMS does not interfere with private contractual relationships between MAOs and FDRs. The Final Rule

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<sup>1</sup> May 23, 2014, Final Rule (79 FR 29853 and 29855)

provides, “If Sponsors choose to include a compliance training program requirement as part of their contract with FDRs that is a private contractual matter between the FDR and the Sponsoring organization Such training would not be prohibited by these rules as amended.”

#### Community Care’s Position on Education and Training

In a continued effort to detect, deter, and prevent fraud, waste and abuse, Community Care will continue to require FDRs complete compliance training. This training must be conducted within 90 days of contracting/employment and annually thereafter. FDRs must be able demonstrate that their employees and Downstream entities have fulfilled this requirement. FDRs are responsible for designing and conducting their own training. The web-based compliance training currently provided by CMS will eventually be removed. The Medicare Managed Care Manual Chapters 9 and 21 will be amended to reflect these changes.