

Medicare Part D Fraud, Waste, and Abuse (FWA) Frequently Asked Questions

Q: Why is my pharmacy being required to take fraud, waste, and abuse training?

When the Medicare Modernization Act (MMA) passed in 2003, it included a requirement for all Part D plans to have in place a program to control fraud, waste, and abuse. CMS further defined that requirement to state that beginning with the 2009 plan year, all plans must incorporate fraud, waste, and abuse guidelines into their compliance plans and ensure that all of their contracted entities, including pharmacies, have policies and training in place to detect, correct, and prevent fraud, waste, and abuse.

Q: What is the purpose of the fraud, waste, and abuse requirement?

With an annual price tag of \$440 billion, Medicare is currently the nation's largest federally funded health insurance program. Due to its size and complexity, the government considers fraud and abuse a major concern, which is why it included the fraud, waste, and abuse requirement in the MMA. The overall purpose behind the requirement is to protect the federal government and Medicare beneficiaries from fraudulent, abusive, and wasteful schemes through the delivery of the prescription drug benefit by ensuring plan sponsors and downstream entities (pharmacies) have received training to detect, correct, and prevent fraud, waste, and abuse.

Q: What are the basic elements of a fraud, waste, and abuse program?

Although CMS requires plan sponsors to have a "comprehensive fraud, waste, and abuse program," the specifics of those programs were left to the discretion of each sponsor, which is why pharmacies will see some variation from plan to plan. However, each plan's requirements contain one or more of the following elements:

- **Written Policies and Procedures**

Some (not all) plans are requiring pharmacies to have written policies and procedures that address fraud, waste, and abuse as part of an overall compliance plan. These policies typically must be shared with all new employees and reviewed annually by all pharmacy staff.

- **Staff Training**

All pharmacies will need to document that pharmacy staff members have gone through annual fraud, waste, and abuse training beginning in 2009.

- **Exclusion Lists**

Though this is not an official part of the fraud, waste, and abuse requirement, it is a previous requirement of the Part D program for pharmacies to check two federally maintained databases to ensure their employees are not listed on these federal "exclusion lists." As part of a pharmacy's fraud, waste, and abuse program, it is a good idea to have a policy that requires pharmacy managers to visit the two Web sites below, enter your employees' names into the databases, confirm that none of

your employees are listed on either of these two lists, and document the dates and results of these searches.

- <http://exclusions.oig.hhs.gov/search.aspx>
- <https://www.epls.gov/>

Q: Do I have to write my own fraud, waste, and abuse policies and procedures for my pharmacy and develop my own training program?

No. As stated above, it is the responsibility of the plan sponsor to either provide the policies and training directly to its downstream entities (pharmacies) or provide the appropriate training materials to its downstream entities (pharmacies) and ensure that the training has been taken. Downstream entities, including pharmacies, should not develop their own training or policies. In terms of the policies and procedures, there are some commercial products that are available that will help you comply with this requirement. Additionally, some plans have offered to make their policies and procedures available if the pharmacy does not have any existing documents that comply. Some PSAO/contracting organizations are developing these products as a member benefit for their customers. In terms of the training requirement, LearnSomething has developed a training program that is currently available that provides general training on fraud, waste, and abuse, and more training programs are currently being developed.

Q: Who will need to receive fraud, waste, and abuse training?

In general, it is CMS' intent that anyone who participates in the provision of the Part D benefit, either through interaction with the Medicare patient or the medications dispensed to Medicare beneficiaries, should receive fraud, waste, and abuse training. In other words, the nightly cleaning crew would be exempt, but pharmacists, pharmacy technicians, and even cashiers would need to take the training.

Q: When is the deadline for employees to receive fraud, waste, and abuse training?

The training requirement becomes effective Jan. 1, 2009. Therefore, the mandatory training of pharmacy staff must begin Jan. 1, 2009, and must be completed within one year (by Dec. 31, 2009). Thereafter, the training on the Part D program must be provided on an annual basis. It is important to note that the training **does not** need to be completed **by Jan. 1, 2009**. Rather, pharmacies must **start** the process on Jan. 1, 2009. Most plans will likely institute their own internal deadlines with pharmacies to ensure they can meet the Dec. 31 deadline mandated by CMS. Pharmacies that do their own contracting are advised to contact the plans directly for information on deadlines, and pharmacies that utilize third-party contracting entities are advised to ask them what deadlines they must follow.

Q: I already took a training program in 2008. Does that meet the requirement for 2009?

Unfortunately, since the fraud, waste, and abuse training requirement is an annual requirement and does not officially take effect until Jan. 1, 2009, any training done prior to that date will not carry over. Any training programs taken in 2008 will need to be retaken in 2009.

Q: Why must pharmacy employees be retrained every year?

Because risk areas related to fraud, waste, and abuse evolve and change over time, training programs will need to be reviewed and retaken annually.

Q: What types of training are acceptable?

CMS left it up to the plan sponsors to decide what type of training programs they would accept. Example training types mentioned included Web-based tools, Intranet sites, and videotaped presentations.

Q: Will pharmacies need to take a different training program for each plan with which they contract?

CMS recognizes that the fraud, waste, and abuse training requirement could be cumbersome for pharmacies that contract with multiple Part D sponsors. To alleviate the need for pharmacies to take training multiple times, there are a few organizations that are working to create training programs that will meet CMS' requirements. The goal would be to offer training that pharmacies could take once a year to meet their annual obligation with all the Part D sponsors with which they contract.

Q: Will pharmacies be required to show proof that their staff members have received fraud, waste, and abuse training during a pharmacy audit?

Yes. However, since the training requirement as clarified by CMS doesn't begin until Jan. 1, 2009, it is unlikely that a 2009 pharmacy audit would include requests for training documentation. However, down the road, this will definitely be a part of the pharmacy auditing process.