



Compliance Program Element III

Effective Training and Education



Focused Training Compliance Program Guidelines

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Today's Agenda

Part I – Overview of Element III Requirements

Part II – Application and Expectations

Part III – Case Scenario Review Questions

Part IV – Frequently asked Questions

Part I – Overview of Element III

“Must”...“Should”...“Best Practices”

- Must:*** Requirements created by statute or regulation; no discretion
- Should:*** Expectations identified in Guidelines; discretion as to how you accomplish effectiveness
- Best Practices:*** Procedures that work well for some Sponsors; may not work for all

Element III

Effective Training and Education

Requirements:

Must establish, implement and provide effective training and education for employees, including the CEO, senior administrators or managers, and for the governing body members, and first tier, downstream and related entities (FDRs).

42 C.F.R. § 422.503(b)(4)(vi)(C)

42 C.F.R. § 423.504(b)(4)(vi)(C)

Element III

Effective Training and Education

Requirements (cont'd):

Training and education must occur at least annually and be made a part of the orientation for new employees, including the chief executive and senior administrators or managers, governing body members, and FDRs.

42 C.F.R. § 422.503(b)(4)(vi)(C)

42 C.F.R. § 423.504(b)(4)(vi)(C)

Element III

Effective Training and Education

Requirements (cont'd):

FDRs who have met the fraud, waste and abuse (FWA) certification requirements through enrollment into the Medicare program or accreditation as a Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) are deemed to have met the training and educational requirements for FWA.

42 C.F.R. § 422.503(b)(4)(vi)(C)

42 C.F.R. § 423.504(b)(4)(vi)(C)

Element III- Critical Guidance

General Compliance Training and Education:

- Within 90 days of hire, annually thereafter
- Be able to demonstrate to CMS training satisfied
- General compliance info./expectations communicated to FDRs
- Sponsors/FDRs may satisfy through CMS Training Module: <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/ProviderCompliance.html>

Element III- Critical Guidance

FWA Training:

- Within 90 days of hire, annually thereafter
- Additional/specialized training specific to function
- Provide training directly or materials to FDRs
- Sponsors/FDRs may satisfy through CMS Training Module
- Medicare-enrolled FDRs “deemed” to satisfy FWA training

Part II – Application and Expectations

General Compliance Training and Education

How to satisfy General Compliance Training:

- Sponsor's discretion
- Classroom, online, attestations of receipt and review of Standards of Conduct
- May satisfy by completing CMS Compliance Training Module
- Must be able to demonstrate satisfied

General Compliance Info. to FDRs

How to educate FDRs on General Compliance:

- Must provide general compliance info. and expectations to FDRs
- Can accomplish through distribution of sponsor's Standards of Conduct to FDRs
- CMS General Compliance Training Module
- No "deeming" exemption for General Compliance Info.

General Compliance Topics

General Compliance training/education topics:

- Description of Compliance Program
- Overview of compliance reporting
- How to identify noncompliance/potential FWA
- Overview of monitoring and auditing process
- Expectations regarding employee conduct

FWA Training

How to satisfy FWA Training at sponsor level:

- Sponsor's discretion
- May tailor training to individual circumstances
- May satisfy by completing the CMS FWA Training Module

FWA Training for FDRs

How to satisfy FWA Training to FDRs:

- Sponsor provides training directly to FDRs
- Sponsor provides training materials to FDRs
- FDRs complete the CMS FWA Training Module
- Sponsor confirms individual FDRs “deemed” as satisfying FWA training requirement

Lessons Learned: Ineffective Compliance Practices

- No training provided to Board/Senior Leadership
- Only one training format (e.g. self-navigated Power Point)
- No testing to ensure training content understood
- No tracking system to monitor training completion
- Training materials never/rarely updated
- Re-training not performed when issues arise in operational areas

Lessons Learned: Best Practices

- Training materials reviewed by Board/Senior Leadership
- Multiple training formats (e.g. webinar, classroom, etc.)
- Tracking systems that alert when training not satisfied
- Frequent revisions/updates to training materials
- Evaluate effectiveness of training

CMS Compliance Program Audit

(ATTACHMENT III/IIIA) Compliance Program Data and Document Requests/Sample Case File:

- Employee/First Tier Records (check for training completion)
- Medicare Compliance Education
- FWA Training

Highlights – Element III

- Effective Compliance and FWA Training and Education critical for all employees, senior management, Board members and FDRs
- Sponsors have burden of ensuring FDRs receive appropriate education and training
- Importance of Training and Education must be messaged from the top of the organization

Part III – SponsorX Case/Review

SponsorX Case Scenario

Scenario 1:

- Understand and acknowledge FDRs must satisfy FWA Training requirements
- Senior Management contends too many FDRs to “deal with” training requirements
- Propose to send fax blast asking all FDRs to do “some form” of FWA training

Question 1: Poll –

- 1. Which of the following methods are acceptable means for FDRs to satisfy FWA Training requirements?**
- A. FDRs complete CMS FWA Training Module
- B. FDR develops their own FWA Training
- C. FDR is “deemed” through Medicare A/B enrollment
- D. Sponsor provides FWA training materials to FDRs

Answer: A, C, D

- FDRs may satisfy FWA Training requirements through:
 - A. CMS FWA Training Module
 - C. Be “deemed” through Parts A/B enrollment
 - D. Take training/materials provided by sponsor

SponsorX Case Scenario

Scenario 2:

- FDRs complain already required to take several FWA trainings from numerous other sponsors

Question 2: Poll –

2. If an FDR takes the CMS FWA Training Module, as required by one of their sponsors, have they satisfied the FWA Training requirement with respect to all other sponsors with whom they may contract?

A. Yes

B. No

C. Depends

Answer: C

- Each plan sponsor is responsible for ensuring that their FDRs satisfy the FWA Training requirement
- Contract requirements will dictate
- Sponsors encouraged to permit FDRs to satisfy through CMS FWA Training Module

SponsorX Case Scenario

Scenario 3:

- SponsorX doesn't feel a need to communicate compliance expectations to FDRs
- FDRs are all professionals
- People already know how to behave

Question 3: Poll –

- 3. In what way may a sponsor satisfy General Compliance Education requirements with respect to their FDRs?**
- A. Stipulate Compliance information and expectations in Provider Manuals or contracts
- B. Distribute sponsor's Standards of Conduct to FDRs
- C. Provide General Compliance training materials to FDRs
- D. None of the Above

Answer: A, B, C

- Various ways for Sponsors to communicate General Compliance Information to their FDRs.
- Burden is on Sponsor to communicate info. and expectations

Part IV – Frequently Asked Questions

Frequently Asked Questions (FAQs)

- Following “FAQs” based on common questions received by industry through audit process, enforcement activities, in Compliance Program Mailbox, etc.

FAQs

Q1: Does the “Deeming” exception apply to General Compliance Education and Training Requirements?

A: No, The “deeming” exception provided in regulation only provides an exemption from *FWA* training, for those FDRs that have met *FWA* certification requirements through enrollment into Medicare Parts A or B or through accreditation as a supplier of DMEPOS.

FAQs

Q2: Does the issuance of the CMS combined FWA/General Compliance Training Module create a new requirement for formal General Compliance Training?

A: No. General Compliance Training and Education is an existing requirement for Sponsors. The purpose of the Training Module is to assist Sponsors and FDRs in satisfying FWA and General Compliance Training and Education Requirements. The Module is not mandatory.

FAQs

Q3: Does every employee of every FDR have to satisfy FWA Training requirements?

A: FDR employees that perform work on behalf of the plan sponsor's Medicare contract must satisfy FWA Training requirements.

FAQs

Q4: Are FDR employees required to receive, review and “sign-off” on compliance information and expectations for all of the sponsors with whom the FDRs contract?

A: No, FDR employees don't necessarily need to read and sign-off on each individual sponsor's compliance information. Sponsors must ensure that FDRs understand and are abiding by compliance expectations.

Contact Information

The Division of Compliance Enforcement (DCE) has a streamlined process for responding timely to compliance program policy questions or inquiries:

Parts_C_and_D_CP_Guidelines@cms.hhs.gov

The Part C and Part D Compliance and Audits webpage provides information regarding Compliance Program Policy and Guidance, Compliance and Enforcement Actions taken by CMS, and Program Audits relating to Medicare Plans.

<http://www.cms.gov/Medicare/Compliance-and-Audits/Part-C-and-Part-D-Compliance-and-Audits/index.html>