


MOLINA MEDICARE

Policy and Procedure No. MMCD-05
Department: Compliance
Title: Medicare Compliance Issues
Effective Date March 1, 2011
Reviewed and Revised Date: May 24, 2016
Reviewed Only Date:
Supersedes and replaces:
Date:

Name: John Tanner
Title: Medicare Compliance Officer
Signature: 
Date: 5/24/16

I. PURPOSE

To provide a process for Molina Medicare Compliance to fully and appropriately receive, document, investigate and resolve reports of potential or actual violations of Medicare or other federal laws, regulations, policy, and/or guidance, including unethical or non-compliant behavior.

Medicare compliance issues may be discovered at the corporate office level, the state health plan level, or at the level of Molina First Tier, Downstream, or Related entities (FDRs or “contractors”). Examples of compliance issues may include, but are not limited to:

- Theft, fraud, waste, and abuse
- Concern regarding accounting or auditing matters
- Accepting or offering remuneration in exchange for steering patients
- Improper use of Molina’s property and systems
- Falsifying documents
- Inaccurate or incomplete documentation and coding
- Non-compliance of regulatory requirements
- Unauthorized disclosure of PHI or confidential information
- Conflicts of Interest

II. POLICY

Molina Medicare employees and contractors are required to report any Medicare compliance concerns internally for investigation and follow-up by Molina Medicare Compliance. Molina does not retaliate, discriminate against, threaten or coerce any Molina employee or contractor who reports a case of potential or suspected non-compliance.

Molina Medicare Compliance documents and investigates all reports of potential non-compliance with Medicare and other federal statutory and regulatory requirements as well as policy guidance. Investigations are conducted timely and confidentially, and findings are communicated to the Medicare Compliance Committee, to Molina senior management, the Board of Directors, and when appropriate, certain government authorities. Corrective and/or disciplinary action is taken for confirmed cases of non-compliance.

III. PROCEDURE

A. Reporting Process—Molina Employees

1. Molina Medicare promotes and maintains an “open-door policy” at all levels of management to foster a work environment that enables Molina employees to report potential or suspected compliance concerns without fear of retaliation.
2. Molina Medicare Compliance informs employees, through the following methods, of the requirement to report compliance concerns and the reporting methods available:
 - i. FWA and Compliance training upon hire and annually thereafter;
 - ii. Distribution of the Medicare Compliance Plan upon hire and annually thereafter; and
 - iii. Compliance posters in various locations throughout corporate and state health plan facilities.
3. Molina Medicare employees are required to report any potential issues of Medicare non-compliance to the Medicare Compliance Officer, within ten (10) days of discovery of the potential compliance issue. In the event that the compliance issue has the potential for harm to Molina Medicare members, the issue must be reported within one (1) working day of discovery.
4. Molina Medicare employees are educated about Medicare requirements through annual Medicare training, which is provided for each functional area (e.g., enrollment/disenrollment, claims processing, appeals/grievances, organization/coverage determinations, sales and marketing, etc.), so that employees will be able to identify instances when Molina Medicare is out of compliance with Medicare requirements.
5. Molina Medicare employees may report issues of potential non-compliance through any of the following channels, though it is recommended to report compliance issues to the Medicare Compliance Officer or through the Medicare Compliance Hotline:
 - i. Their immediate supervisor or manager;
 - ii. The Human Resources Department;
 - iii. The Medicare Compliance Officer (via telephone, email, in writing, or in person);
 - iv. The Medicare Compliance Hotline and on-line reporting system, which are available 24 hours a day 7 days a week, 365 days a year:

B. Reporting Process—Contractors (First-Tier, Downstream, and Related Entities)

1. Molina Medicare, through the following channels, educates contractors of the requirement to report any cases of potential or suspected non-compliance to Molina Medicare and the reporting methods available:
 - i. The Molina Code of Business Conduct and Ethics, to which new contractors must sign a written attestation upon contracting and annually thereafter that they have received it, read it, and will comply;
 - ii. FWA and Compliance training upon contracting and annually thereafter.
 - iii. The Molina Medicare online provider portal
2. Molina Medicare contractors are required to report any potential issues of Medicare non-compliance to the Medicare Compliance Officer, within ten (10) days of discovery of the potential compliance issue. In the event that the compliance issue has the potential for harm to Molina Medicare members, the issue must be reported within one (1) working day of discovery.
3. Molina Medicare contractors may report issues of potential non-compliance through any of the following channels, though it is recommended to report compliance issues to the Molina Medicare Compliance Officer or through the Molina Compliance Hotline:
 - i. The contractor's immediate supervisor or manager;
 - ii. The contractor's Compliance Officer, if they have one;
 - iii. The Molina Medicare Compliance Officer (via telephone, email, in writing, or in person);
 - iv. The Medicare Compliance Hotline and on-line reporting system, which are available 24 hours a day 7 days a week, 365 days a year.

C. Confidentiality and Anonymity

1. The confidentiality of Molina employees and contractors who report compliance concerns, as well as those who are the subject of the allegation, is protected by the Medicare Compliance Officer and any other Molina Medicare staff that is assigned to investigate and/or follow up on the compliance concern to the greatest extent possible.
2. Any documentation related to the reporting and investigation of the compliance concern is kept in a confidential web-based tracking system accessible only by Molina Medicare Compliance.
3. If the reporting party wishes to provide an anonymous report of a compliance concern, they may submit the concern through the Medicare Compliance Hotline, without leaving their name or other identifying information. They may also report the compliance concern through the other methods described in III.A.5.i through iv (employees) or III.B.3.i through iv (contractors), requesting that the receiving party maintains their anonymity. The Medicare Compliance Officer informs the reporting party

that, as the investigation progresses, if CMS, the OIG or other government authorities become involved, they may ask to speak with the reporting party and that individual's identity may become known as part of the investigation.

D. Non-retaliation

1. Neither the Medicare Compliance Officer, nor any other Molina employee or contractor involved in the receipt, investigation, and/or follow up of a compliance concern, will intimidate, threaten, coerce, discriminate against, or take any other retaliatory action against any Molina Medicare employee or contractor who reports a compliance concern.
2. Molina Medicare Compliance informs the reporting party that he/she should report any retaliation to the Medicare Compliance Officer immediately if he/she becomes aware of any such action.
3. Any Molina Medicare employee or contractor who retaliates against a Molina employee or contractor who reports a compliance concern, or who refuses to participate in a violation of law, regulations, or policy is subject to Molina Medicare's disciplinary policy, up to and including termination of employment or contract.

E. Intake and Assignment

1. Acknowledgement. Molina Medicare Compliance acknowledges the receipt of the report and provides the reporting party with information regarding expectations of a timely response, confidentiality, non-retaliation, and progress reports.
2. Assignment. Molina Medicare Compliance leadership determines the appropriate department(s) and/or individual(s) whose involvement is required to investigate and/or resolve the issue:
 - i. If it is determined that the concern pertains to Fraud, Waste, or Abuse, the case is referred to the Special Investigations Unit for processing and resolution. Refer to the Medicare Compliance Fraud, Waste, and Abuse (FWA) Standard Operating Procedures.
 - ii. Non-FWA concerns regarding compliance with Medicare and other laws are assigned to Medicare Compliance staff for follow-up. Assignments are made with consideration to the areas of expertise of Compliance staff members. Medicare Compliance staff determines other business units to be included as needed to complete the investigation and resolution of the compliance issue.

- F. Documentation.** Molina Medicare Compliance maintains a confidential online database of all compliance issues received from any source that are related to Molina Medicare. Medicare Compliance staff review all reports of potential non-compliance and enter them into this database.

All documentation pertaining to the compliance issue is stored in this database. This documentation remains on file for a minimum of ten (10) years. Only Medicare Compliance staff may access the database and its contents.

- G. Investigation.** Medicare Compliance staff initiates an investigation within five (5) business days of receipt of the report.
1. **Interview—Individual reporting the event:** Medicare Compliance staff makes three attempts to contact the individual who made the initial report, either by phone, in person, or via email, to schedule and/or conduct an interview to determine the facts of the issue available to the individual who reported the issue. If Molina Medicare Compliance is unable to reach the person who made the initial report after three attempts, s/he notes that in the tracking system and obtains as much information as possible from other sources.
 2. **Interviews—other parties.** Medicare Compliance staff interviews all other parties who may have information related to the case, and documents the information in the tracking system.
 3. **Written documentation.** Medicare Compliance staff obtains and reviews any relevant written documents related to the case.
- H. Findings.** After interviewing all parties with information on the case (or making reasonable attempts to interview them), and gathering and reviewing all relevant and available documentation, Medicare Compliance staff presents the investigation findings to the Medicare Compliance Officer or his/her designee. The Medicare Compliance Officer or his/her designee makes a determination whether a violation of CMS or other federal law, regulation, policy or guidance exists. This determination may be made with input from other Molina senior management, such as the Vice President of Medicare, and the Senior Vice President responsible for Medicare.
- I. Reporting.** Compliance concerns are communicated to the Medicare Compliance Officer. The Medicare Compliance Officer reports compliance concerns to the Medicare Compliance Committee, Molina senior management, and the Compliance Committee of the Molina Healthcare Inc. Board of Directors.

If the Medicare Compliance Officer determines that the case should be forwarded to any government authorities for review, s/he will do so, following the process described in MMCD-13, Reporting Non-Compliance and FWA to Government Authorities.

- J. Resolution.** Molina Medicare Compliance resolves reports of compliance issues within 30 calendar days of receipt of the reported issue.

The Medicare Compliance Officer, in conjunction with the Vice President of Medicare, and the Senior Vice President responsible for Medicare, as necessary, determines whether the violation is subject to any or all of the following:

1. **The Molina disciplinary policy.** If so, the process described in MMCD-11, Medicare Disciplinary and Corrective Action Process—Employees or MMCD-12, Medicare Sanction Process—Contractors, is followed.
2. **Corrective actions.** If corrective actions are necessary and appropriate, the Medicare Compliance Officer or his/her designee develops a corrective action plan, in conjunction with functional area directors or other senior Molina management, when applicable.
 - i. The corrective action plan is tailored to address the problem at hand. A root cause analysis may be necessary to identify the cause of the problem.
 - ii. The corrective action plan includes timeframes for specific achievements by specific individual(s).
 - iii. The corrective action plan is discussed fully with the individual(s) to whom it applies, and the discussion is documented in the individuals' file, along with a signature and date of the individual(s) indicating agreement to comply with the corrective action plan.
 - iv. The Medicare Compliance Officer or his/her designee monitors the corrective action plan for the period of time stipulated in the plan.
 - v. At the conclusion of the corrective action period, the Medicare Compliance Officer or his/her designee evaluates whether the correction actions taken have effectively corrected the problem. If not, the Medicare Compliance Officer discusses the issue with the Medicare Compliance Committee to determine the next appropriate action to take.

Molina employees or contractors who report compliance concerns in good faith are not subject to Molina Medicare corrective/disciplinary action based on the act of reporting the compliance concern alone. Only when the Medicare Compliance Officer or his/her designee determines that the reporting party was involved in wrongdoing, or knowingly reported false information, is the reporting party subject to corrective/disciplinary action.

IV. REFERENCES

- 42 CFR §422.503(b)(4)(vi)(D)
- 42 CFR §423.504(b)(4)(vi)(D)
- 42 CFR §§ 422.503(b)(4)(vi)(G)
- 42 CFR §§ 423.504(b)(4)(vi)(G)
- CMS Medicare Managed Care Manual, Chapter 21, Section 50.4.2 and 50.7
- CMS Prescription Drug Benefit Manual, Chapter 9, Section 50.4.2 and 50.7
- CMS Program Audit Protocols, Compliance Program Effectiveness
- MMCD-10, Medicare Compliance Training Program
- MMCD-09, Medicare Compliance Officer
- MMCD-11, Medicare Disciplinary and Corrective Action Process—Employees
- MMCD-12, Medicare Sanction Process—Contractors
- MMCD-13, Reporting Non-Compliance and FWA to Government Authorities

- Medicare Compliance FWA Standard Operating Procedures