



Affordable Care Act: Anti-Fraud Provisions

Health Benefits ABCs &
Alfred Chiplin, Center for
Medicare Advocacy

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Webinar Goals:

1. Review the key fraud and abuse provisions contained in the Affordable Care Act
2. Provide SMPs with Internet resources
3. Announce new fact sheets on anti-fraud provisions
4. Answer your questions

Note: The information in this Webinar is also summarized in the new fact sheets on the Affordable Care Act's Anti-fraud Provisions.



Affordable Care Act Background

Public Law No: 111-148; signed 3/23/10

- Title III. Improving the Quality and Efficiency of Health Care (A few Anti-Fraud provisions here)
- **Title VI. Transparency and Program Integrity** (Most Anti-Fraud provisions are here!)
- Title X. Strengthening the Quality, Affordable Health Care for All Americans (A few Anti-Fraud provisions here.)

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ACA slightly amended by:

Health Care & Education Reconciliation Act of 2010 (P.L.111-152) signed 3/30/10

- Closes the Medicare Part D "donut hole" by 2020 and gave seniors a rebate of \$250 in 2010
- Requires doctors who treat Medicare patients to be reimbursed at the full rate
- Sets up a Medicare tax on unearned income of families that earn more than \$250,000 annually
- Gives Medicare patients a 50% discount on brand-name drugs in 2011, rising to 75% for brand-name and generic drugs by 2020.

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Impact on Anti-Fraud Efforts

- The ACA **provides tools to prevent, detect and take strong enforcement action** against fraud in Medicare, Medicaid and private insurance.
- It seeks to improve anti-fraud and abuse measures by **focusing on prevention** rather than the traditional “pay-and-chase” model of catching crooks after they have committed fraud.

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Impact on Anti-Fraud (cont.)

There are four principle ways the ACA seeks to make changes:

1. More money to prevent and fight fraud
2. Better screening and compliance
3. New penalties
4. Better data sharing

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More Money

More money to prevent and fight fraud:

The ACA provides \$350 million over 10 years (FY 2011 through FY 2020) through the Health Care Fraud and Abuse Control Account (HCFAC).

The ACA also allows these funds to support the hiring of new officials and agents that can help prevent and identify fraud.

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Better Screening

The ACA allows the Centers for Medicare & Medicaid Services (CMS) to conduct background checks, site visits, and other enhanced oversight to weed out fraudulent providers before they start billing the program.

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New Penalties

New penalties to deter fraud and abuse:

The ACA better prevents unscrupulous providers from participating in Medicare or Medicaid in the first place and includes strict new fines and penalties.

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Data Sharing

Data sharing to identify fraud:

The ACA expands the CMS “integrated data repository” to incorporate data from all federally supported health care programs.

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Alfred J. Chiplin, Jr.
Center for Medicare Advocacy, Inc.




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ACA: Fraud, Waste and Abuse

**Key Concerns for
Advocates**

Presenter: Alfred J. Chiplin, Jr.
Center for Medicare Advocacy, Inc.

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Guiding Principles

1. Review CMS online “Highlights” of new initiatives, press releases, and other announcements:
<http://www.cms.gov/default.asp?>
2. Check the CMS MedLearn Network for new developments and approaches to implementing policies:
<http://www.cms.gov/MLNGenInfo/>

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Guiding Principles (cont.)

3. Sign up for CMA Alerts
<http://www.medicareadvocacy.org/articles/weekly-update-archive/>.
4. Join the CMA Medicare Advocates Alliance:
<http://www.medicareadvocacy.org/take-action/national-medicare-advocates-alliance/>.

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Guiding Principles (cont.)

5. Review new developments and additions to the Medicare Program Integrity Manual:
<http://www.cms.gov/manuals/downloads/pim83c04.pdf>
6. Bookmark the link to the MTP (Medicare Training Library):
<http://www.cms.gov/NationalMedicareTrainingProgram/TL/list.asp>.

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The Case for Finding Fraud, Waste, and Abuse

- The Federal government estimates that improper payments under Medicare and Medicaid totaled **\$70.4 billion in 2010**.
- Approximately **\$34.3 billion** comes from traditional Medicare; **\$22.5 billion** comes from Medicaid; and **\$13.6 billion** comes from Medicare Advantage.

See "High-Error Programs" at: <http://www.paymentaccuracy.gov/high-priority-programs>.

Slides 5-11 are based on CMA Alert:
<http://www.medicareadvocacy.org/2011/05/combating-fraud-waste-and-abuse>.

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Important Affordable Care Act (ACA) Provisions

1. The ACA increases screening requirements for providers that want to participate in Medicare, Medicaid, and CHIP.
2. Enhances penalties for violations; facilitates data sharing among various health programs; imposes new requirements for claims.
3. Expands the authority of the Recovery Audit Contractor (RAC) and appropriates additional funding for its efforts to combat fraud.

See generally: §§6401- 6411, 6501-6508 of the ACA, Pub. Law. 111-148 (March 23, 2010)(applicable to slides 5-10)

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Important Affordable Care Act (ACA) Provisions (cont.)

4. The Secretary must establish screening procedures for medical providers and suppliers of medical equipment.
5. License checks, criminal background checks, fingerprinting, unscheduled and unannounced site visits, and database checks may be conducted.

§§6401- 6411, 6501-6508

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Important Affordable Care Act (ACA) Provisions (cont.)

6. A medical supplier or provider must disclose any current or previous affiliation with a provider of medical or other items or services or a supplier that has uncollected debt, has been or is subject to a payment suspension under Federal health care program, and has been excluded from participating in Medicare, Medicaid, or CHIP.

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Important Affordable Care Act (ACA) Provisions (cont.)

7. The Secretary is allowed to impose a temporary moratorium on the enrollment of new providers and suppliers of services to combat fraud, waste, or abuse.
8. There is to be established a process for making available the name and National Provider Identifier (NPI) of Medicare providers who were terminated from participating in Medicare within 30 days of termination.

NPI website:
<https://nppes.cms.hhs.gov/NPPES/NPIRegistryHome.do>.

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Important Affordable Care Act (ACA) Provisions (cont.)

9. A medical provider or supplier must place his or her NPI on all applications to enroll in Medicare, Medicaid or CHIP and on all claims for payment submitted to Medicare, Medicaid, or CHIP
10. The Secretary may suspend Medicare and Medicaid payments pending investigation of credible allegations of fraud.

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Important Affordable Care Act (ACA) Provisions (cont.)

11. The Secretary may impose an administrative penalty if a Medicare beneficiary or a CHIP or Medicaid recipient knowingly participates in a health care fraud scheme.
12. The Secretary must share and match data in the systems of records maintained by SSA, VA, DOD, IHS.

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Important Affordable Care Act (ACA) Provisions (cont.)

13. Nursing facilities (NFs) and skilled nursing facilities (SNFS) are required to report ownership and control relationships.
14. The rationale is information about ownership and control relationships will facilitate oversight, which is particularly a problem in enforcement actions.
15. Disclosure of these relationships is critical to facilitating better oversight of and responding to quality of care and other issues.

See §6101.

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Important Affordable Care Act (ACA) Provisions (cont.)

16. A face-to-face encounter with a physician is required before home health care can be prescribed. §6407(a), Pub. L. 111-148, enacted March 23, 2010, effective for DME ordered after January 1, 2010.
17. A face-to-face encounter with a physician is required before DME can be prescribed. §6407(b), Pub. L. 111-148, enacted March 23, 2010, effective for DME ordered after January 1, 2010.

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Important Affordable Care Act (ACA) Provisions (cont.)

18. Hospice: face-to-face encounter required by a hospice physician or nurse practitioner with every hospice patient to determine the continued eligibility
19. Encounter must occur prior to the 180-day recertification, and prior to each subsequent recertification. §3132

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Important Affordable Care Act (ACA) Provisions (cont.)

20. The Secretary of HHS has authority to apply the face-to-face encounter requirement to other areas of Medicare to reduce waste, fraud, and abuse as she deems appropriate. §6407(c).
21. Similarly, the Secretary has been given authority to apply the face-to-face encounter rule to Medicaid. §6407(d).

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Important Affordable Care Act (ACA) Provisions (cont.)

22. Only Medicare-enrolled physicians or other “eligible professionals” may prescribe DME. §6405(a)-(c).
23. The Secretary is using its Provider, Enrollment, Chain, and Ownership System (PECOS) as the vehicle through which physicians and eligible professionals must enroll.
www.cms.gov/MedicareProviderSupEnroll/ .

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Important Affordable Care Act (ACA) Provisions (cont.)

24. An eligible professional is defined in the ACA as one who has enrolled under Medicare’s Quality Care Reporting System for providers. §6505(a).
25. Eligible professionals include physicians, certified nurse anesthetist, a certified midwife, a clinical social worker, a clinical psychologist and a physical or occupational therapist or a qualified speech-language pathologist.

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Fact Sheets on Affordable Care Act's Anti-fraud Provisions

1. Health Care Reform / **Anti-Fraud Provisions:** Tip Sheet for Professionals – *Available now!*
2. Health Care Reform / **High Risk Services:** Tip Sheet for Professionals – *Available now!*
3. Health Care Reform / **New Benefits:** Tip Sheet for Professionals – *Available soon*

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Resources on SMP Resource Center website: www.smpresource.org

- Fact Sheets
 - **Resources for SMPs > Center Products > Fact Sheets, OR**
 - <http://www.smpresource.org/Content/NavigationMenu/ResourcesforSMPs/FactSheets/default.htm>
- Health Care Reform Page
 - **Health Care Fraud > Health Care Reform, OR**
 - **Consumer Protection > Health Care Reform, OR**
 - <http://www.smpresource.org/Content/NavigationMenu/ConsumerProtection/HealthCareReform/default.htm>

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