

2024 Medicare Shared Savings Program (MSSP) Compliance Training

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Objectives

At the end of this presentation participants will be able to:

- Identify the importance of an ACO
- Gain an in-depth understanding of MSSP compliance requirements and how to report non-compliance
- Understand what to know about Tufts Medicine Integrated Network compliance policies



Compliance and MSSP

- ACOs are required to have a compliance plan in place
- The plan must include an education and training component (which assists in ensuring compliance)

Why is this important?

- A compliance plan is an ACO's first line of defense for preventing, detecting, and correcting noncompliance and can assist the ACO in identifying risk, which may also reduce the potential for fraud, waste, and abuse
- Assists in ensuring integrity of the MSSP program
- Assists in ensuring protection of rights and care of Medicare beneficiaries



MSSP Compliance Requirements – 5 key Elements





MSSP Regulations - *Background*

- MSSP is led by the Centers for Medicare and Medicaid Services (CMS) under the authority of the U.S. Department of Health and Human Services.
- Code of Federal Regulations for MSSP:
<https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-425>
- MSSP rules remain codified in law until there are updates made, involving an annual Medicare Physician Fee Schedule “proposed rule” that goes through a public comment period before becoming a “final rule” later in the year.



MSSP Agreements - *Background*

MSSP Participation Agreement:

- Signed between CMS and our ACO
- Binds the ACO to participation in MSSP
- Includes compliance with all federal and state laws and regulations

MSSP Practice Participant Agreement (PPA):

- Signed between our ACO and each ACO Participant (ie practice)
- Binds each practice, and all who bill under the TIN, to the ACO and to comply with MSSP rules

'Compliance with Laws. Participant shall comply with all federal, state and municipal laws, statutes, ordinances, orders and regulations applicable to the conduct of the activities of ACO Participants, Preferred Providers and ACO Providers/Suppliers, including the Medicare Shared Savings Program, federal criminal law, the False Claims Act, the anti-kickback statute, the civil monetary penalties law and the physician self-referral law.' ***This section addresses the requirements of 42 C.F.R. § 425.116(a) (3)***

Business Associate Agreement (BAA):

- Also signed between our ACO and each ACO participant; contains privacy and HIPPA requirements



Designated MSSP Compliance Officer

Garrett Gillespie - Tufts Medicine's VP, Chief Compliance Officer



Oversees all aspects of Tufts Medicine compliance functions, including regulatory adherence, ethical practices and risk management strategies. Responsible for compliance culture, ensuring that Tufts Medicine operations not only meet regulatory standards but also advance the mission of delivering exceptional care.



Reporting Potential Compliance Issues

E-mail: compliance@tuftsmedicine.org

Call: [hotline \(833\) 66 TUFTS](tel:83366TUFTS) or [\(833\) 688-8387](tel:8336888387)

- The Hotline operated by a third-party company which is in the business of providing toll-free telephone answering, reporting and tracking of telephone calls of compliance concerns
- The Hotline company provides all callers with a date that they can call back to obtain information or resolution status regarding the reported issue(s)
- This Hotline is an integral component of the Tufts Medicine's Corporate Compliance Program ("Compliance Program") and is designed to assist in the identification of possible unethical, illegal or questionable behavior by workforce members, Board Members, physicians, individuals or organizations with which Tufts Medicine's does business



Compliance Policies for MSSP include:

- Annual Certifications to CMS
- Avoidance of at-risk beneficiaries
- Beneficiary Inducements
- Compliance Training and Education
- Conflict of Interest
- Code of Conduct
- Fraud and Abuse Waivers
- Notification of Beneficiaries
- Notifying CMS
- Record Retention
- Referrals and Cost Shifting
- Use of Beneficiary Identifiable Data

These policies help to ensure compliance and monitoring of risks and are periodically updated through the Tufts Medicine compliance department; Full policies posted on TMIN website

Examples of 'things to know' are highlighted on the following pages



Annual Certifications to CMS

Summary: The ACO, its participants, its providers/suppliers or individuals or other entities performing functions or services related to ACO activities must submit all data and information, including data on measures designated by CMS under 42 CFR § 425.500, in a form and manner specified by CMS.

'Things to Know':

ACO Staff and MSSP Practices:

- Ensure integrity of data submitted via the annual MSSP quality reporting of MSSP quality preventative measures
- Ensure the clinicians noted within each ACO Participant TIN are as accurate a reflection as possible

ACO Staff:

- Ensure the Annual Certification documents submitted centrally by our ACO for each performance year is accurate



Avoidance of At-Risk Beneficiaries

Summary: To ensure that Wellforce ACO, LLC, its participants, and its providers/suppliers do not take steps to avoid at-risk beneficiaries * in order to reduce the likelihood of increasing Wellforce ACO, LLC costs.

'Things to Know':

ACO Staff and Practices:

- This is important to protect the integrity of the MSSP program and to protect Medicare beneficiaries
- Report any potential scenarios of avoidance of seeing at-risk beneficiaries to the ACO compliance line
- The ACO may take steps to monitor periodically (ie can review 'churn' reports of patient turnover)
- Be mindful of your conversations with Medicare patients (ie CMS has the ACO beneficiary poster and beneficiary notice with CMS wording)

*Beneficiaries who have 2 or more hospitalizations or ER visits per year, are dually eligible, have a high utilization patterns, have one or more chronic conditions, or who have a recent diagnosis that is expected to result in increased cost.



Beneficiary Inducements

Summary: To establish guidelines for circumstances when Wellforce ACO, LLC, its participants, and its providers/suppliers will be able to provide in-kind items or services to beneficiaries.

'Things to Know':

- **Prohibited from providing gifts** or other remuneration to beneficiaries as inducements for receiving items or services from or remaining in, an ACO or with ACO providers/suppliers in an ACO or receiving items or services from ACO participants or ACO providers/suppliers.
- **'In kind' incentives** are allowed if certain conditions are met:
 - (1) reasonable connection between the items and services and the medical care of the beneficiary.
 - (2) The items or services are preventive care items or services or advance a clinical goal for the beneficiary, including adherence to a treatment regime, adherence to a drug regime, adherence to a follow-up care plan, or management of a chronic disease or condition.
 - (3) The in-kind item or service is not a Medicare-covered item or service for the beneficiary on the date the in-kind item or service is furnished to the beneficiary.



Compliance Training and Education

Summary: To provide guidance for all of Wellforce ACO, LLC, Wellforce ACO, LLC Participants, and Wellforce ACO, LLC Providers/Suppliers on the mandatory compliance education and training program. The intent of education is to integrate a culture of compliance and ethical conduct into Wellforce ACO, LLC's operations.

'Things to Know':

ACO Staff and Practices:

- Review of this presentation is designed to address necessary ACO training and education
- Future ACO compliance education will continue to be enhanced under the broader Tufts Medicine compliance efforts

ACO Staff:

- Tufts Medicine annual training requirement helps contribute to compliance education as well

Practices:

- Ensure you educate your staff on privacy and HIPPA (including per your signed Business Associate Agreement)



Conflict of Interest

Summary: To enable affected individuals to understand, identify, manage and appropriately disclose actual, potential or perceived conflicts of interest *.

'Things to Know':

ACO:

- The Tufts Medicine organization has a code of conduct policy.
- The Conflict of Interest (COI) policy affects our Wellforce ACO LLC Board of Managers; an annual COI form is signed and potential conflicts are monitored and evaluated.

***Conflict of Interest** - An actual, potential or perceived conflict of interest occurs in those circumstances where a colleague's judgment could be affected because the colleague has a personal interest in the outcome of a decision over which the colleague has control or influence. A personal interest exists when a colleague or a member of his or her family stands to directly or indirectly gain as a result of a decision.



Fraud and Abuse Waivers

Summary: To outline the requirements for certain financial arrangements between Wellforce ACO, LLC, its participants, and its providers/suppliers to qualify for a Waiver of the Fraud and Abuse Laws.

'Things to Know':

ACO Staff and Practices (examples fraud/abuse):

- Knowingly submitting, or causing to be submitted, false claims or making misrepresentations of fact to obtain a Federal health care payment for which no entitlement would otherwise exist
- Billing for unnecessary medical services
- Misusing codes on a claim, such as upcoding or unbundling codes
- Knowingly soliciting, receiving, offering, or paying remuneration (e.g., kickbacks, bribes, or rebates) to induce or reward referrals for items or services reimbursed by Federal health care programs



Notification of Beneficiaries

Summary: To ensure proper notifications are provided to Medicare beneficiaries that their care providers are participating in the Medicare Shared Savings Program.

'Things to Know':

ACO Staff and Practices:

- The annual beneficiary notice mailing done by the ACO, the ACO posters hung up in all practices and the ACO telephone number available for beneficiary questions contributes to meeting this requirement.



Notifying CMS

Summary: To outline the process for managing changes to ACO program during the participation agreement with CMS.

'Things to Know':

Practices:

- MSSP participant practices to provide timely updates to their provider enrollment contacts on Medicare clinicians coming into or leaving their practices.

ACO Staff:

- Ensuring participating clinician and TIN info is subsequently updated to CMS via their ACO-MS system



Record Retention

Summary: To establish guidelines for the use, maintenance, and retention of Wellforce ACO, LLC records. The ACO, its participants, its providers/suppliers, and other individuals or entities performing functions or services related to the ACO are required to follow the maintenance of records requirements as defined in 42 CFR § 425.316(b).

'Things to Know':

ACO Staff/Practices:

- Keep all books, contracts, records, documents, and other evidence (including data related to Medicare utilization and costs, quality performance measures, shared savings distributions, and other financial arrangements) related to ACO sufficient to enable the audit, evaluation, investigation, and inspection of Wellforce ACO, LLC's compliance with program requirements
- **ACO Staff Example:** Ensuring information submitted via the ACO for the annual MSSP quality collection is retained for up to 6 years from the end of the collection performance year



Referrals and Cost Shifting

Summary: To ensure entities performing functions or services related to Wellforce ACO, LLC do not inhibit Medicare Beneficiaries aligned with the ACO from exercising their basic freedom of choice to obtain services from health care providers and entities who are not ACO Providers/Suppliers.

- **Policy:** Neither the ACO, nor any ACO Participant, ACO Provider/Supplier, or other individuals or entities performing functions or services related to the ACO Program shall commit any act or omission, nor adopt any policy that inhibits Medicare beneficiaries aligned with the ACO from exercising their basic freedom of choice to obtain services from health care providers and entities who are not ACO Providers/Suppliers. In addition, neither the ACO nor any of its participants or its Providers/Suppliers may engage in cost-shifting or required referrals as prohibited under 42 CFR 425.304(c).

‘Things to Know’:

- Example: Medicare beneficiaries still have ‘the right to visit any doctor, hospital, or other provider that accepts Medicare at any time’ (as noted in the CMS required ACO beneficiary notice document mailed to all MSSP assigned beneficiaries)



Use of Beneficiary Identifiable Data

Summary: CMS shares beneficiary identifiable data with Wellforce ACO, LLC on the condition that the ACO, its participants, providers/suppliers, and other individuals or entities performing functions or services related to the ACO's activities observe all relevant statutory and regulatory provisions regarding the appropriate use of data and the confidentiality and privacy of individually identifiable health information.

'Things to Know':

ACO Staff and Practices:

- Continue to always protect confidentiality and access to all PHI

ACO Staff:

- Protect info as also reviewed in the annual Tufts Medicine employee training

Practices:

- Ensure you train your staff on HIPPA and privacy (as noted in the Business Associate Agreement)



Compliance Education

Next Steps:

- Review Code of Conduct
- Sign attestation that you have reviewed this presentation and the Code of Conduct
- This presentation will be posted on the TMIN webpage:
<https://www.tuftsmedicine.org/physicians/webinar-series>.

Future compliance training and education will continue to be enhanced under the greater Tufts Medicine compliance efforts.



Compliance is
EVERYONE's
Responsibility.

Questions?

MSSP Questions:

E-mail Mary Pistorino@ mary.pistorino@tuftsmedicine.org

Reporting Compliance Issues:

Email: compliance@tuftsmedicine.org

Or call: hotline (833) 66 TUFTS or (833) 688-8387

Thank You

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