

Medicare Compliance FDR newsletter

Quarter 2, 2023

Code of Conduct & Compliance Policies

CVS Health® is committed to the implementation of standards of conduct and/or Compliance Policies and Procedures that reflect our commitment to conduct business based on the highest ethical standards and in strict compliance with applicable federal and state laws and regulations.

The **CVS Health Code of Conduct** was recently updated. The Code of Conduct lays the foundation for what we expect from our colleagues; reflects what our customers, business partners and key stakeholders can expect from us as a company; and includes information on how to report issues or concerns. Our first tier, downstream or related entity (FDR) receive the [CVS Health Code of Conduct](#) through their initial and annual training. You can always access the Code of Conduct [online](#).

The compliance policies for the CVS Health Medicare Plans were also recently updated. These policies describe our process for ensuring an effective Medicare Compliance Program. FDRs, if applicable, receive the **compliance policies**, through the initial and annual FDR training communications and are available [online](#).

FDRs should implement similar standards of conduct and/or Compliance Policies and Procedures or you can adopt ours. If you have any questions, or would like a copy of these documents, reach out to us at MedicareFDR@Aetna.com.

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Quick links

- [Medicare managed care manual](#)
- [Medicare prescription drug benefit manual](#)
- [CVS Health Code of Conduct \(updated March 2023\)](#)

Exclusion list links:

- [OIG list of excluded individuals and entities \(LEIE\)](#)
- [GSA System for Award Management \(SAM\)](#)

Links not working? Go to [SAM.gov/SAM/](https://www.sam.gov/SAM/) to access the site directly.

We have a robust Medicare Compliance program, including communication with our Medicare FDRs. Our dedicated Medicare Compliance Officer is Patrick Jeswald. Questions or concerns? Email MedicareFDR@Aetna.com.

Training Distribution and Attestations

Centers for Medicare and Medicaid (CMS) requires Plan Sponsors to distribute training materials to first tier, downstream and related entities (FDRs) within 90 days of contracting and annually thereafter.

CVS Health® will begin distributing our 2023 annual materials during the second and third quarters this year.

Training materials include:

- CVS Health Code of Conduct
- FDR Guidebook

As part of the distribution of the training materials, CVS Health requires certain **FDRs to complete an attestation** as part of our continuous oversight for compliance. The attestation provides the CMS compliance requirements that each FDR needs to be complying with. If your organization is asked to complete a 2023 Annual Compliance Attestation, please make sure to complete it timely. Your completed attestation allows us to confirm your organizations' compliance with Medicare requirements and your receipt of the Code of Conduct and FDR Guidebook. The attestation should only be completed by the individual responsible for attesting for your organization.

Some of these compliance requirements include:

- Organizations' distribution of Code of Conduct and/or Compliance Policies to all staff within 90 days of hire, annually and when changes are made.
 - 💡 Tip: Organizations can distribute the [CVS Health Code of Conduct](#) in addition to their own policies.
- Organizations' screened employees and Downstream Entities against the OIG [and](#) GSA SAM exclusion lists prior to hire/contracting and monthly thereafter.

- 💡 Tip: Evidence should include employee legal name, date and timestamp and results of screening
- Ensure you have a process in place to report FWA and compliance concerns to CVS Health®
- Have oversight of any Downstream entities you are using to support CVS Health
- Request to use offshore operations prior to services beginning to get the appropriate approvals.

If you have any questions regarding the compliance training distribution or the attestation requirements, you can reach out to us at MedicareFDR@aetna.com.

How does my organization identify Downstream Entities?

During our oversight reviews we often receive questions around what types of subcontractors would be considered a downstream entity. CMS provides information around qualifications and guidelines for FDRs and Medicare Parts C and D as outlined in Medicare Managed Care Manual Chapter 21 — Compliance Program Guidelines and Prescription Drug Benefit Manual Chapter 9 — Compliance Program Guidelines.

Current definitions:

- **First tier** entity is any party that enters a written arrangement, acceptable to CMS, with CVS Health to provide administrative or health care services to a Medicare-eligible individual under the MA program or Part D program.
- **Downstream entity** is any party that enters a written arrangement, acceptable to CMS, with persons or entities. These persons or entities are involved with the MA program or Part D program. They are below the level of

the arrangement that you have with us. These arrangements continue down to the level of the ultimate provider of both health and administrative services.

- **Related entity** is any party that holds common ownership or control of an MA organization or Part D sponsor and:
 - **Performs** some of the MA organization or Plan D plan sponsor's management functions under contract or delegation
 - **Furnishes** services to Medicare enrollees under an oral or written agreement
 - **Leases** real property or sells materials to the MAO or Part D plan sponsor (this occurs at a cost of more than \$2,500 during a contract period)

For more information, review the United States Code, 42 CFR §§ 422.500 and 432.501.

Q: Which of my subcontractors should be considered Downstream Entities?

Only subcontractors that provide administrative or health care services for our Medicare Advantage and Prescription Drug plan products may be downstream entities.

Below are examples of subcontractors who may be considered Downstream Entities; this is not an exhaustive list:

- Claims Processing
- Coordination of Benefits Programs
- Patient Management
- Licensing and Credentialing
- Sales & Marketing
- Utilization Management
- Quality Improvement
- Appeals and Grievances
- Applications Processing
- Enrollment/Disenrollment
- Pharmacies

- Hotline Operations
- Customer Service
- Outbound Enrollment Verification
- Provider Network Management
- Health Care Services

Q: Why is CVS Health®/Aetna® asking about our Downstream Entities (i.e., subcontractors)?

We are responsible for fulfilling the terms and conditions of our contract with CMS. And we must meet applicable Medicare program requirements. Our FDRs are responsible for complying with these requirements. And they must ensure that their downstream entities also comply with applicable laws and regulations

Q: What requirements apply to Downstream Entities?

- All the contractual agreements between you and the downstream entity contain all CMS-required provisions.
- Medicare compliance program requirements.
- Any applicable Medicare operational regulatory requirements that apply to the Medicare Parts C & D program.

Q: What oversight is expected for my organization's Downstream Entities?

If you use Downstream Entities, you must have acceptable oversight of their compliance and performance. This includes testing compliance and performance of your Downstream Entities through audits or monitors, and requesting corrective actions when deficiencies are identified.

If you have any questions regarding FDRs or Downstream Entities, please contact us at MedicareFDR@aetna.com.

CMS 2024 Medicare Advantage (MA) and Part D “Final Rule”

On April 5, 2023, CMS issued the annual [Medicare Advantage \(MA\) and Part D final rule](#) outlining new regulatory policies for plan year 2024. Provisions of this rule were effective June 5, 2023, for the 2024 Plan Year unless otherwise noted within the rule.

Outlined below are some key changes included in the rule:

- Ensuring **timely access** to care related to prior authorization and utilization management requirements.
- Increasing protections for beneficiaries from **potential misleading and confusing plan marketing practices**, including the accountability for plans to monitor agent and broker activity.
- Strengthening **translation and accessible format requirements** by requiring plans to provide materials in non-English languages or accessible format on a standing basis.
- Star Ratings program and measure modifications **focusing on quality** by adding a health equity index reward and reducing the weighting on patient experience complaints and access measures.
- Advancements in Health Equity including providing services in a **culturally competent manner**, MA Directories will need to include cultural and linguistic capabilities, as well as plans will need to incorporate at least one activity to **reduce disparities** in their overall Quality Improvement program.
- Expanding **access to Behavioral Health Care** by adding additional specialty types, amending access standards, codifying reasonable wait times, and redefining

notification requirements for provider contract terminations

The rule also implements a provision of the Inflation Reduction Act (IRA) by **expanding the eligibility for low-income-subsidy (LIS) benefit** to 150% of poverty level who meet eligibility criteria. Beginning January 1, 2024, this change will provide the full low-income subsidy to those who would currently qualify for the partial low-income subsidy.

CVS Health® is actively reviewing all the changes in this final rule. You will **hear from us** if we need your organization to implement changes for the services you perform for our organization.

Looking for resources?



Our partnership with you — a first tier, downstream or related entity (FDR) — is important to us. We need you to help fulfill our contracts with the CMS. And you can rely on us for the teamwork and support you need.

You can read [our FDR Guide](#); it includes a toolbox of resources. In addition, our archived newsletters are available [online](#). If you would like the Medicare Compliance FDR Guidebook or a past newsletter, just email us at [**MedicareFDR@Aetna.com**](mailto:MedicareFDR@Aetna.com).

Need to report noncompliance or potential fraud, waste, and abuse (FWA)?

We have a number of ways for you to report suspected or detected noncompliance or potential FWA.

- CVS Health Ethics Line: **1-877-287-2040 (1-877-287-2040) (TTY: 711)**
- CVS Health Online Ethics Line [**CVSHealth.com/EthicsLine**](https://www.CVSHealth.com/EthicsLine)
- Write us: Chief Compliance Officer, CVS Health One CVS Drive, Woonsocket, RI 02895

If you have additional questions, you can email [**MedicareFDR@Aetna.com**](mailto:MedicareFDR@Aetna.com).