

Demonstrating the Effectiveness of Your Medicare or Medicaid Compliance Program

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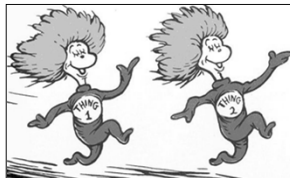
HCCA Compliance Institute
Las Vegas, NV
April 30, 2012



With Apologies to Dr. Seuss. . .




Welcome to you, dear Compliance Professionals,
We're happy you joined us in these Vegas session halls.
We're here to talk effectiveness of your Compliance Program,
Because at audit time, you'll sure want to show them,



How you've covered your bases with the program you've made,
Whether it's related to Medicare or even Medicaid.
Because you will all look like bumbling jerks,
If you can't show that your Compliance Program works.

Agenda




- Compliance Program Basics
- The Changing Landscape
- Considerations for Building Your Program
- Getting to Effectiveness – How to Evaluate the Effectiveness of Your Program

3

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Who is UnitedHealthcare Medicare & Retirement?



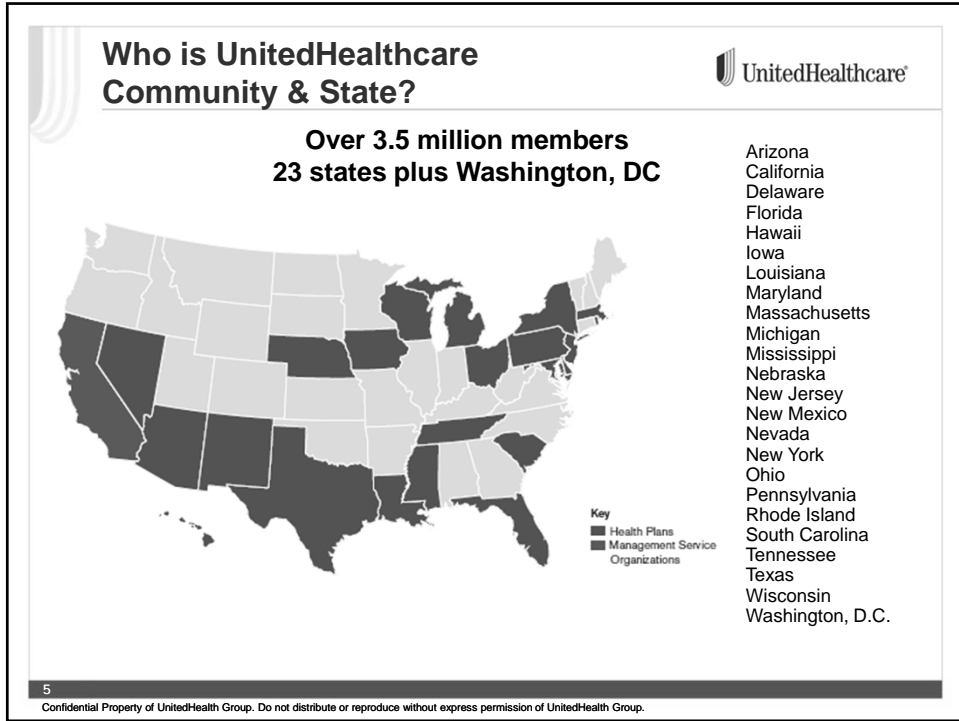
**Over 9 million members
in all 50 states D.C. and U.S. Territories**

Products Include:

- **Medicare Advantage Plans** – Serving more than 2.2 million Medicare beneficiaries through a variety of plans and other value-added services.
- **Medicare Part D Plans** – Serving more than 4.8 million beneficiaries with Part D plans that cover thousands of brand-name and generic prescription drugs
- **Medicare Supplement** – Serving nearly 3 million members ... Medicare supplement insurance plans are sold by private insurance companies to fill gaps in Medicare Parts A and B coverage.
- **Retiree Services** – Providing employers with health care solutions for 675,000 retirees. Group plans include Medicare Advantage, Medicare supplement and Medicare Part D.

4

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Compliance Programs

The Basics

6

Compliance Programs

Purpose and Philosophy



Purpose

- Creating a culture that promotes ethical behavior
- Ensuring that the organization meets its regulatory obligations


Philosophy

- Committed to “doing the right thing – each and every time”
- Guided by the mission, vision and values

7

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Who Sets the Standards for Compliance Programs?



U.S. Sentencing Commission

- Federal Sentencing Guidelines for Organizational Defendants (1991-forward) - Reduced penalties for organizations that *voluntarily* adopt effective compliance programs.

Our Regulators


- OIG Compliance guidance (1997-forward)
- Corporate Integrity Agreements
- Contractual requirements
- Federal and state regulations

Our Courts

- Board engagement – *In re Caremark Int'l Inc. Derivative Litigation* (1996)

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What is an “Effective Compliance Program?” 

The Seven Elements of an Effective Compliance & Ethics Program:


1. Written Standards, Policies and Procedures
2. High Level Oversight – Governance
3. Effective Training and Education
4. Effective Lines of Communication / Reporting Mechanisms
5. Enforcement and Disciplinary Guidelines
6. Auditing and Monitoring
7. Response to Identified Issues

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Compliance Programs
The Changing Landscape

10


Compliance Environment
What Has Changed?



- More consistent, nationwide law enforcement response to fraud
- Proactive approach and faster prosecutions encouraged
- Mandatory compliance programs
- New emphasis on measuring effectiveness

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Enforcement Actions/Other Activity
Medicare



Heightened Expectations

- Health Care Reform Legislation
- Program Effectiveness

Heightened Scrutiny

- CMS Effectiveness Audits
- Past Performance Review Methodology
- Star Ratings
- Other Audit Activity

Heightened Enforcement

- Sanction Activity
- Fraud, Waste and Abuse
- Department of Justice/OIG Activity

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Enforcement Actions/Other Activity 
Medicaid

Heightened Expectations

- Deficit Reduction Act of 2005
- Federal False Claims Act (and FERA Amendments)
- Dodd-Frank Wall Street Reform & Consumer Protection Act of 2010
- Affordable Care Act

Heightened Scrutiny

- MIG Program Integrity Reviews
- State Audits


Heightened Enforcement

- Horizon NJ Health – Office of Comptroller Audit (October 2011)
- Humana – FL ACHA \$3.3 million fine (August 2011)
- CareSource - \$26 million settlement (February 2011)
- APS Healthcare - \$13 million settlement (February 2011)

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Compliance Programs
Considerations for Building Your Program

14

Compliance Program Model 

- Compliance model follows the business model
- Lifeguard vs. Cop
- Scope of Compliance Program
- Compliance as a “flashlight”


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Fulfilling the Compliance Commitment 

- Employee and manager responsibility and accountability
- Policy development
- Code of Conduct
- Education, training, and communication
- Reporting
- Monitoring
- Auditing
- Ongoing evaluation and strategy

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Influencing Change
Influencing Decision-Making




*“The secret is to always
let the other person
have your way.”*

-Claiborne Pell


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The Art of Persuasion



- Building Relationships
- Communicating Strategies
- Ensuring Site Accountability/Ownership
- Reporting Results

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Building Relationships


Know Your Customer

- Department Events
- Manager Meetings
- Ride-Alongs
- Walk in Their Shoes. . .

Establish Trust and Credibility

- Develop Ability to Effect Change
- Overcome Having Responsibility Without Authority
- Conduct In-Person Compliance Training When Possible

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Communicating Strategies


How are we evaluated?

- What we do...
- How we look...
- What we say...
- How we say it...

Compliance Awareness

- Benefit of Sharing Learnings and Celebrating Successes
- Link Outcomes to Organization Initiatives
- The Regulators are Watching

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Ensuring Business Accountability


Integrating Compliance Into Operations

- Compliance as a Flashlight
- Ensure Accountability Remains with Operations
- Don't Be Afraid to Work Yourself Out of a Job

Facilitating Effective Hand-Offs

- Say Yes ... But Move to Support Role
- Keep Senior Leaders Updated
- Clarify Roles and Expectations
- Always Give the Business the Credit

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Reporting Results


Measuring Effectiveness

- Demonstrating Results
 - ✓ Prevention and Education
 - ✓ Observation and Detection
 - ✓ Correction and Response
- Communicating Outcomes

Reporting

- Oversight Committees/Board
- Standardize Reporting Tools
- Summarize Outcomes
- Highlight Successes and Risk Areas

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Articulating Your Objective


MISSION:

The purpose of the Compliance Program is to ensure operational accountability for compliance with the obligations that govern our business.

This will be achieved through:

- ✓ Clear outcome measures
- ✓ Standardized processes, tools, and accountabilities
- ✓ Governance process and structure
- ✓ Tracking and oversight

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Articulating Your Objective

GUIDING PRINCIPLES:

- ✓ Our program translates our values into actions
- ✓ Business operational leaders are responsible for compliance
- ✓ We will develop a strategy for effective compliance and support business leaders in implementing that strategy
- ✓ Our regulatory relationships are fundamental for our organization's success
- ✓ We will create clear accountability around compliance and foster open, honest and clear communications about our outcomes

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Getting to Effectiveness

Evaluating the Effectiveness of Your Compliance Program

25

Evaluating Your Compliance Program

Basic Questions




- Does the compliance program align with the Federal Sentencing Guidelines?
- Does it align with OIG guidance?
- Does it align with the expectations of your regulators (e.g. CMS, State Medicaid Agencies)?
- Does it align with the business?
- Does it undergo periodic independent review?

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Medicare Managed Care

Steps for Compliance Programs



- Build the Foundation
 - Compliance Oversight
 - Embed the Program in the Business
 - Communication and Awareness

- CMS Effectiveness Audits
 - CMS Audit Redesign
 - Review of 5-star Plans
 - Self-Assessment Tool

- 2011 Program Audit Findings and Best Practices
 - 2012 Audit Strategy


- Chapter 9 Revisions and Updates

- Prevent, Detect, Correct

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Medicaid Managed Care


Steps for Compliance Programs



- Perform a Program Self-Assessment (FSG, OIG, State expectations)
- Consider Independent Review
- Utilize existing tools – New York OMIG Compliance Alert (2011-06) included a Document Review Checklist, which helps document effectiveness in areas of:
 - ✓ Employee Records
 - ✓ Educational Training
 - ✓ Compliance Logs and Investigations
 - ✓ Employee Disciplinary Records
 - ✓ Compliance Risk Areas/Internal Audits
 - ✓ External Audits
 - ✓ Reports of Intimidation and Retaliation
 - ✓ Quality of Care Complaints/Mandatory Reporting
 - ✓ Compliance Alert is posted at:
http://www.omig.ny.gov/data/images/stories/compliance_alerts/compliance_alert_2011-06.pdf
- Make sure Compliance Officer is visible, accessible and known

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Program Evaluation
A Sample Approach




Compliance Scorecard

Measurement Framework:

$$\underline{\text{Structure} \times \text{Process} \times \text{Outcome}} = \text{Effectiveness}$$

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Measurement Framework




Structure – refers to the **capacity** of our program to promote compliance with applicable regulatory requirements

Process – refers to **how** the Compliance Program operates in practice to address identified risk areas

Outcomes – refers to the **actual performance** of the organization on identified compliance standards

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Measuring Program Effectiveness Compliance Scorecard




Structure x
Process x
Outcomes =
Effectiveness

Public & Senior Markets Group – Corporate Responsibility & Compliance							
Quarterly Performance – Q1 2011							
STRUCTURE (25)		PSMG	POINTS				
			Q1	Q2	Q3	Q4	
1	Program Oversight (5)						
2	Standards, Policies & Procedures (5)						
3	Reporting Mechanisms (5)						
4	Compliance Education & Training (5)						
5	Communication & Awareness Strategy (5)						
PROCESS (25)		PSMG	POINTS				
			Q1	Q2	Q3	Q4	
1	Assessment, Identification, & Prioritization of Compliance Risks (5)						
2	Key Compliance Indicators – Prevention, Detection, & Monitoring (5)						
3	Key Compliance Indicators – Response & Correction (5)						
4	External Regulatory Requirement & Internal UnitedHealthcare Group Policy Implementation (5)						
5	Corrective Action Plans, Enforcement & Disciplinary Guidelines (5)						
OUTCOMES (50)		PSMG	POINTS				
			Q1	Q2	Q3	Q4	
1	Compliance Audit Results (10)						
2	Regulatory Compliance Results – Regulatory Notices, Fines, Penalties (25)						
3	Privacy / Security – Disclosures & Notifications (10)						
4	Delegated Entity Compliance (10)						
5	Vital Signs Survey – Ethical Compliance Dimension (5)						
EVALUATION KEY:			TOTAL:	Q1	Q2	Q3	Q4
85-100			70-84	69 and Below			

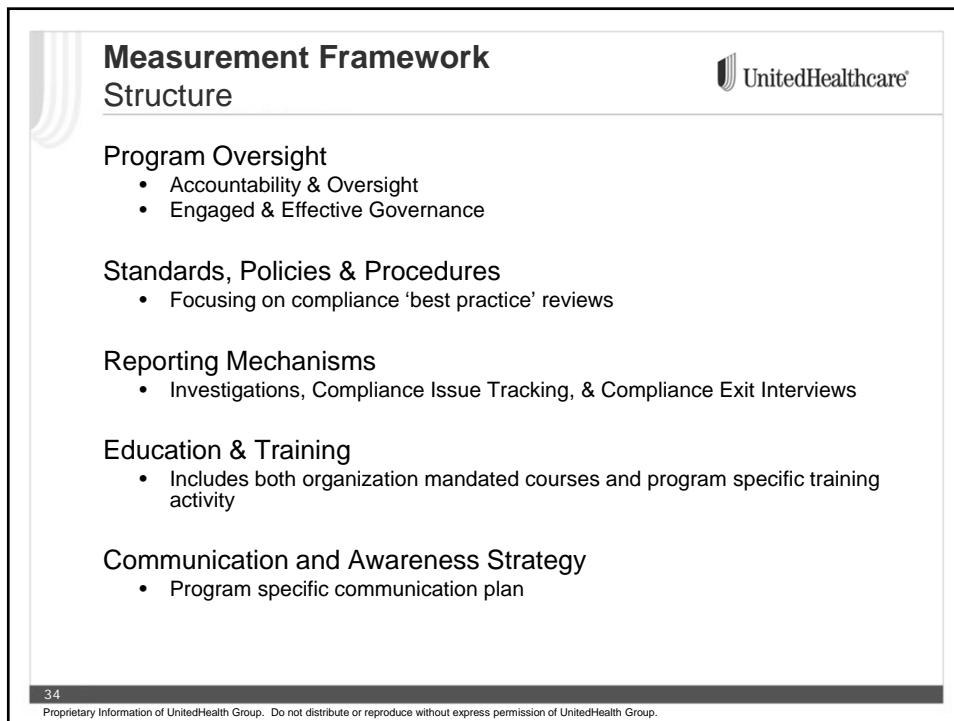
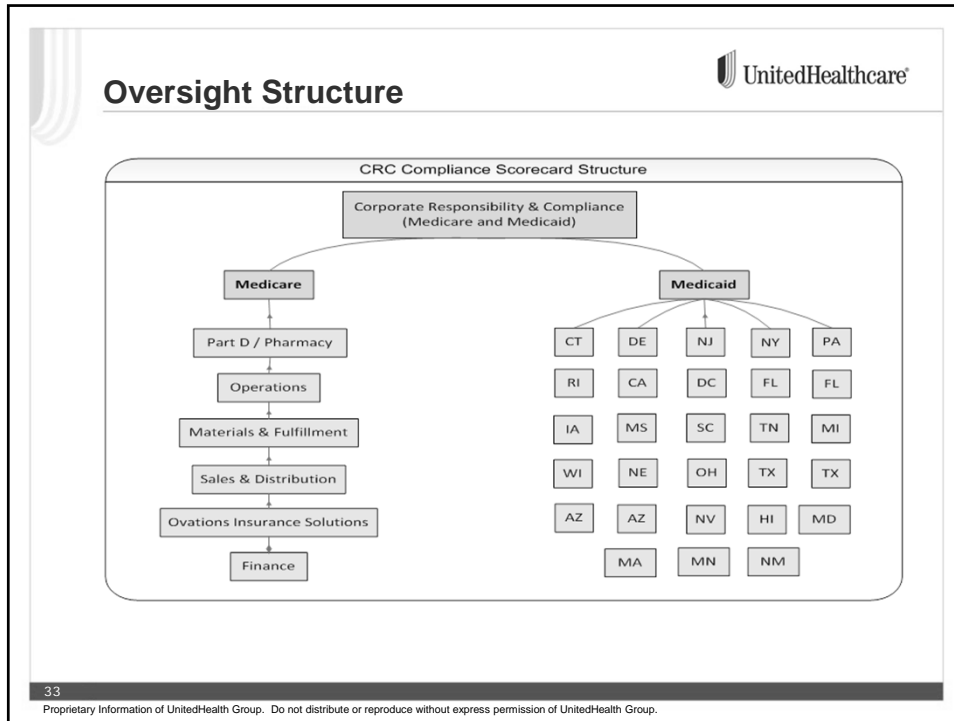
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Compliance Scorecard How it works



- 15 measures in categories of structure, process, and outcomes with a total available point value of 100.
- Each health plan implements and manages a scorecard.
- Each health plan has some flexibility in how it responds to or meets the common measure objectives.
- Measures and objectives are defined within a companion document entitled the “Explanation of Terms”.
- Progress and results are assessed and reported quarterly.

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Explanation of Terms

Example “Explanation of Terms”

S1 – Program Oversight: (5 points)

- A core element of an effective compliance program is to demonstrate support and engagement of business leadership and the governing body (i.e. Sr. Management, Board of Directors, Oversight Committees*, etc). Effective program oversight may be accomplished through the identification of a compliance officer and creation of a structure or committee to oversee the effective administration of the compliance program within the business unit. Points will be assessed as follows:
 - 2 points = Accountability and Oversight:
 - Identification of compliance officer within program area who is accountable to senior management and the identification of accountable business leader(s) who collaborates with and supports the compliance officer in management of the compliance program.
 - As applicable, identification of compliance officers will be at an individual business unit level, which may include individual plan, program or delegated entity relationship.
 - Establishment of an oversight committee with membership comprised of key management staff with relevant functional responsibilities within the program area or plan. The compliance officer, accountable business leader(s), and oversight committee members will utilize common tools to align program efforts with the expectations of key regulators.

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Explanation of Terms

Example “Explanation of Terms”

S1 – Program Oversight: (5 points)


3 points = Engaged and Effective Governance: Program area activities that demonstrate an engaged and effective oversight structure include but are not limited to:

- Demonstrate (through charter /agenda /minutes) that the oversight structure is in place.
- Demonstrate periodic education of oversight committee membership on compliance program, member’s roles/responsibilities within the oversight structure, and emerging risk areas.
- Demonstrate committee membership participation and engagement through regular attendance at oversight committee meetings.
- Demonstrate quarterly compliance activity reporting to senior management including but not limited to self-disclosures made to regulators/government agencies, annual audit plan, scorecard progress, compliance issues of concern, and any disciplinary actions taken as a result of compliance violations.
- Demonstrate oversight of delegated relationships within committee structure including but not limited to documented periodic review of compliance performance, identified issues and response to applicable identified issues.
- Demonstrate oversight and periodic review of program anti-fraud, waste, and abuse activities and efforts relating to providers, members, and employees.

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Measurement Framework

Process




- Assessment, Identification, and Prioritization of Compliance Risks**
 - Ongoing process to assess identified risks.
- Key Compliance Indicators (KCIs) – Prevention, Detection, & Monitoring**
 - Processes to demonstrate ongoing monitoring and assessment of identified KCIs
- KCIs – Response & Correction**
 - Processes to demonstrate review and response to monitoring results.
- External Regulatory Requirement & Internal Policy Implementation**
 - Processes to review and implement as applicable.
- Corrective Action Plans, Enforcement & Disciplinary Guidelines**
 - Effective CAP management processes and engagement of program in supporting consistent enforcement / disciplinary guidelines.
 - Program specific communication plan

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Measurement Framework

Outcomes



- Compliance Audit Results**
 - All external and internal audit results are assessed.
- Regulatory Compliance Results (notices, fines, etc)**
 - Includes notices received from CMS and state regulators.
- Privacy & Security Disclosures**
 - Assessed by quantity and severity.
- Delegated Entity Compliance**
 - Appropriate oversight structure, vendor performance, and identified compliance concerns.
- Vital Signs Survey – Ethical Compliance Dimension**
 - Activities to impact organizational culture and annual survey results.


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Lessons Learned



- Relationships
- Program Foundation
- Driving to Better Outcomes


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Questions & Discussion



**"One Thanks,
Two Thanks,
All for You
Thanks."**



41

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