



GuildNet

Fraud, Waste and

Abuse



Part I:

Overview



Objectives

- ❑ Convey GuildNet's commitment to compliance.
- ❑ Explain obligations of GuildNet's first tier, downstream, and related entities to prevent, detect, and report fraud, waste and abuse.
- ❑ Provide training regarding the scope of fraud, waste, and abuse prohibitions.
- ❑ Provide information on how to ask us questions or report to us about potential fraud, waste, and abuse.



Our Commitment to Compliance

- ❑ Our organization has a strong commitment to compliance. We engage in a variety of activities such as auditing, monitoring and oversight to identify fraud, waste, and abuse issues.
- ❑ Our activities and the activities of each of our first tier, downstream and related entities must be carried out in accordance with applicable laws that address fraud, waste, and abuse, and consistent with our policies.
- ❑ Specific provisions apply to government programs, such as Medicare Advantage, Part D, Medicaid Managed Long Term Care, Medicaid Advantage Plus and Medicaid Advantage.



Our Expectations of First Tier, Downstream, and Related Entities

- ❑ Conduct business activities and interactions with our members ethically and with integrity.
- ❑ Conduct business activities in full compliance with all applicable statutory and regulatory prohibitions against fraud, waste, and abuse, and those protecting beneficiaries' privacy and confidentiality.
- ❑ Establish policies and procedures to prevent, detect, and require reporting of potential fraud, waste, or abuse.

What is a First Tier, Downstream, or Related Entity?

- *First tier* – The first tier entity is the person or organization that contracts directly with GuildNet to provide administrative or health care services needed to carry out our responsibilities under our Medicare Advantage or Part D contracts with CMS, or our Managed Long Term Care, Medicaid Advantage or Medicaid Advantage Plus contracts with New York State.
- *Downstream* – The downstream entity is a person or organization that enters into a contract with a first tier entity or an entity in a lower contracting tier to provide administrative or health care services in connection with the Medicare Advantage and Part D programs, or our Managed Long Term Care, Medicaid Advantage or Medicaid Advantage Plus contracts with NY State.



What is a First Tier, Downstream, or Related Entity? (continued)

- ❑ *Related entity* – A related entity is an entity that is related to GuildNet by common ownership or control that performs some management functions for the Medicare organization or Part D sponsor, furnishes services to the Medicare Advantage organization or Part D sponsor's enrollees, or leases real property or sells materials to the Medicare Advantage organization or Part D sponsor at a cost of more than \$2,500 during a contract period.

Defining Fraud, Waste, and Abuse

- ❑ *Fraud* – Using deception or intentional misrepresentation knowing that it could result in some unauthorized benefit to the individual or another party. The term includes any act that constitutes fraud under applicable Federal or State law.
- ❑ *Waste* – Deficient practices, systems controls, or decisions that result in using, consuming, spending, or expending goods, services, or funds extravagantly, needlessly, thoughtlessly or carelessly.



Defining Fraud, Waste, and Abuse (continued)

- ❑ *Abuse* – Practices that are inconsistent with sound fiscal, business, or medical practices and result in unnecessary costs or payment for services that are not covered or medically necessary.



Part II:
Policies and Procedures
to Address Fraud, Waste
and Abuse



Your Policies and Procedures

- First tier, downstream and related entities must adopt policies and procedures that:
 - Address day-to-day fraud, waste, and abuse risks;
 - Help reduce the possibility of fraudulent, wasteful, and abusive activity by identifying and responding to risk areas;
 - Reflect the entity's commitment to integrity and GuildNet's policies with regard to fraud, waste and abuse;
 - Require fraud, waste, and abuse training as a condition of employment;



Your Policies and Procedures (continued)

- Explain to employees how they may contact GuildNet with questions regarding fraud, waste and abuse or to report potential fraud, waste, and abuse, including the entity's non-retaliation policy;
- Require reporting of potential fraud, waste, and abuse to GuildNet; and
- Require cooperation with GuildNet in investigating any potential instances of fraud, waste, and abuse and putting in place any appropriate corrective action plans.



Part III:
Laws and Regulations
Related to Fraud, Waste
and Abuse

Laws and Regulations

You must ensure that your organization and its employees comply with the following laws and related regulations that are designed to guard against fraud, waste, and abuse under Medicare, Medicaid and certain other Federal health care programs:

- ❑ False Claims Act
- ❑ Anti-Kickback Law
- ❑ Health Insurance Portability and Accountability Act
- ❑ Physician Self-Referral Law
- ❑ Medicare Advantage and Part D laws
- ❑ Additional Fraud, Waste, and Abuse Laws



False Claims Act

- ❑ Prohibits knowingly presenting (or causing to be presented) a false or fraudulent claim to obtain money or property, any part of which is provided by the government, including claims to a Medicare Advantage organization, a Medicare Part D prescription drug plan sponsor or a Medicaid managed care organization.
- ❑ Prohibits knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim presented to the Federal government, State government or their contractors.
- ❑ Prohibits concealing an overpayment of government money.



False Claims Act (continued)

- ❑ These prohibitions include situations in which an individual or entity makes little or no effort to validate the truth and accuracy of statements, representations, or claims or otherwise acts in reckless disregard of the truth.
- ❑ Submission of false claims can result in fines and/or imprisonment.

Anti-Kickback Law

- ❑ Prohibits knowingly and willfully paying, offering, soliciting, or receiving remuneration (anything of value)
 - to induce a referral of a patient for items or services for which payment may be made, in whole or in part, under a Medicare, Medicaid or certain other Federal health care programs; or
 - in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Medicare, Medicaid or certain other Federal health care programs.
- ❑ There are certain exceptions identified in so-called “safe harbors” specified by law.
- ❑ Violation of the Federal Anti-Kickback Statute can result in criminal and civil penalties.

Health Insurance Portability and Accountability Act

- ❑ Prohibits covered entities from using OR disclosing protected health information (PHI), unless it is permitted or required by the HIPAA rules.
- ❑ PHI can be transmitted via hardcopy, e-mail, electronic records and oral communication
- ❑ Electronic transactions are required to be conducted in a special, “standard,” form.

Health Insurance Portability and Accountability Act (continued)

- ❑ PHI means individually identifiable health information. Examples of PHI include: name, social security number, birthday, address, doctor, insurance company, telephone number, family member names or employer AND physical or mental health condition, date of treatment or payment information, etc.
- ❑ An organization, provider or an individual can be in violation of HIPAA knowingly or unknowingly.

Physician Self-Referral Law

- ❑ Prohibits physicians from referring Medicare or Medicaid patients for certain “designated health services” to an entity with which the physician or a member of the physician’s immediate family has a financial relationship – unless an exception applies.
- ❑ Also prohibits an entity from presenting or causing to be presented under a Medicare Advantage or Medicaid plan a claim for a designated health service furnished as a result of a prohibited referral.
- ❑ Physicians may be subject to civil monetary penalties for violation of the self-referral law. In addition, a claim submitted in violation of the law may be considered a false claim.

MA and Part D Laws

- ❑ Prohibit Medicare Advantage organizations and Part D sponsors from paying:
 - Providers who have “opted out” of the Medicare program, except when they provide certain emergency services.
 - Individuals or entities who have been excluded from participation in a Federal health care program, such as Medicare, for the provision of health care, utilization review, medical social work, or administrative services.
- ❑ This prohibition also applies to first tier, downstream, and related entities.



MA and Part D Laws (continued)

- ❑ Prohibits first tier, downstream, and related entities from contracting with, or employing, excluded individuals or entities to furnish health care, utilization review, medical social work, or administrative services under the Medicare Advantage and Part D programs.



Additional Fraud, Waste, and Abuse Laws

Federal law imposes civil monetary penalties for:

- Presenting a claim under Medicare, Medicaid or certain other Federal health care programs for a physician's service (or an item incident to a physician's service) by a person who knows or should know that the individual who furnished (or supervised the furnishing of) the service was not licensed as a physician, or was licensed as a physician, but such license was obtained through a misrepresentation of material fact.

Additional Fraud, Waste, and Abuse Laws (continued)

- Knowingly billing in violation of the terms of Medicare assignment, a Medicare participation agreement, or an agreement with a State agency (or other requirement of a Medicaid State plan) not to charge a person for an item or service in excess of the amount permitted to be charged.
- Offering or providing anything of value to Medicare, Medicaid, or Children's Health Insurance Program (CHIP) beneficiaries that is likely to influence the beneficiary to order or to receive from a particular provider any item or service for which payment may be made, in whole or in part, under Medicare, Medicaid, or CHIP.



Additional Fraud, Waste and Abuse Laws (continued)

- Hospitals knowingly making a payment, directly or indirectly, to a physician as an inducement to reduce or limit services provided with respect to Medicare or Medicaid eligible individuals under the direct care of the physician.



Consequences of Committing Fraud, Waste, or Abuse

- ❑ Administrative recoupment/restitution
- ❑ Criminal and/or civil prosecution
- ❑ Fines/penalties
- ❑ Imprisonment
- ❑ Suspension/loss of provider license
- ❑ Exclusion from the Medicare or Medicaid programs



Part IV:

Examples of Fraud,

Waste and Abuse



Preventing and Detecting Fraud, Waste, and Abuse

You are a vital part of the effort to prevent, detect, and report possible fraud, waste, and abuse. To do that you need to be able to identify various types of potential misconduct that could rise to the level of fraud, waste, or abuse.

Physicians and Other Professionals

- ❑ Misreporting/upgrading procedure codes to receive a higher payment.
- ❑ Inappropriately altering a patient record.
- ❑ Inappropriately prescribing drugs.
- ❑ Submitting to GuildNet encounter or diagnostic data that the physician knows or should know is incorrect.
- ❑ Performing or ordering inappropriate or unnecessary procedures/tests.
- ❑ Accepting remuneration in exchange for prescribing particular drugs.



Physicians and Other Professionals (continued)

- ❑ Providing false information through prior authorization or other utilization management mechanisms in order to justify coverage.
- ❑ “Double billing” – charging more than once for the same service, for example by billing for a service as part of an automated or bundled set of services and billing for the same service again in a separate claim.
- ❑ Discussing PHI in common areas for example elevators



Hospitals and Other Facilities

- ❑ Billing for drugs never received by the patient.
- ❑ Reselling drugs not used by patients.
- ❑ Drug diversion.
- ❑ Billing for labs, procedures, or services the patient did not receive.
- ❑ Providing false information through prior authorization or other utilization management mechanism in order to justify coverage.
- ❑ Misreporting/upgrading procedure codes to receive a higher payment.
- ❑ Inappropriately altering a patient record.

Pharmacies

- ❑ Accepting payments to convince beneficiaries or physicians to switch drugs.
- ❑ Submitting a false claim for payment.
- ❑ Altering prescriptions to receive higher payment.
- ❑ Dispensing expired drugs.
- ❑ Collecting higher co-pays than allowed or charging more than the negotiated price.
- ❑ Routinely waiving copayments.
- ❑ Intentionally misreporting the amount of out-of-pocket payments a beneficiary has made.
- ❑ Sending unsecure electronic mail to outside entities such as hospitals, provider offices and health plans³²

Pharmacies (continued)

- ❑ Dispensing less than the prescribed quantity and billing the full amount to the payer without making arrangements to provide the balance of the prescribed drug.
- ❑ Billing for brand drugs when generics are dispensed.
- ❑ Providing fewer refills than reflected in claims.
- ❑ Billing the payer for drugs that are never picked up by the patient.
- ❑ Waiving copayments in exchange for the beneficiary using that pharmacy for all his/her prescriptions.



Pharmacy Benefit Managers (PBMs)

- ❑ Accepting a payment to switch a beneficiary from one drug to another or to influence the prescriber to switch the patient to a different drug.
- ❑ Accepting remuneration to steer a beneficiary toward a certain plan or drug or to treat a drug favorably in formulary placement. Includes switching fees as well as other types of unlawful remuneration.
- ❑ Allowing the financial benefit to the PBM to take precedence over clinical efficacy and appropriateness of formulary drugs when formulary decisions are made.

PBMs (continued)

- ❑ Dispensing less than the prescribed quantity through the PBM's mail order pharmacy and billing the full amount to the payer without making arrangements to provide the balance of the prescribed drug.
- ❑ Splitting prescriptions, through the PBM's mail order pharmacy, to receive additional dispensing fees.
- ❑ Failing to offer a beneficiary the negotiated price of a Part D drug.



Beneficiaries

- ❑ Permitting another person to use the beneficiary's Medicare ID number/card.
- ❑ Falsifying coordination of benefits information to collect duplicate payments from multiple insurance plans.
- ❑ Participating in schemes that involve conspiracy between a provider/supplier and beneficiary.
- ❑ Going to a number of different doctors for prescriptions for the same controlled substance.



**Part V:
Reporting Potential
Fraud, Waste, and
Abuse**



Your Involvement

- ❑ Our organization engages in activities such as auditing, monitoring and other oversight to identify fraud, waste and abuse issues. However, we need your assistance through such actions as:
 - For entities: Establishing and enforcing policies and procedures to prevent, detect, and encourage reporting of fraud, waste and abuse.
 - For entities: Educating staff on the importance of fraud, waste, and abuse prevention.
 - For entities and individuals: Reporting any potential incidents of fraud, waste, or abuse to GuildNet.



Our Policies on Inquiries and Reports

- ❑ All inquiries and reports are confidential, subject to limitations imposed by law.
- ❑ If an individual is unwilling to identify himself or herself despite this protection, he/she may make an anonymous report.
- ❑ If an individual does not identify himself or herself, we ask that he or she provide some method of future contact (for example, an e-mail address). This will allow the internal investigator to ask follow up questions.
- ❑ GuildNet policy prohibits retaliation against individuals who raise issues in good faith.



Our Policies on Inquiries and Reports (continued)

To report potential fraud, waste or abuse, or if you have questions or concerns, or if you have questions regarding GuildNet's policies and procedures or fraud, waste and abuse laws, you can contact us by calling our **Compliance Officer at (212) 712-9957**, or our **Compliance Hotline at (212) 769-6295**.