

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICARE AND MEDICAID
FRAUD AND ABUSE TRAINING
IN MEDICAL EDUCATION**



Daniel R. Levinson
Inspector General

October 2010
OEI-01-10-00140



OBJECTIVES

To determine the extent to which:

1. medical schools provide instruction on compliance with Medicare and Medicaid laws aimed at preventing fraud and abuse,
2. institutions offering physician residency and fellowship programs provide instruction on compliance with these laws, and
3. medical schools and institutions offering physician residency and fellowship programs would like the Office of Inspector General (OIG) to provide educational resources addressing compliance with these laws.

BACKGROUND

Medicare and Medicaid fraud and abuse cost U.S. taxpayers billions of dollars each year and put the programs' beneficiaries' health and welfare at risk. No current law requires medical schools and institutions offering physician residency or fellowship programs to provide instruction on compliance with Medicare and Medicaid laws aimed at preventing fraud and abuse. OIG has dedicated significant resources to promoting the adoption of compliance programs and encouraging health care providers to incorporate integrity safeguards into their organizations as an essential component of a comprehensive antifraud strategy.

Among the Federal statutes addressing fraud and abuse are the civil False Claims Act, the anti-kickback statute, and the physician self-referral statute.

For this report, we conducted a survey of all accredited medical schools and accredited osteopathic schools and institutions offering physician residency and fellowship programs.

FINDINGS

Despite lack of a Federal requirement, 44 percent of medical schools reported providing instruction to students on Medicare and Medicaid fraud and abuse laws in 2010. Of the 131 deans who responded, 57 (44 percent) indicated that they provided instruction on Medicare and Medicaid fraud and abuse laws. Of those 57 deans, 53 indicated that the instruction took place in the classroom.

Thirty-eight respondents reported that the instruction covered the False Claims Act and the physician self-referral law, while 35 reported covering the anti-kickback statute.

More than two-thirds of institutions offering residency and fellowship programs reported instructing participants on compliance with Medicare and Medicaid fraud and abuse in 2010. Of the 387 designated institution officials (DIO) who responded to our survey, 263 (68 percent) reported providing instruction on fraud and abuse laws. Of those 263 DIOs, 212 (81 percent) reported using conferences and lectures.

Almost all medical schools and institutions offering residency and fellowship programs are interested in OIG-provided instructional materials relating to Medicare and Medicaid fraud and abuse.

One hundred twenty-one deans (92 percent) reported that they would be interested in receiving instructional materials covering fraud and abuse laws. Among institutions offering residency and fellowship programs, 347 (90 percent) reported that they would be interested in such materials. Most deans and DIOs stated that they were interested specifically in more information on the False Claims Act, the anti-kickback statute, and the physician self-referral law.

CONCLUSION

We recognize that medical schools and institutions offering residency and fellowship programs face enormous challenges in providing a comprehensive medical education to their students and physicians-in-training. Despite these challenges, many reported providing fraud and abuse training in 2010.

These efforts notwithstanding, opportunities exist for OIG to provide additional educational materials addressing these topics. Such materials could provide medical schools and hospitals with a consistent starting point on which to build their training programs and would support OIG's efforts to promote voluntary compliance. Toward that end, OIG plans to take the following steps:

- Prepare educational materials appropriate for medical schools and institutions offering residency and fellowship programs.
- Distribute the materials to medical schools and institutions that sponsor residency and fellowship programs.

E X E C U T I V E S U M M A R Y

- Seek feedback from the medical schools and institutions offering residency and fellowship programs on ways to improve the materials. Such feedback could include emerging compliance challenges that physicians, hospitals, and other providers face.



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BACKGROUND

Medicare and Medicaid fraud and abuse cost U.S. taxpayers billions of dollars each year and put the programs' beneficiaries' health and welfare at risk.¹ No current law requires medical schools or institutions such as hospitals or universities offering physician residency and fellowship programs to provide instruction on compliance with Medicare and Medicaid laws aimed at preventing fraud and abuse.

OIG Efforts to Combat Fraud and Abuse

OIG considers partnering with health care providers, such as hospitals, as an important component of a comprehensive effort to promote program integrity. Toward that end, OIG has traditionally assisted health care providers in adopting practices that promote compliance with program requirements.

OIG uses a variety of tools in this effort. It issues compliance program guidance that provide health care providers, suppliers, and organizations comprehensive and specific frameworks, standards, and principles to establish and maintain effective internal compliance programs. OIG also is required to provide advisory legal opinions on whether specific business arrangements violate fraud and abuse laws and make these opinions available to the public.² On a periodic basis,

¹ Health Care Reform: Opportunities to Address Waste, Fraud and Abuse: Hearing before the House Energy and Commerce Committee Subcommittee of Health U.S. House of Representatives, 111th Cong. (2009) (Statement of Daniel R. Levinson, Inspector General, Department of Health and Human Services).

² Relevant law and regulation may be found at 42 U.S.C. § 1320a-7d(b). and 42 CFR § 1008.47.

OIG also develops and issues guidance, including special advisory bulletins, fraud alerts, and open letters, to alert and inform the health care industry about potential problems or areas of special interest.³

Civil and Administrative Statutes Addressing Fraud and Abuse

Among the Federal statutes addressing fraud and abuse are the civil False Claims Act, the anti-kickback statute, and the physician self-referral statute. We asked medical school deans and designated institution officials (DIO) at institutions offering physician residency and fellowship programs about each of these laws in this evaluation.

The civil False Claims Act. The civil False Claims Act addresses fraudulent billing of the Federal Government. This Act assigns liability to any person who knowingly submits a fraudulent claim for payment to the Federal Government. It also addresses the creation and submission of false records relating to false claims, among other provisions. Violations generally are punishable by a civil penalty up to \$10,000 (as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990) and three times the amount of damages suffered by the Government as a result of the fraudulent claims.⁴

Anti-kickback statute. The Federal anti-kickback statute states that anyone who knowingly and willfully receives or pays anything of value to influence the referral of Federal health care program business, including Medicare and Medicaid, can be charged with a felony. Violations of the law are punishable by up to 5 years in prison and criminal fines up to \$25,000. Violators also are potentially subject to administrative civil monetary penalties up to \$50,000 under 42 U.S.C. 1230a-7a and exclusion from participating in Federal health care programs under 42 U.S.C. 1230a-7.

Physician self-referral statute. The physician self-referral statute prohibits, with certain exceptions, the practice of physicians' referring patients to facilities in which they have ownership or other financial interests. Violations of the law are punishable by a civil penalty up to \$15,000 per improper claim, denial of payment, and refunds for certain past claims.⁵

³ Additional information regarding these tools may be found on OIG's website at <http://www.oig.hhs.gov/fraud.asp>.

⁴ 31 U.S.C. § 3729 et seq.

⁵ 42 U.S.C. § 1395nn.

Other Federal statutes addressing fraud and abuse include the Civil Monetary Penalties Law and the Exclusion Statute. The Civil Monetary Penalties law covers an array of fraudulent and abusive activities and is similar to the False Claims Act. Violations of the law may result in penalties between \$10,000 and \$50,000 and up to three times the amount unlawfully claimed.⁶ The Exclusion Statute excludes individuals or entities from participating in the Medicare or Medicaid program from a minimum of 3 to 5 years, depending on the offense, to possible lifetime exclusion.

We will refer to these civil and administrative laws collectively as Medicare and Medicaid fraud and abuse laws.

Medical Education in the United States

Physicians begin their medical education in either an allopathic or osteopathic medical school. Students generally attend for 4 years and attend traditional lecture courses as well as receiving clinical instruction in hospitals and other clinical settings.

Upon completing medical school, students enter residency programs, where their training focuses on a medical specialty. Residency programs generally operate within a hospital setting and last between 3 and 8 years, depending on the specialty. For some subspecialties, residents may train for an additional 1 to 3 years as fellows.

In addition to providing advanced clinical training, hospitals or individual specialty programs may provide their residents and fellows with training in subjects such as ethics or compliance with Federal laws and regulations.

METHODOLOGY

Scope

This study assessed the extent to which, in 2010, U.S. medical schools and institutions, such as medical centers or universities offering physician residency and fellowship programs provided instruction on compliance with Medicare and Medicaid fraud and abuse laws to students and physician residents and fellows. This study also assessed the extent to which, in 2010, medical schools and institutions offering physician residency and fellowship programs provided instruction on

⁶ 42 U.S.C. § 1320a-7a.

compliance with the civil False Claims Act, the anti-kickback statute, and the physician self-referral statute.

Data Collection and Analysis

We identified deans at 131 accredited allopathic medical schools and 29 accredited osteopathic medical schools through the Association of American Medical Colleges and American Association of Osteopathic Colleges (hereinafter referred to as medical schools). We also identified DIOs at the 660 institutions offering accredited residency and fellowship programs, as determined by the Accreditation Council for Graduate Medical Education.⁷

We sent each identified dean and official a survey asking (1) what type of instruction medical students, resident physicians, and fellows received about Medicare and Medicaid fraud and abuse laws in 2010; and (2) what educational resources OIG could provide.

We first contacted the deans and DIOs in April 2010. We followed up twice with those who had not responded. We received 131 responses from deans for an 82-percent response rate and 387 responses from DIOs for a 59-percent response rate.

Limitations

We did not independently verify information provided by medical school deans or DIOs.

Standards

This study was conducted in accordance with the *Quality Standards for Inspections* approved by the Council of the Inspectors General on Integrity and Efficiency.

⁷ We removed 21 institutions that offered only forensic pathology programs because they do not bill Medicare and Medicaid for services rendered.

Despite lack of a Federal requirement, 44 percent of medical schools reported providing instruction to students on compliance with Medicare and Medicaid fraud and abuse laws in 2010

Of the 131 deans who responded, 57 (44 percent) indicated that they provided instruction on Medicare and Medicaid fraud and abuse laws. Of those 57 deans, 53 indicated that the instruction

took place in the classroom. However, 33 of those deans also indicated that classroom instruction was limited to about 2 hours or less. Deans reported using other educational formats less often. For example, of 57 respondents, 23 reported using reading materials and 14 reported providing training in a clinical setting.

About two-thirds of the 57 medical schools that provided instruction specifically reported covering the False Claims Act, the physician self-referral law, and the anti-kickback statute. Thirty-eight respondents reported that the instruction covered the False Claims Act and the physician self-referral law, while 35 reported covering the anti-kickback statute. The deans indicated that their medical schools presented information in the classroom or through reading material.

More than two-thirds of institutions offering residency and fellowship programs reported instructing participants on compliance with Medicare and Medicaid fraud and abuse laws in 2010

Of the 387 DIOs that responded to our survey, 263 (68 percent) reported providing instruction on fraud and abuse laws. Of those 263 DIOs, 212 (81 percent) reported conducting conferences

and lectures. One-hundred thirty-one (50 percent) respondents reported providing 4 hours or less of training per year. Further, 100 (38 percent) respondents reported providing the training annually while an additional 58 (22 percent) reported providing training in the first year of residency.

Hospital officials reported using other educational formats less often. For example, of 263 respondents, 135 (51 percent) reported using reading materials, 124 (47 percent) reported using online training, and 117 (44 percent) reported providing training in a clinical setting.

Over three-quarters of the hospitals that provided instruction specified the areas covered in their survey responses. Two-hundred nine DIOs (79 percent) reported that the instruction covered the False Claims Act,

FINDINGS

201 respondents (76 percent) reported that the instruction covered the anti-kickback statute, and 200 respondents (76 percent) reported that the instruction covered of the physician self-referral law.

Almost all medical schools and institutions offering residency and fellowship programs are interested in OIG-provided instructional materials relating to Medicare and Medicaid fraud and abuse laws

One hundred twenty-one deans (92 percent) reported that they would be interested in receiving instructional materials covering fraud and abuse laws. Most deans responded that they would like

more information on the False Claims Act, the anti-kickback statute, and the physician self-referral law. Of the 121 deans who indicated an interest in materials, 86 (71 percent) specified that they wanted a general overview of all Medicare and Medicaid fraud and abuse laws. Several of those respondents further explained that helpful material should highlight general principles rather than the details, because medical students will not be billing for several years.

Among institutions offering residency and fellowship programs, 347 (90 percent) reported that they would be interested in instructional materials covering fraud and abuse laws. Most respondents stated that they were interested specifically in more information on the False Claims Act, the anti-kickback statute, and the physician self-referral law.

Because of the large number of accredited residency programs at some institutions offering residency and fellowship programs, several respondents highlighted the value of having standardized educational materials covering fraud and abuse laws to distribute across programs. Other respondents indicated that they would like educational materials covering proper documentation, coding, and reimbursement.

► C O N C L U S I O N

We recognize that medical schools and institutions offering residency and fellowship programs face enormous challenges in providing a comprehensive medical education to their students and physicians-in-training. Despite these challenges, many reported providing fraud and abuse training in 2010. However, this does not necessarily mean that the training offered was accurate and comprehensive nor that all students, residents, and fellows participated in the training.

These efforts notwithstanding, opportunities exist for OIG to provide additional educational materials addressing these topics. Such materials could provide medical schools and hospitals with a consistent starting point on which to build their training programs and would support OIG's efforts to promote voluntary compliance. Toward that end, OIG plans to take the following steps:

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- Distribute the materials to medical schools and institutions that sponsor residency and fellowship programs.
- Seek feedback from the medical schools and institutions offering residency and fellowship programs on ways to improve the materials. Such feedback could include emerging compliance challenges that physicians, hospitals, and other providers face.



A C K N O W L E D G M E N T S

This report was prepared under the direction of Joyce M. Greenleaf, Regional Inspector General for Evaluation and Inspections in the Boston regional office, and Russell Hereford, Deputy Regional Inspector General.

Chris Galvin served as the team leader for this study. Other principal Office of Evaluation and Inspections staff from the Boston regional office who contributed to the report include Danielle Fletcher; central office staff who contributed include Arianne Spaccarelli.

Office of Inspector General

<http://oig.hhs.gov>

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