# How to Protect your VBC Program from FWA

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*"DOJ Announces Largest Health Care Fraud Bust In History National Health Care Fraud Takedown Results in 324 Defendants Charged in Connection with Over $14.6 Billion in Alleged Fraud" (June 30, 2025)* (1)

*"Granada Hills Man Guilty In $17M Sham Hospice Medicare Fraud"* (8)

*"Richmond doctor faces 26 health care fraud charges [$5.2 million] after allegedly injecting patients with ozone gas" (June 30, 2025)* (2)

***"[Provider] Pays $19.85M to Settle FCA Case Over Medically Unnecessary Inpatient Psych Stays"*** (7)

*"El Paso hospital execs face charges in $12M healthcare fraud scheme" (July 28, 2025)* (5)

*"13 Medicaid Providers Facing Fraud Charges" (6/30/2025)* (3)

***"3 Tennessee residents charged in $28.7M health care fraud case" (July 6, 2025)*** (4)

*"Acting U.S. Attorney Announces $5 Million False Claims Act Settlement With Providers Of Programs For Adults With Developmental Disabilities"* (9)

*"Highland doctor pleads guilty to federal charge of $22M health care fraud" (July 29, 2025)* (6)

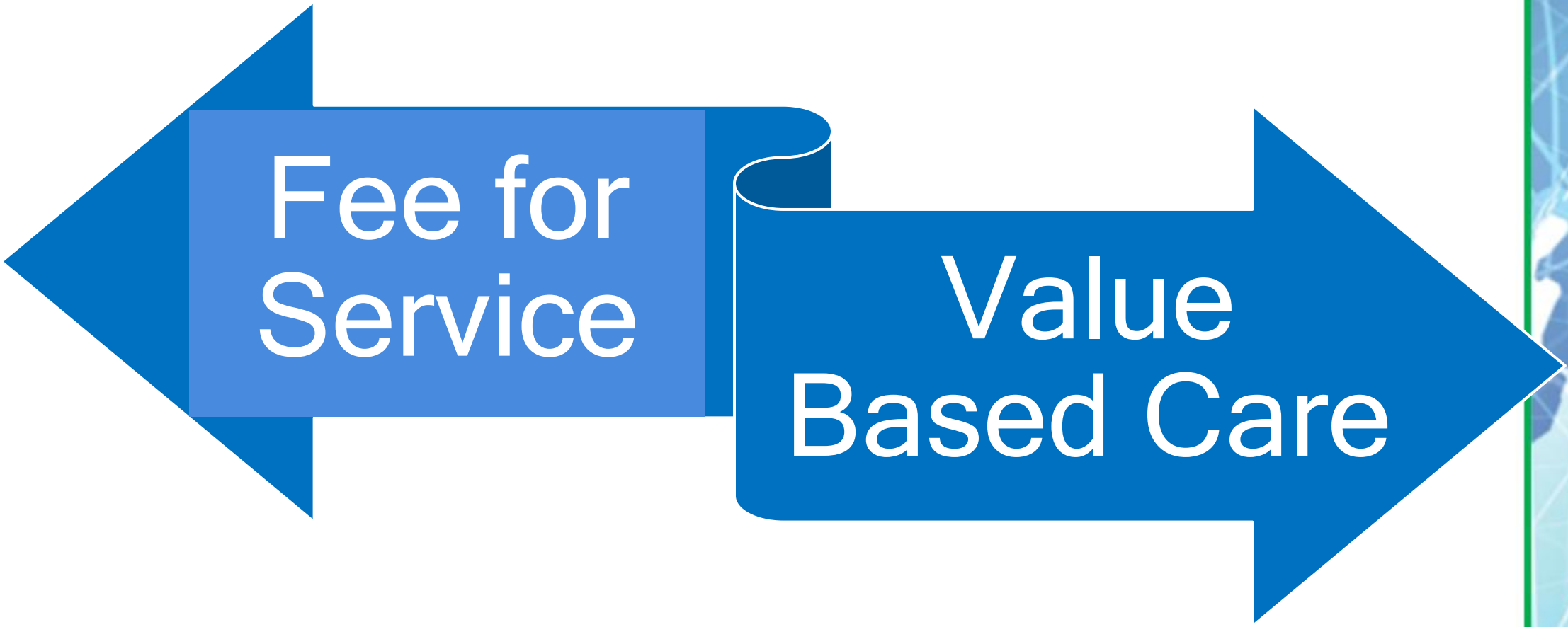
# $1.9 Billion

# 3-10%

# Today you will discover…

1. Who is watching?
2. Applicable laws and regulations
3. Common pitfalls
4. Introduction to queries
5. Best practices

# How is Our Industry Changing?



# Who’s Watching?

# Where Do I Find What is Being Scrutinized?

- The OIG has several items on its work plan pertaining to risk adjustment. All risk adjustment teams should check the OIG work plan regularly.

  https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000422.asp

- The Department of Justice (DOJ) is another entity that is prosecuting several high profile risk adjustment cases.

  https://www.justice.gov/

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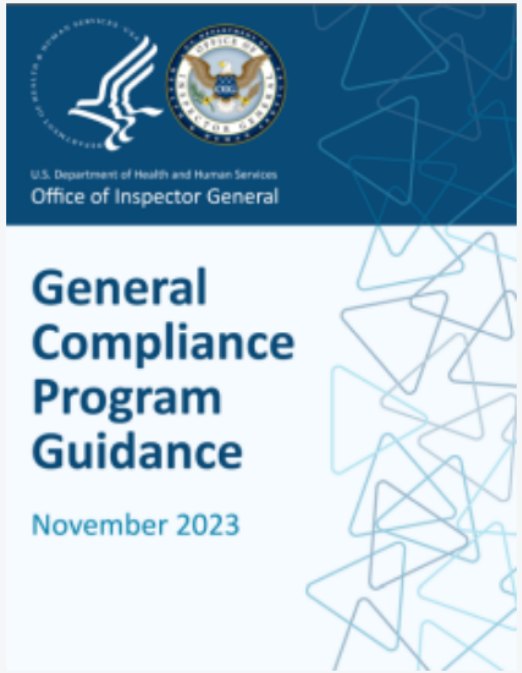
# General Compliance Program Guidance

The General Compliance Program Guidance (GCPG) is a reference guide for the health care compliance community and other health care stakeholders. The GCPG provides information about relevant Federal laws, compliance program infrastructure, OIG resources, and other information useful to understanding health care compliance.

The GCPG is voluntary guidance that discusses general compliance risks and compliance programs. The GCPG is not binding on any individual or entity. Of note, OIG uses the word "should" in the GCPG to present voluntary, nonbinding guidance.

**You may download the guidance in whole, or access individual sections below.**

**Download Complete Guidance**



*“Specifically, the Office will pay attention to risk adjustment processes to ensure accurate reporting. Officials will also seek to prevent abuse, fraud, and waste in plan to provider payments. Medical loss ratios, value-based care, and alternative payment mechanisms will be scrutinized for accuracy as part of the effort to improve payment oversight.”*

# Key laws and regulations

# What is the False Claims Act (FCA)?

The Act prohibits:

1. **Knowingly presenting, or causing to be presented a false claim for payment or approval;**
2. **Knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim;**
3. Conspiring to commit any violation of the False Claims Act;
4. Falsely certifying the type or amount of property to be used by the Government;
5. Certifying receipt of property on a document without completely knowing that the information is true;
6. Knowingly buying Government property from an unauthorized officer of the Government, and;
7. **Knowingly making, using, or causing to be made or used a false record to avoid, or decrease an obligation to pay or transmit property to the Government.**

# What are the penalties under the FCA?

**Not < $5,000 and not > $10,000 + 3x** the amount of damages which the Government sustains because of the act of that person

The False Claims Act requires a separate penalty for **each** violation of the statute

Relator receives amount of between **15% and 25% (but up to 30% in some cases)** of what it recovers based upon the whistleblower's report

Anti-retaliation provision allows the whistleblower to **double damages + attorney fees** for any acts of retaliation in addition to the award for reporting fraud

- **Anti-Kickback Violations:** Providers found guilty of accepting or offering kickbacks for referrals can face civil and criminal penalties, including fines of up to **$25,000** per violation and imprisonment.
- **Stark Law Violations:** Violations of the Stark Law, which prohibits physician self-referrals, can result in fines of up to **$15,000** per service and exclusion from federal healthcare programs.

# Key Guidance

- To participate in the MA program, MAOs must execute a contract with CMS that require MA plans to operate ***"in compliance with the requirements of applicable Federal statutes, regulations, and policies."*** 42 U.S.C. § 1395w-27(a).

- All diagnosis data submitted to CMS must ***conform with the ICD Guidelines***, which carry the force of law. 42 C.F.R. § 422.310(d)(1); 45 C.F.R. § 162.1002

- As a condition of payment, the CEO, CFO, or delegated officer of MAOs must annually certify, based on "best knowledge, information, and belief," to the ***"accuracy, completeness, and truthfulness"*** of the diagnosis data it submits to CMS. Related entities that generate the diagnosis data must do likewise. 42 C.F.R. § 422.504(l).

# Key Coding Guidance

## ICD-10 CM

- Diagnosis codes must be based on documented conditions that exist at the patient visit and that ***"require or affect patient care treatment or management"*** for the visit. ICD-10 Guidelines § IV.J.
- After initial diagnosis, ***chronic diseases "treated on an ongoing basis*** may be coded and reported as many times as the patient ***receives treatment and care for the condition(s)."*** ICD-10 Guidelines § IV.I.
- Diagnoses that are ***only probable, suspect, questionable, or otherwise uncertain or provisional may not be coded***. *See, e.g.,* ICD-10 Guidelines § IV.H.
- Prior conditions that no longer exist may be coded with "history codes," but ***only "if the historical condition . . . has an impact on current care or influences treatment."*** ICD-10 Guidelines § IV.J.

## Coding Clinic

- "Coding professionals should ***not assign codes based solely on diagnoses noted in the history, problem list and/or a medication list***. It is the provider's responsibility to document that the chronic condition affected care and management of the patient for that encounter." AHA Coding Clinic 3rd

# Common Pitfalls

# Where Do Good Organizations Go Wrong?

- Diagnoses clinically may be clinically accurate but ***not supported by the medical record***.
- Diagnosis codes ***invalid*** because they do not comply with CMS regulations or guidance, including professional coding standards (ICD-10 Guidelines).
- Ignoring complaints from physicians or patients that there are inaccuracies in patient medical records
- Pressuring clinicians to diagnose and code patients with risk-adjusting diagnoses
- Failing to conduct audits required by Government or professional standards.
- Conducting but ignoring the results of audits.
- Directing staff to not “look both ways” when conducting required audits.
- Using coding or billing software that is known to generate false diagnoses.

# Best Practices

# Best Practices

- Aim for a baseline of 95% accuracy
- Ensure that communication is open and provides a feedback loop for continuous improvement
- Trend errors and develop education to ensure the same mistakes do not continue to be made
- Don’t forget to include your vendor partners in your audit program. They are an extension of your team and should be held to the same high standards.

WELL TRAINED AND CRITICALLY THINKING CODING TEAM

EDUCATIONAL CULTURE

STAYING UP TO DATE

STRONG AND FLEXIBLE AUDIT PROGRAM

CULTURE OF COMPLIANCE

# Introduction to Queries

# Query Guidance

Review Compliant Query Practice Brief:

https://acdis.org/resources/guidelines-achieving-compliant-query-practice%E2%80%942022-update

# When Should I Query?

When documentation is:

Conflicting

Incomplete

Ambiguous

Inconsistent

# How Do I Query?

- Open-ended
- Multiple choice
- Yes/No
- Verbal

# Leading or Not Leading?

Your patient has a history of COPD and Diabetes. Please document these conditions during today's visit.

# Leading or Not Leading?

The current lab findings indicate an eGFR range of 20-25

Clinical Indicators: Previous encounter note dated 12/21/2021 documents CKD stage 4, previous lab findings over that last 3 months note an eGFR of 25-29.

Based on your independent clinical judgement and review of the clinical indicators listed below, can you please select the most appropriate diagnosis?

- CKD, stage 4
- Other explanation of clinical findings (please specify) _____
- Clinically undetermined

# Leading or Not Leading?

Diabetes, uncomplicated was documented within the progress note.
Clinical Indicators: A1c is 8.5 and precious A1c from last months visit is 7.8.

Based on your judgement and review of the clinical indicators listed below, can you please select the most appropriate diagnosis?

- Diabetes, uncomplicated
- **Diabetes with hyperglycemia**
- Other explanation of clinical findings (please specify) _____
- Clinically undetermined

# Leading or Not Leading?

Your notes for today's visit 2/01/2022 state: John continues Coumadin for DVT.  Please clarify the status of the DVT:

Acute $

Chronic $

Resolved

Other (Please specify)

Unable to determine

# Implementing Compliance in Value-Based Care

- 7 elements are a foundation for preventing, detecting & responding to FWA
- Integrate compliance into VBC operations, analytics & partnerships
- Promotes integrity, accuracy & accountability

# 1. Standards, Policies & Procedures

- Define clear VBC-specific FWA policies
- Align with CMS & OIG guidance
- Include vendor & partner expectations

# 2. Oversight & Governance

- Designate compliance officer & committee
- Integrate VBC FWA into board reporting
- Use analytics to track risk & performance trends

# 3. Training & Education

- Targeted education for staff & providers
- Focus on accurate coding, data integrity, & ethics
- Reinforce compliance as a shared responsibility

# 4. Communication & Reporting

- Maintain open, confidential reporting channels
- Encourage speak-up culture, no retaliation
- Share compliance trends & outcomes

# 5. Auditing & Monitoring

- Embed FWA checks in audit programs
- Validate coding, quality metrics, and data feeds
- Use analytics to detect outliers or anomalies

# 6. Enforcement & Accountability

- Consistent disciplinary actions
- Apply standards equally to internal teams & vendors
- Link compliance to performance expectations

# 7. Response & Corrective Action

- Formal process for incident response & CAPs
- Perform root-cause analysis & retraining
- Track and trend remediation for prevention

# Putting It All Together

- The 7 elements form a continuous loop:

  Prevent → Detect → Respond → Improve

- Builds sustainable trust and transparency in VBC programs

# Protecting Value-Based Care from FWA: Key Takeaways

- Know the Landscape: Understand evolving regulations and enforcement trends
- Spot the Risks: Identify fraud, waste, and abuse across coding, documentation, and incentive structures
- Build Strong Foundations: Apply the 7 elements of an effective compliance program to VBC operations
- Audit with Intention: Use data analytics to monitor, validate, and trend performance
- Engage Everyone: Empower providers, vendors, and staff to uphold integrity
- Respond and Improve: Act quickly on findings and embed lessons learned
- Sustain the Value: Integrity drives trust, transparency, and long-term program success

# Questions ?

Citations from slide 2:


1. **National Health Care Fraud Takedown Results in 324 Defendants Charged in Connection with Over $14.6 Billion in Alleged Fraud** *(June 30, 2025).* Office of Public Affairs https://www.justice.gov/opa/pr/national-health-care-fraud-takedown-results-324-defendants-charged-connection-over-146
2. **Richmond doctor faces 26 health care fraud charges [$5.2 million] after allegedly injecting patients with ozone gas** *(June 30, 2025).* Julia Broberg https://www.wric.com/news/local-news/richmond/richmond-doctor-faces-26-health-care-fraud-charges-after-allegedly-injecting-patients-with-ozone-gas/
3. **13 Medicaid Providers Facing Fraud Charges** *(June 30, 2025).* State of Ohio (State Enforcement Agencies). https://oig.hhs.gov/fraud/enforcement/13-medicaid-providers-facing-fraud-charges/
4. **3 Tennessee residents charged in $28.7M health care fraud case** *(July 6, 2025).* Cassandra Stephenson / Tennessee Lookout. https://www.timesfreepress.com/news/2025/jul/06/3-tennessee-residents-charged-in-287m-health-care
5. **El Paso hospital execs face charges in $12M healthcare fraud scheme** *(July 28, 2025).* U.S. Attorney's Office, Western District of Texas. https://www.justice.gov/usao-wdtx/pr/el-paso-hospital-ceos-charged-healthcare-fraud
6. **Highland doctor pleads guilty to federal charge of $22M health care fraud** *(July 29, 2025).* Lizzie Kaboski, The Times, Munster, Ind. https://insurancenewsnet.com/oarticle/highland-doctor-pleads-guilty-to-federal-charge-of-health-care-fraud
7. ***[Provider] Pays $19.85M to Settle FCA Case Over Medically Unnecessary Inpatient Psych Stays*** *(Sept 26, 2024). Office of Public Affairs. https://www.justice.gov/archives/opa/pr/acadia-healthcare-company-inc-pay-1985m-settle-allegations-relating-medically-unnecessary*
8. ***Granada Hills Man Guilty In $17M Sham Hospice Medicare Fraud*** *(Feb 2, 2025). Office of Public Affairs. https://www.justice.gov/opa/pr/man-pleads-guilty-connection-17m-medicare-hospice-fraud-and-home-health-care-fraud-schemes*
9. ***Acting U.S. Attorney Announces $5 Million False Claims Act Settlement With Providers Of Programs For Adults With Developmental Disabilities*** *(March 26, 2025).* U.S. Attorney's Office, Southern District of New York https://www.justice.gov/usao-sdny/pr/acting-us-attorney-announces-5-million-false-claims-act-settlement-providers-programs

# For more value-based care resources and webinars..

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# visit VBCExhibitHall

# How Can We Help?

- Independent risk/gap assessments & roadmap design
- Staff augmentation: SIU, coders, clinical, data science
- SmartPartner™ analytics + case management platform
- Co-build KPI dashboards and governance artifacts

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# Helpful Resources

https://oig.hhs.gov/compliance/general-compliance-program-guidance/

https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/mc86c21.pdf

https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-monitoring-and-oversight-initiative

https://www.cdc.gov/nchs/icd/icd-10-cm/index.html

https://www.ama-assn.org/practice-management/cpt/category-i-immunization-codes

https://acdis.org/resources/guidelines-achieving-compliant-query-practice%E2%80%942022-update