



Part 2: Medicare Parts C & D Compliance Training



*Developed by the
Centers for Medicare &
Medicaid Services*

IMPORTANT NOTICE

This training module will assist Medicare Parts C and D plan Sponsors in satisfying the Compliance training requirements of the Compliance Program regulations at 42 C.F.R. §§ 422.503(b)(4)(vi) and 423.504(b)(4)(vi) and in Section 50.3 of the Compliance Program Guidelines found in Chapter 9 of the Medicare Prescription Drug Benefit Manual and Chapter 21 of the Medicare Managed Care Manual.

While Sponsors may choose to use this module to satisfy compliance training requirements, completion of this training in and of itself does not ensure that a Sponsor has an “effective Compliance Program.” Sponsors are responsible for ensuring the establishment and implementation of an effective Compliance Program in accordance with CMS regulations and program guidelines.

Why Do / Need Training?

Compliance is EVERYONE'S responsibility!

As an individual who provides health or administrative services for Medicare enrollees, every action you take potentially affects Medicare enrollees, the Medicare program, or the Medicare trust fund.

Training Objectives



To understand the organization's commitment to ethical business behavior

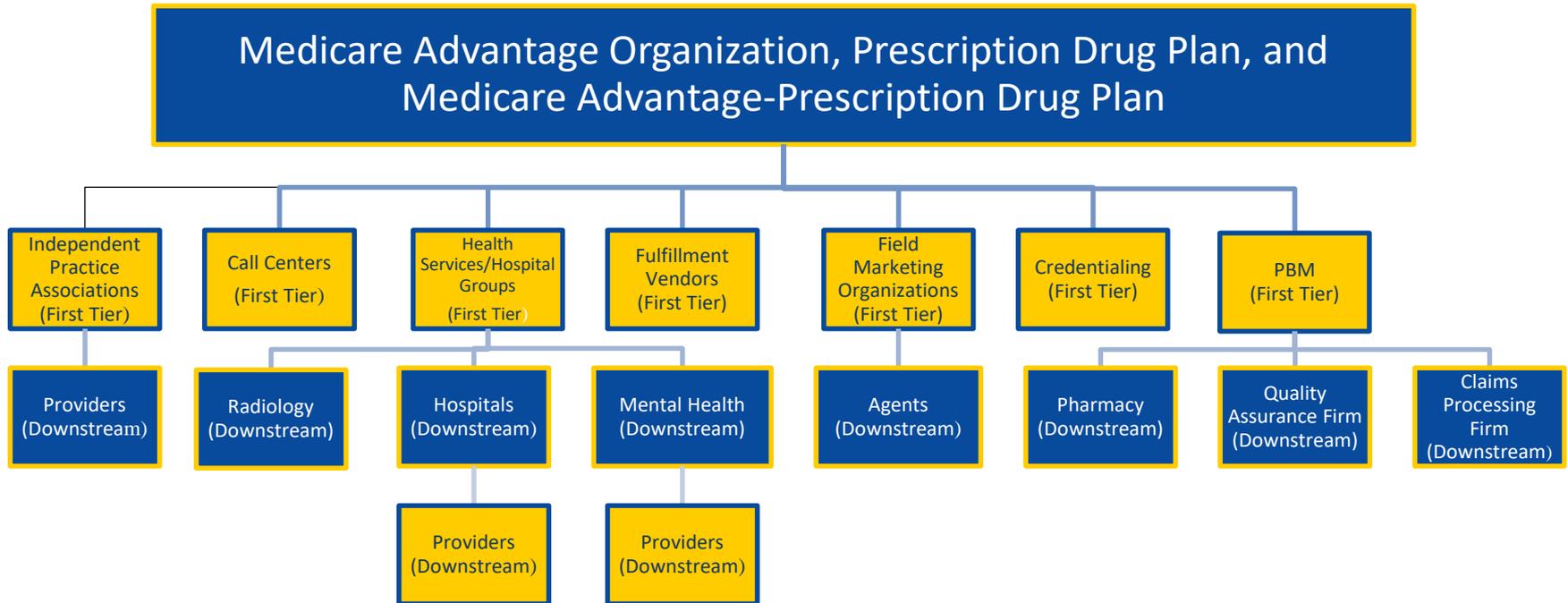


To understand how a compliance program operates



To gain awareness of how compliance violations should be reported

Where Do I Fit in the Medicare Program?



Background

- CMS requires Medicare Advantage, Medicare Advantage-Prescription Drug, and Prescription Drug Plan Sponsors (“Sponsors”) to implement an effective compliance program.
- An effective compliance program should:



Compliance

A culture of compliance
within an organization:

Prevents
noncompliance

Detects
noncompliance

Corrects
noncompliance

Compliance Program Requirements

At a minimum, a compliance program must include the 7 core requirements:

1. Written Policies, Procedures and Standards of Conduct;
2. Compliance Officer, Compliance Committee and High Level Oversight;
3. Effective Training and Education;
4. Effective Lines of Communication;
5. Well Publicized Disciplinary Standards;
6. Effective System for Routine Monitoring and Identification of Compliance Risks; and
7. Procedures and System for Prompt Response to Compliance Issues

42 C.F.R. §§ 422.503(b)(4)(vi) and 423.504(b)(4)(vi); Internet-Only Manual (“IOM”), Pub. 100-16, Medicare Managed Care Manual Chapter 21; IOM, Pub. 100-18, Medicare Prescription Drug Benefit Manual Chapter 9

Compliance Training

- CMS expects that all Sponsors will apply their training requirements and “effective lines of communication” to the entities with which they partner.
- Having “effective lines of communication” means that employees of the organization and the partnering entities have several avenues through which to report compliance concerns.

Ethics – Do the Right Thing!

Act Fairly and Honestly

Comply with the letter and spirit of the law

As a part of the Medicare program, it is important that you conduct yourself in an ethical and legal manner.
It's about doing the right thing!

Adhere to high ethical standards in all that you do

Report suspected violations

How Do I Know What is Expected of Me?

Standards of Conduct (or Code of Conduct) state compliance expectations and the principles and values by which an organization operates.

Contents will vary as Standards of Conduct should be tailored to each individual organization's culture and business operations.

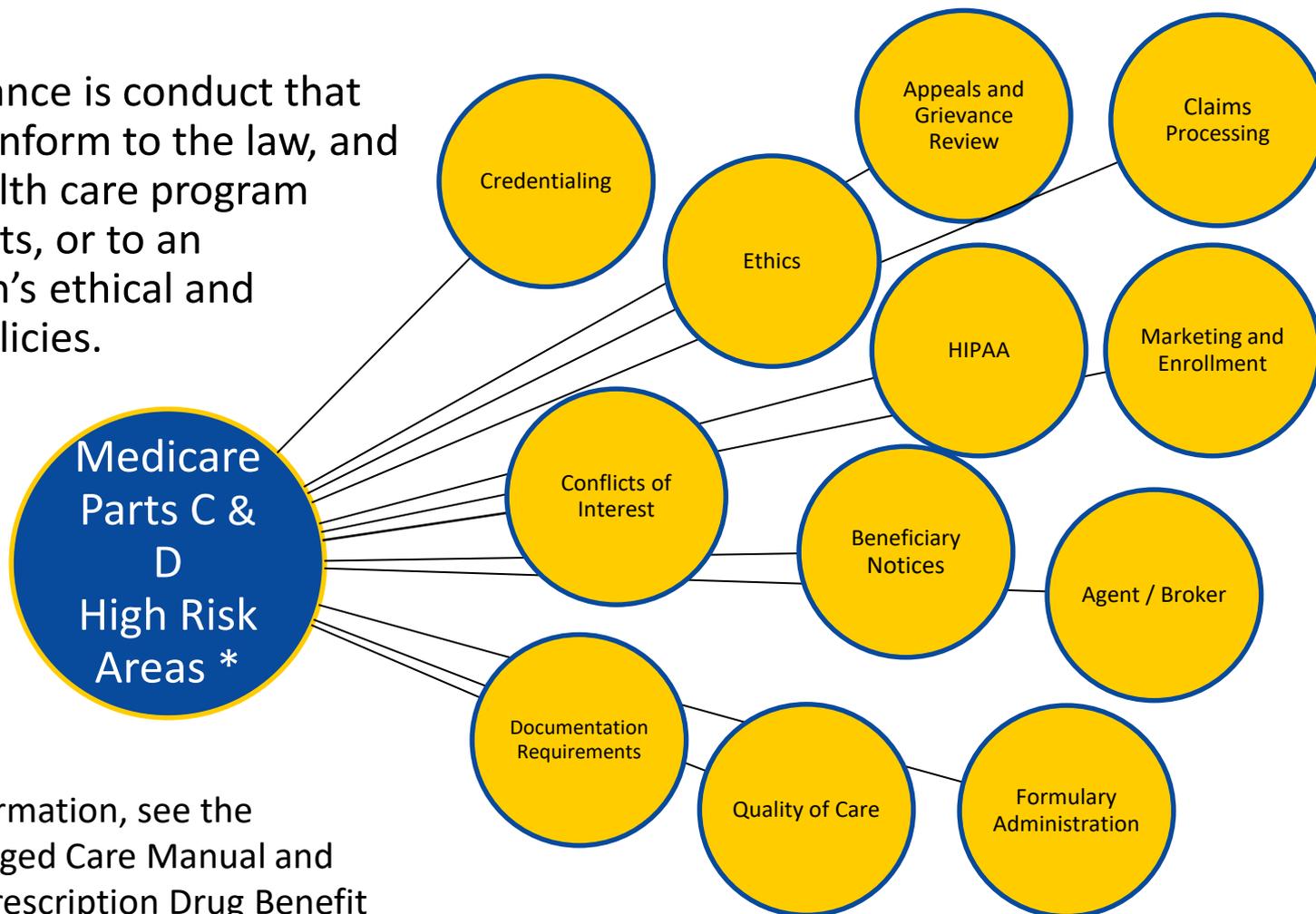
How Do I Know What is Expected of Me (cont.)?

Everyone is required to report violations of Standards of Conduct and suspected noncompliance.

An organization's Standards of Conduct and Policies and Procedures should identify this obligation and tell you how to report.

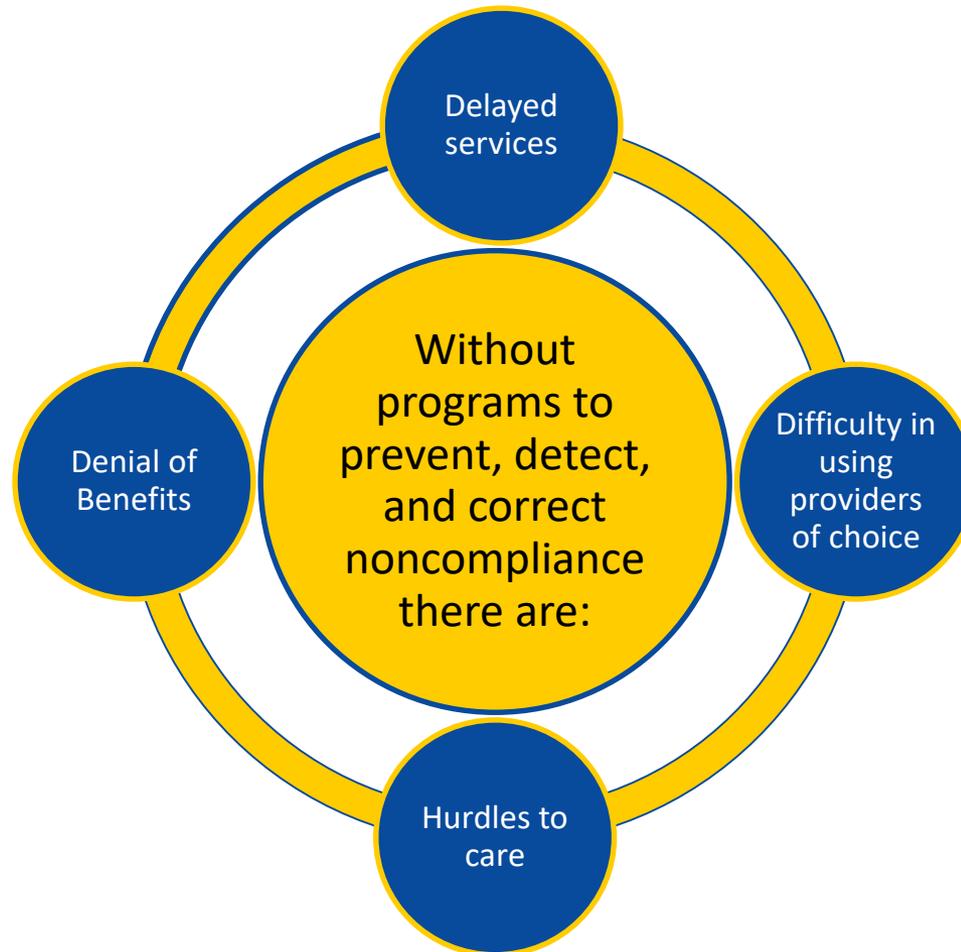
What Is Noncompliance?

Noncompliance is conduct that does not conform to the law, and Federal health care program requirements, or to an organization's ethical and business policies.



* For more information, see the Medicare Managed Care Manual and the Medicare Prescription Drug Benefit Manual on <http://www.cms.gov>

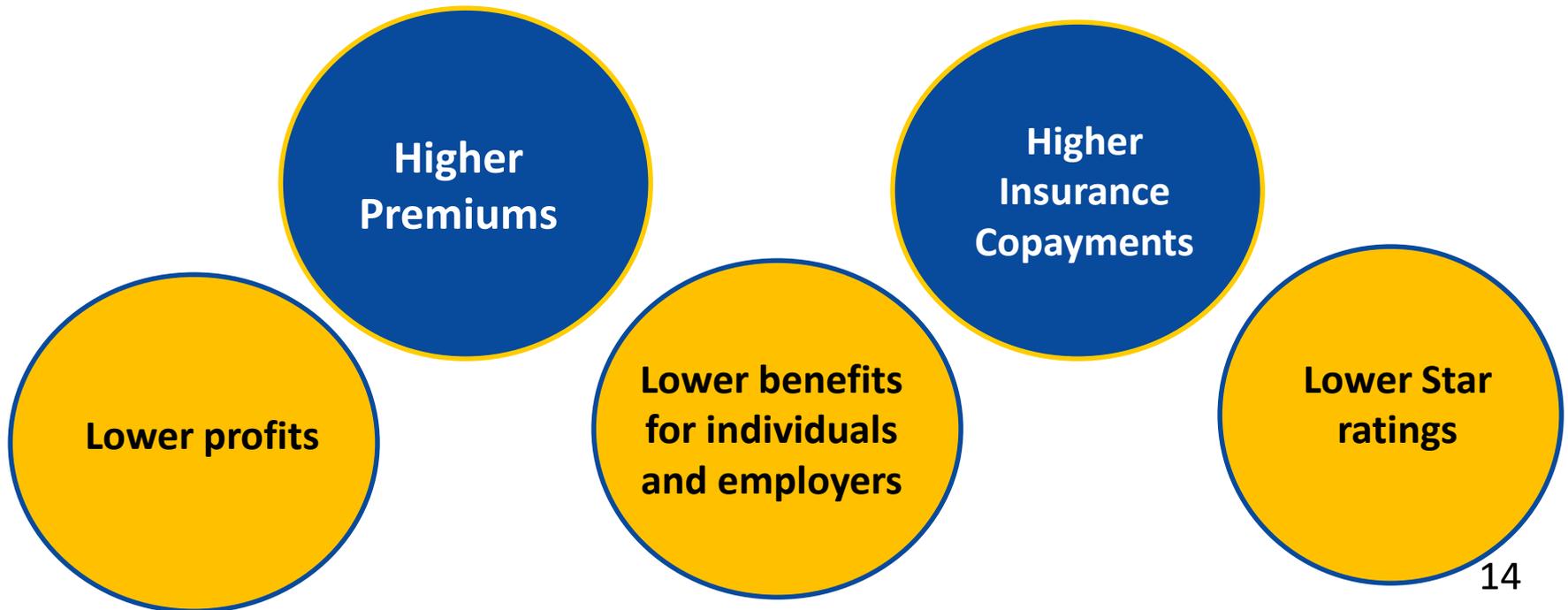
Noncompliance Harms Enrollees



Noncompliance Costs Money

Non Compliance affects EVERYBODY!

Without programs to prevent, detect, and correct noncompliance you risk:



I'm Afraid to Report Noncompliance

There can be **NO** retaliation against you for reporting suspected noncompliance in good faith.

Each Sponsor must offer reporting methods that are:



How Can I Report Potential Noncompliance?

Employees of an MA, MA-PD, or PDP Sponsor

- Call the Medicare Compliance Officer
- Make a report through the Website
- Call the Compliance Hotline

FDR Employees

- Talk to a Manager or Supervisor
- Call Your Ethics/Compliance Help Line
- Report through the Sponsor

Beneficiaries

- Call the Sponsor's compliance hotline
- Make a report through Sponsor's website
- Call 1-800-Medicare

What Happens Next?

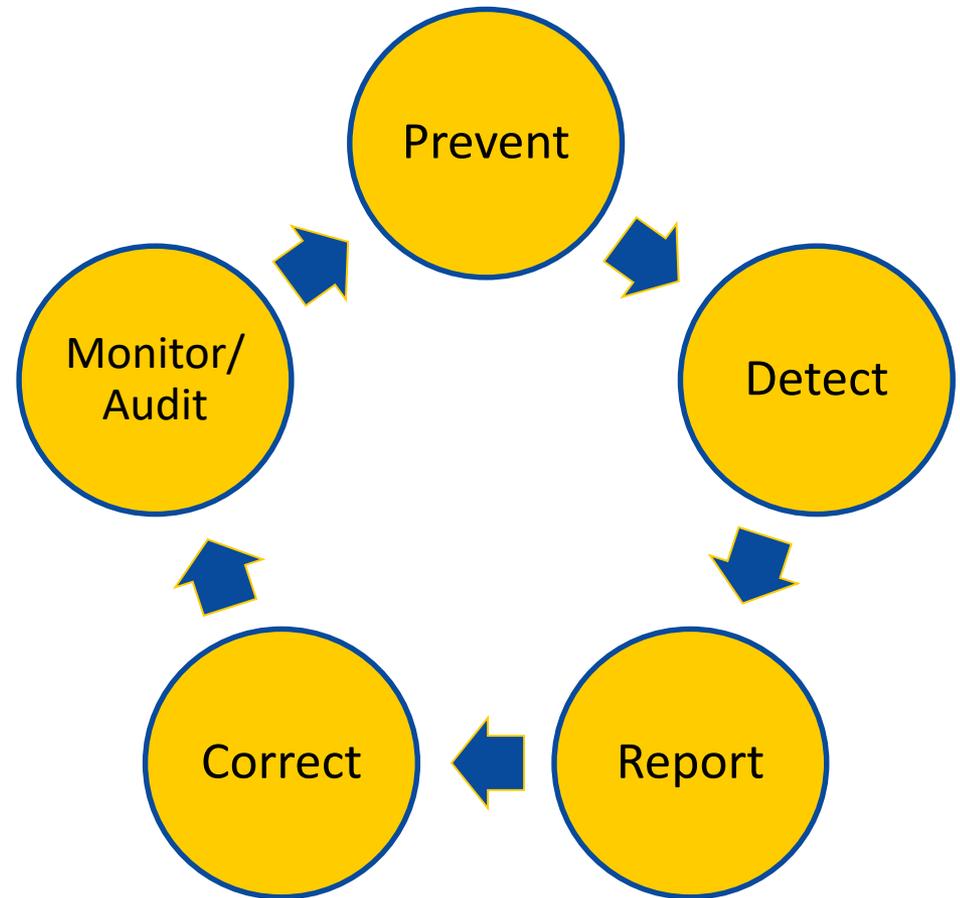


Correcting Noncompliance

- Avoids the recurrence of the same noncompliance
 - Promotes efficiency and effective internal controls
 - Protects enrollees
 - Ensures ongoing compliance with CMS requirements

How Do I Know the Noncompliance Won't Happen Again?

- Once noncompliance is detected and corrected, an ongoing evaluation process is critical to ensure the noncompliance does not recur.
- Monitoring activities are regular reviews which confirm ongoing compliance and ensure that corrective actions are undertaken and effective.
- Auditing is a formal review of compliance with a particular set of standards (e.g., policies and procedures, laws and regulations) used as base measures



Know the Consequences of Noncompliance

Your organization is required to have disciplinary standards in place for non-compliant behavior. Those who engage in non-Compliant behavior may be subject to any of the following:



Compliance is EVERYONE'S Responsibility!!

PREVENT

- Operate within your organization's ethical expectations to PREVENT noncompliance!

DETECT & REPORT

- If you DETECT potential noncompliance, REPORT it!

CORRECT

- CORRECT noncompliance to protect beneficiaries and to save money!

Scenario 1

You have discovered an unattended email address or fax machine in your office which receives beneficiary appeals requests.

You suspect that no one is processing the appeals. What should you do?

Scenario 1

- A) Contact Law Enforcement
- B) Nothing
- C) Contact your Compliance Department
- D) Wait to confirm someone is processing the appeals before taking further action
- E) Contact your supervisor

Scenario 1

The correct answer is: C – Contact your Compliance Department.

Suspected or actual noncompliance should be reported immediately upon discovery. It is best to report anything that is suspected rather than wait and let the situation play out.

Your Sponsor's compliance department will have properly trained individuals who can investigate the situation and then, as needed, take steps to correct the situation according to the Sponsor's Standards of Conduct and Policies and Procedures.

Scenario 2

A sales agent, employed by the Sponsor's first-tier or downstream entity, has submitted an application for processing and has requested two things:

- i) the enrollment date be back-dated by one month
- ii) all monthly premiums for the beneficiary be waived

What should you do?

Scenario 2

- A) Refuse to change the date or waive the premiums, but decide not to mention the request to a supervisor or the compliance department
- B) Make the requested changes because the sales agent is responsible for determining the beneficiary's start date and monthly premiums
- C) Tell the sales agent you will take care of it, but then process the application properly (without the requested revisions). You will not file a report because you don't want the sales agent to retaliate against you
- D) Process the application properly (without the requested revisions). Inform your supervisor and the compliance officer about the sales agent's request.
- E) Contact law enforcement and CMS to report the sales agent's behavior.

Scenario 2

The correct answer is: D - Process the application properly (without the requested revisions). Inform your supervisor and the compliance officer about the sales agent's request.

The enrollment application should be processed in compliance with CMS regulations and guidance. If you are unclear about the appropriate procedure, then you can ask your supervisor or the compliance department for additional, job-specific training.

Your supervisor and the compliance department should be made aware of the sales agent's request so that proper retraining and any necessary disciplinary action can be taken to ensure that this behavior does not continue. *No one*, including the sales agent, your supervisor, or the Compliance Department, can retaliate against you for a report of noncompliance made in good faith.

Scenario 3

You work for an MA-PD Sponsor. Last month, while reviewing a monthly report from CMS, you identified multiple enrollees for which the Sponsor is being paid, who are not enrolled in the plan.

You spoke to your supervisor, Tom, who said not to worry about it. This month, you have identified the same enrollees on the report again.

What do you do?

Scenario 3

- A) Decide not to worry about it as your supervisor, Tom, had instructed. You notified him last month and now it's his responsibility.
- B) Although you have seen notices about the Sponsor's non-retaliation policy, you are still nervous about reporting. To be safe, you submit a report through your Compliance Department's anonymous tip line so that you cannot be identified.
- C) Wait until next month to see if the same enrollees are on the report again, figuring it may take a few months for CMS to reconcile its records. If they are, then you will say something to Tom again.
- D) Contact law enforcement and CMS to report the discrepancy.
- E) Ask Tom about the discrepancies again.

Scenario 3

The correct answer is: B - Although you have seen notices about the Sponsor's non-retaliation policy, you are still nervous about reporting. To be safe, you submit a report through your Compliance Department's anonymous tip line so that you cannot be identified.

There can be no retaliation for reports of noncompliance made in good faith. To help promote reporting, Sponsors should have easy-to-use, confidential reporting mechanisms available to its employees 24 hours a day, 7 days a week.

It is best to report any suspected noncompliance to the Compliance Department promptly to ensure that the Sponsor remains in compliance with CMS requirements. Do the right thing! Compliance is everyone's responsibility.

What Governs Compliance?

- **Social Security Act:**
 - Title 18
- **Code of Federal Regulations*:**
 - 42 CFR Parts 422 (Part C) and 423 (Part D)
- **CMS Guidance:**
 - Manuals
 - HPMS Memos
- **CMS Contracts:**
 - Private entities apply and contracts are renewed/non-renewed each year
- **Other Sources:**
 - OIG/DOJ (fraud, waste and abuse (FWA))
 - HHS (HIPAA privacy)
- **State Laws:**
 - Licensure
 - Financial Solvency
 - Sales Agents

** 42 C.F.R. §§ 422.503(b)(4)(vi) and 423.504(b)(4)(vi)*

Additional Resources

- For more information on laws governing the Medicare program and Medicare noncompliance, or for additional healthcare compliance resources please see:
 - Title XVIII of the Social Security Act
 - Medicare Regulations governing Parts C and D (42 C.F.R. §§ 422 and 423)
 - Civil False Claims Act (31 U.S.C. §§ 3729-3733)
 - Criminal False Claims Statute (18 U.S.C. §§ 287,1001)
 - Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b))
 - Stark Statute (Physician Self-Referral Law) (42 U.S.C. § 1395nn)
 - Exclusion entities instruction (42 U.S.C. § 1395w-27(g)(1)(G))
 - The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191) (45 CFR Part 160 and Part 164, Subparts A and E)
 - OIG Compliance Program Guidance for the Healthcare Industry:
<http://oig.hhs.gov/compliance/compliance-guidance/index.asp>