



ISSUE DATE

August 8, 2011

EFFECTIVE DATE

**Immediately**

NUMBER

05-11-04, 51-11-04, 52-11-04, 54-11-04, 55-11-04,  
59-11-04

SUBJECT

Program Fraud & Financial Abuse in Office of Long-Term Living MA Home and Community-Based Service (HCBS) Programs

BY

  
Kevin Hancock, Acting Deputy Secretary  
Office of Long-Term Living

**PURPOSE**

The purpose of this Bulletin is to remind the Medical Assistance (MA) Home and Community Based-Service providers of the requirements set forth in Sections 1101.73 (relating to provider misutilization and abuse) and 1101.75 (relating to provider prohibited acts) of Title 55 Pa Code and the procedures for reporting suspected misutilization, abuse and prohibited acts.

**SCOPE**

This OLTL Bulletin applies to all MA Home and Community-Based Services (HCBS) Waiver service providers, including Care Management and Service Coordination Agencies, Care Managers and Service Coordinators, Fiscal/Employer Agencies, Direct Service Agencies and employees and contractors of these agencies.

**DISCUSSION**

The OLTL is responsible for providing MA HCBS providers with information about financial abuse and program fraud; documentation requirements; how to report suspected fraud or abuse and remedies available for enforcement.

Title 55 Pa Code § 1101.73 (relating to provider misutilization and abuse) discusses the steps taken if a provider is found billing for services inconsistent with MA regulations, unnecessary, inappropriate to patients' health needs or contrary to customary standards of practice.

Examples of provider misutilization and abuse include, but are not limited to, the following:

- Charging excessively for services or supplies;
- Submitting claims for services that do not meet CMS/MA medical necessity criteria;
- Breaching the Medicare/Medicaid participation or assignment agreements;
- Improperly submitting claims or utilizing incorrect coding; and
- Submitting incomplete records required to document service provision, or as otherwise required by state and/or federal rules.

Title 55 Pa. Code § 1101.75 (relating to provider prohibited acts) outlines the acts prohibited under the MA program. Examples of provider prohibited acts include, but are not limited to, the following:

- Submitting claims for services or supplies that were not provided;
- Altering claims to obtain higher payments;

- Soliciting, offering or receiving a kickback, bribe or rebate (for example, paying for referral of clients);
- Completing Certificates of Medical Necessity (CMNs) for patients not known to the provider;
- Submitting any false data on claims, such as the date of service, units of service, or the provider of service; and
- Using deceptive enrollment practices.

The following are situational examples of program fraud committed by providers:

- A personal care worker continued to bill and be paid for services authorized under an MA waiver while the individual supposed to be receiving the services was incarcerated. Both the worker and the person supposed to be receiving the services conspired to continue billing for the services in order to gather money for bail.
- A personal care worker billed and received payment for hours of service provided to an individual needing assistance while the personal care worker was on duty at another job.

Examples of program fraud committed by individuals receiving services:

- Using another person's Medicare/Medicaid card to obtain medical care; and
- Signing an attendant's timesheet for hours of care not provided.

#### Documentation Requirements for Services Rendered

Title 55 Pa. Code § 1101.51(d) establishes standards of practice and § 1101.51(e) sets forth record keeping requirements for all provider types, including MA HCBS Waiver providers. The OLTL must assure that providers have sufficient and accurate documentation to support claims submitted for payment. This documentation is used by the Department to determine the validity of claims submitted, the medical necessity and quality of services provided to MA recipients.

#### **PROCEDURES**

Providers should review their record keeping practices to ensure compliance with applicable Federal and State statutes and regulations, as well as compliance with their licensing and approval standards.

#### Reporting

Providers that detect or suspect a prohibited act has been committed MUST report the suspected prohibited act to the DPW Office of Administration, Bureau of Program Integrity. This DOES NOT preclude reporting to any other investigative agency or entity.

Detected or suspected prohibited acts must be reported immediately to the Bureau of Program Integrity (BPI) through one of the methods listed below.

- By electronically submitting the MA Provider Compliance Hotline Response Form (<http://www.dpw.state.pa.us/learnaboutdpw/fraudandabuse/maprovidercompliancehotlineresponseform/index.htm>)
- By phone: 1-866-DPW-TIPS (1-866-379-8477)
- By fax: (717) 772-4655—Attention: MA Provider Compliance Hotline
- By U.S. Mail:

Bureau of Program Integrity  
MA Provider Compliance Hotline  
P.O. Box 2675  
Harrisburg, PA 17105-2675

Remedies for Enforcement

OLTL reminds providers that DPW has the following enforcement actions listed in 55 Pa. Code § 1101.77 (relating to enforcement actions taken by the Department) available to address fraud and financial abuse. These actions include terminating the provider's provider enrollment and participation in the MA program.

Providers convicted of prohibited acts are subject to criminal penalties outlined in 55 Pa. Code § 1101.76 (relating to criminal penalties).

Providers who have engaged in prohibited acts can also be referred to federal authorities for further investigation and possible prosecution, according to 55 Pa. Code § 1101.74 (relating to Provider fraud).

DPW can also seek restitution and reimbursement for payments made for prohibited acts under 55 Pa Code § 1101.83 (relating to restitution and repayment).

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Long-Term Living  
Office of Policy and Strategic Planning  
Forum Place  
555 Walnut Street, 5<sup>th</sup> floor  
Harrisburg, PA 17101  
717-705-3705