Independent Health's

Special Investigations Unit

First Tier/Delegated Entity FWA Referral Process and Training

2022

Restricted

Independent Health.

Background

Independent Health is committed to a robust Fraud, Waste and Abuse (FWA) prevention program.

Based on our contractual obligations to administer Medicare Advantage with The Centers for Medicare & Medicaid (CMS) and Medicaid with New York State Department of Health (DOH), Independent Health is required to implement an infrastructure to detect and report potential FWA to governmental agencies.

Since your organization has been subcontracted to provide administrative, healthcare or member impacting services, in the course of your work you may encounter Fraud, Waste or Abuse committed by Providers or Members.

Independent Health therefore relies on our First Tier/Delegated partners to assist in detecting and reporting potential FWA.

<u>Consequently, our prevention program requires us to provide First Tier/Delegated entities' FWA training, in addition to maintaining an effective referral process.</u>

First Tier/Delegated Entity Responsibilities

Section 409 of the New York Insurance Law and Regulation 95 requires Independent Health to file with various New York Agencies a plan for the detection, investigation and prevention of insurance fraud. Independent Health has filed its plan with the New York State Department of Financial Services and indicated we have not delegated any part of the fraud, waste and abuse investigative function to any other entity with which we engage in the delivery of healthcare services.

Although Independent Health has delegated administrative, healthcare or member impacting services to your organization, we *have not delegated* Special Investigative Unit functions and its related responsibilities.

First Tier/Delegated Entity Responsibilities

Your organization is required to notify Independent Health of any suspected Fraud, Waste or Abuse committed by one of our members, providers who service our members, or any other party engaged in the provision of healthcare services and administration of our members' healthcare benefit(s).

While we will require your assistance in the investigation of any suspected cases of FWA, the contract we have with you does not authorize you to perform investigation or audit on our behalf.

If FWA is suspected, we require you to report it to the plan immediately and the plan will conduct/direct the investigation, audit, corrective action, resolution throughout its lifecycle.

If your organization detects the potential for fraud, waste or abuse within your scope of contracted services, which may impact Independent Health, its members or providers, we request that you follow the procedures on the following page(s) to report any concerns.

First Tier/Delegated Entity Referral Process

- **Email us at SIU@independenthealth.com**
- **Call our SIU area at 1-800-665-1182**
- **Tell us what you suspect, and if possible, include our Member Information:**
  - **ID number/Member #**
- **If a provider is involved in the potential fraud, waste or abuse, please their name, their NPI#, Business or medical practice group name**
- **Please provide a contact at your organization we can engage to request additional information should that be needed**
- **Provide any other information you feel is applicable (e.g. claims, documentation)**

"We expect your organization will assist in the investigation of any referrals you provide and we also expect that cooperation should we initiate an investigation that relates to the services you are delegated to perform or the network used to provide those services."

We appreciate your commitment to helping Independent Health operate a successful FWA prevention program.

What is Fraud?

- **Fraud** is intentional and typically characterized by:
  - Knowingly submitting false statements or making misrepresentations of fact to obtain health care payments for which no entitlement would otherwise exist.
  - Knowingly soliciting, paying, and/or accepting money to induce or reward referrals for items reimbursed by health care programs; or
  - Making prohibited referrals for certain designated health services.

What is Abuse?

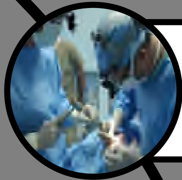
Abuse describes

- practices that, either directly or indirectly, result in unnecessary costs to a health care program.

Abuse includes

- any practice that is not consistent with the goals of providing patients with services that are medically necessary, meet professionally recognized standards, and priced fairly.

Examples of Provider Fraud



Misrepresenting procedures performed to obtain payment for non-covered services

Billing for services not rendered

Falsifying diagnosis to justify surgery, testing or procedures not medically necessary

Up-coding – Utilizing a higher code that pays more than what was performed

Unbundling – Billing two or more codes inappropriately resulting in a higher payment usually seen in diagnostic and surgical coding

Kickbacks – Soliciting, offering or receiving a bribe/rebate from a referral

Examples of Member Fraud

Filing claims for services or medications not received

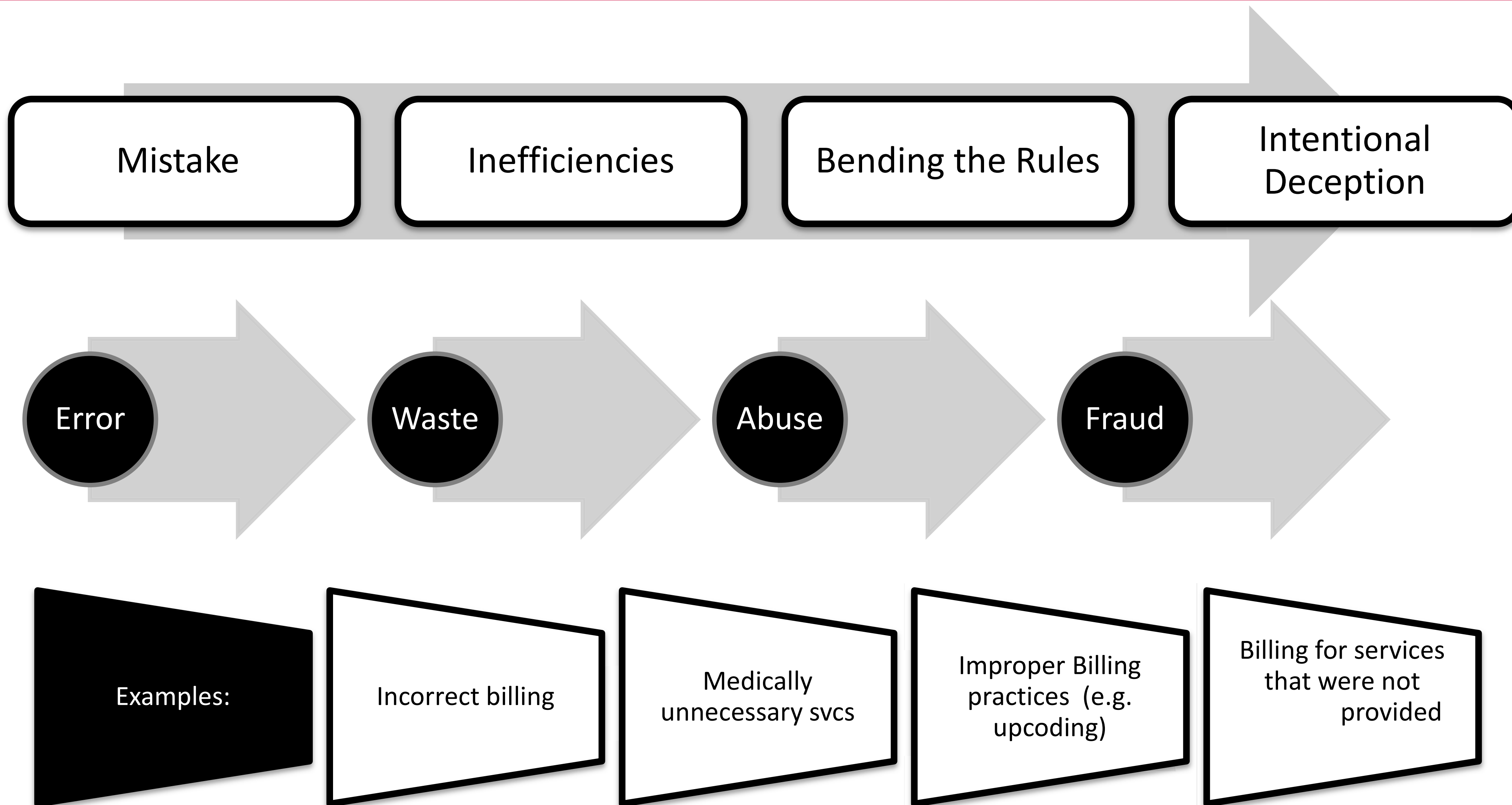
Forging or altering bills or receipts

Identity Theft

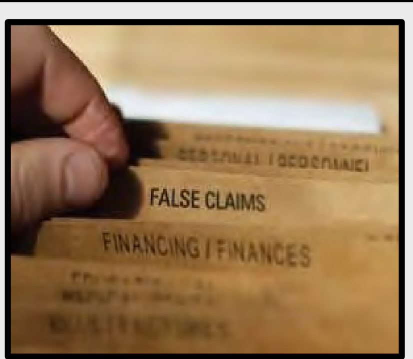
Leaving a spouse on an insurance plan after divorce date

Leaving other dependents on a plan when they are no longer eligible (age)

Program Integrity



Medicare Fraud and Abuse Laws



False Claims Act
(FCA)

Anti-kickback Statute
(AKS)

Physician self-referral law
(Stark Law)

Social Security Act; and

United States Criminal Code

Independent Health

False Claims Act (FCA)

- **The FCA protects the government from being overcharged or sold substandard goods or services**

- **Example:**
    - A physician submits claims to Medicare for a higher level of medical services than actually provided or that the medical record documents

Anti-Kickback Statute (AKS)

- **The AKS makes it a criminal offense to knowingly and willfully offer, pay, solicit, or receive any money directly or indirectly to induce or reward referrals of items or services reimbursable by a Federal health care program**.

- **Example:**
  - A provider receives cash or below fair market value rent for medical offices in exchange for referrals

Physician Self-Referral Law (Stark Law)

- **The Stark Law prohibits a physician from making a referral for certain designated health services to an entity in which the physician (or member of his/her immediate family) has an ownership/ investment interest or with which he/she has a compensation arrangement, unless and exception applies.**

- **Example:**
  - A provider refers a beneficiary for a designated health service to a business in which the provider has an investment interest.

Criminal Health Care Fraud Statute

- **The Criminal Health Care Fraud Statute prohibits knowingly and willfully executing, or attempting to execute, a scheme or ploy in connection with the delivery of or payment for health care benefits, items, or services to :**
  - **Defraud any health care benefit program; or**
  - **Obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody of, any health care benefit program.**

- **Example:**
  - Several doctors and medical clinics conspire in a coordinated scheme to defraud the Medicare program by submitting claims for power wheelchairs that were not medically necessary

Independent Health

SIU Process

Tips/Leads

Intake

Investigate

Consult multiple sources, interview, gather data

Findings

Referral to legal, law enforcement, State, other IH business units or SIU makes determination. Audit Packet to Provider.

Resolution

Recoveries (with hold payments), savings, termination from Plan, education, civil or criminal proceedings, root cause report

Follow-up

Benefit or medical policy changes, pre-payment reviews, self-audits