WYO MEDICAID
DIVISION OF HEALTHCARE FINANCING

PROVIDER AND BENEFITS MANAGEMENT UNIT
WYOMING MEDICAID
DIVISION OF HEALTHCARE FINANCING

Provider Compliance

September 1, 2018

Objectives

- To present a general overview of fraud and abuse
- Identify laws and statutes against fraud and abuse

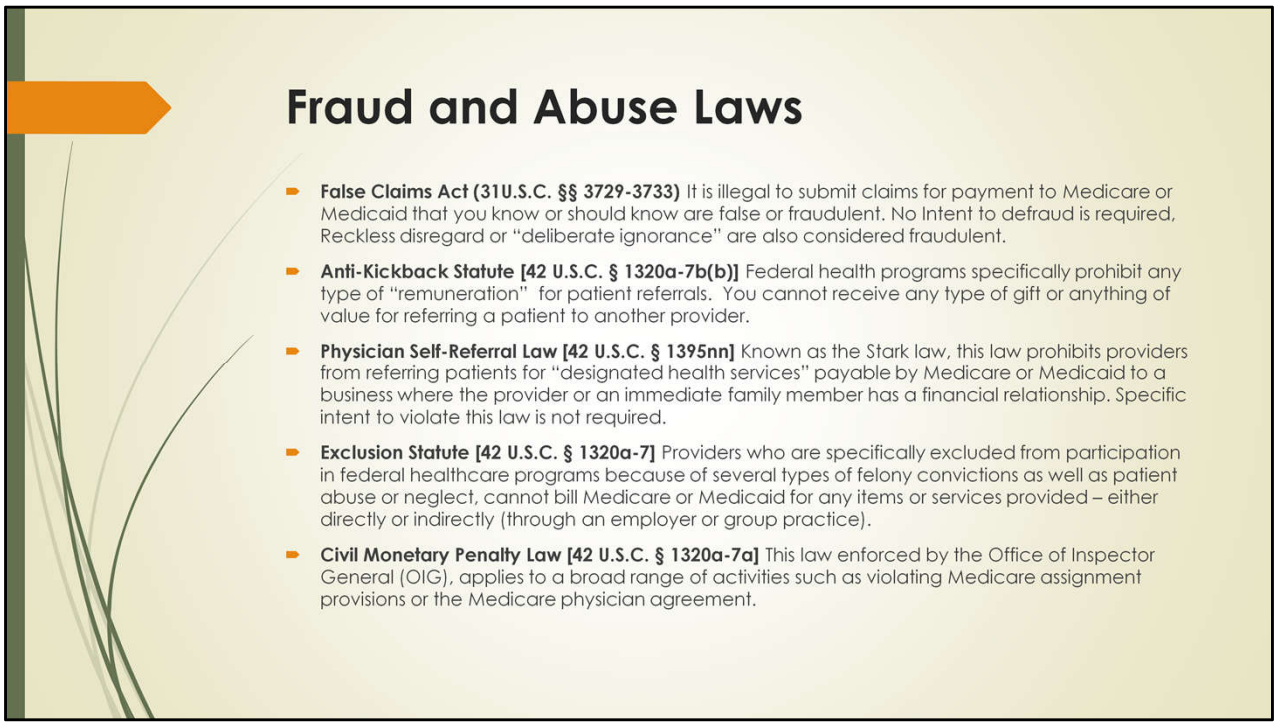
Definitions

- **"Fraud"** When someone intentionally executes or attempts to execute a scheme to obtain money or property of any healthcare benefit program.
- **"Abuse"** When healthcare providers or suppliers perform actions that directly or indirectly result in unnecessary costs to any healthcare benefit program.

What used to be referred to as abuse is now categorized as fraud because even though the provider did not know a certain practice was improper, they "should have known." The responsibility is now placed on providers to understand and follow all laws that affect their practice.

According to Centers of Medicare and Medicaid Services, the primary difference between fraud and abuse is intention.

Fraud and Abuse is considered to be a huge and costly problem for Medicare, Medicaid and other government and private health care programs. It is estimated that up to 12.1% of the projected $672 billion the federal government paid in 2018 for healthcare reimbursements will be fraudulent bills or non-compliant billing practices.



False Claims Act

This law is quite powerful because of the following:

- Establishes civil penalties.
- Severe monetary penalties for persons and organizations found guilty of violations.
- Can be used for quality of care as well as for false claims
- Whistleblower provisions that allow for individuals to share in any government recoveries from an investigation.

Anti-Kickback Statute

If proof of improper intent is found, criminal and civil penalties may be imposed.

Stark Law

- This law establishes a number of specific exceptions and grants the Secretary the authority to

create regulatory exceptions for financial relationships.

Fraud and Abuse Laws

- **Health Care Fraud Statute [18 U.S.C. § 1347]** This federal law is part of HIPAA. The following is the official definition:
  - **Title 18 – Crimes and Criminal Procedure**
    Part 1 – Crimes
    Chapter 63 – Mail Fraud
    § 1347. Health Care Fraud
    Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice –
    (1) To defraud any health care benefit program, or
    (2) To obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owed by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items or services, shall be fined under this title or imprisoned not more than 10 years or both. If the violation results in serious bodily injury (as defined in section 1365 of this title), such person shall be fined under this title or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined under this title, or imprisoned for any term of years or for life, or both.

Wyoming Statutes

- **42-4-111 (a)** Providing or obtaining assistance by misrepresentation – no person shall knowingly make a false statement or misrepresentation of knowingly fail to disclose a material fact in providing medical assistance. A person violating this is guilty of:
  - A felony punishable by imprisonment for not more than 10 years, a fine of not more than $10,000 or both. Restitution of claims is in addition to the fine.
  - A misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than $750 or both. A misdemeanor can be filed if the value of the medical assistance is less than $500.

Wyoming Statutes (con't)

- **42-4-11 (e) effective 07/01/2014** – It is unlawful for a person to knowingly fail to maintain records in accordance with the Medicaid program rules as necessary to disclose fully the nature of the goods, services, items, facilities or accommodations for which a claim is submitted or payment is received under the Medicaid program. A person who violates this is guilty of:
  - A misdemeanor punishable by imprisonment for not more than 30 days, a fine of not more than $750 or both, if:
    - The claims for which records are not maintained is less than 25% of the Medicaid claims are submitted by that person in any 3 consecutive months and the value of the claims for which the records are not maintained is at least $5,000.
  - A misdemeanor punishable by imprisonment for not more than 6 months, a fine of not more than $750 or both, if:
    - The claims for which were not maintained is 25% or more of the Medicaid claims submitted by that person in any 3 consecutive months and the value of the claims for which the records are not maintained is at least $5,000.
  - A felony punishable by imprisonment for not more than 5 years, a fine of not more than $10,000 or both, if:
    - The person intended to defraud and the medical assistance claims for which records were not maintained is 25% or more of the Medicaid claims submitted by that person in any 3 consecutive months and the value of the claims is more than $5000.

CMS 1500 Provider Manual

- Policies can be found in the CMS 1500 Provider Manual, https://wymedicaid.portal.conduent.com, in Chapter 13, Behavioral Health Section.