



GENERAL COMPLIANCE
& FWA TRAINING
FOR ASH FITNESS
CENTERS & THEIR KEY EMPLOYEES

Training Objectives

- Understand why you need General Compliance & Fraud, Waste and Abuse (FWA) Training
- Recognize how a compliance program operates & how to report suspected non-compliance
- Learn about (FWA), your role in the fight against FWA & how to report suspected FWA
- ASH Fitness' Compliance & Anti-Fraud Program
- Consequences for Non-Compliance

Why do I need this training?

ASH contracts with Medicare Advantage and Medicaid Managed Care Plans to provide specialty health benefits to their members. Because these programs are paid for with federal and/or state tax dollars there are specific compliance requirements that ASH and its downstream entities must meet. One of those requirements is training on general compliance and FWA.

Since ASH's contracted fitness centers are considered downstream entities as defined by CMS, ASH is required to ensure that contracted fitness centers and their key staff are trained on general compliance and FWA.

Furthermore, every year, billions of dollars are improperly spent because of FWA. It affects everyone – **including you**. This training will help you detect, correct, and prevent non-compliance and FWA.

A note about this training

This training was developed based on the CMS General Compliance and Fraud, Waste and Abuse Trainings. The training also includes ASH Fitness-specific information and applies to **all ASH fitness products**.

Please note that the training may contain references, statutes, regulations or other policy materials. The information provided is only intended to be a general summary. It is not intended to take place of either the written law or regulations. We encourage you to review the specific statutes, regulations, and other interpretive materials for a full and accurate statement of their contents.

Remember, we all have a responsibility to know the compliance program and FWA laws/regulations that need to be followed, including those specific to government programs.



COMPLIANCE PROGRAM

Compliance Program Requirements

The Centers for Medicare & Medicaid Services (CMS) requires Medicare Advantage Plans to implement and maintain an effective compliance program for its Medicare Parts C and D plans.

To support this requirement, ASH Fitness, as a first-tier entity or delegated entity of several Medicare Advantage Plans, has implemented a compliance program based on the CMS requirements **for all its lines of business.**

As a provider of services to members, including Medicare members, your fitness center should consider creating and implementing its own compliance program. Your agreement with ASH Fitness requires that you adhere to ASH Fitness' Compliance Program.

This training covers all the elements that a compliance program must include and that are reflected in ASH Fitness' Compliance Program.

What is an Effective Compliance Program?

An effective compliance program fosters a culture of compliance and must:

- Prevent, detect, and correct non-compliance
- Be fully implemented and tailored to an organization's unique operations and circumstances
- Have adequate resources
- Promote the organization's Standards or Code of Conduct
- Establish clear lines of communication for reporting non-compliance

An effective compliance program is essential to prevent, detect, and correct noncompliance as well as fraud, waste, and abuse (FWA). It must, at a minimum, also include the seven core compliance program requirements.

What Are The Seven Core Compliance Requirements?

1. Written Policies, Procedures, and Standards of Conduct

- These articulate the commitment to comply with all applicable Federal and State standards and describe compliance expectations according to the Standards of Conduct.
 - ASH has developed a Code of Conduct to meet this requirement. which is available for review on the ASHLink® Web site.

2. Compliance Officer, Compliance Committee, and High-Level Oversight

- There must be a designated compliance officer and a compliance committee accountable and responsible for the activities and status of the compliance program, including issues identified, investigated, and resolved by the compliance program. Senior management and governing body must be engaged and exercise reasonable oversight of the Sponsor's compliance program.
 - ASH Fitness has a Compliance Officer; a Corporate Compliance Committee also reviews compliance issues for impact on ASH Fitness' programs.

3. Effective Training and Education

- This covers the elements of the compliance plan as well as preventing, detecting, and reporting FWA. The training and education are to be tailored for their different employees and their responsibilities and job functions.
 - ASH Fitness has a training program—this training is part of that program.

What Are The Seven Core Compliance Requirements?

4. Effective Lines of Communication

- Make effective lines of communication accessible to all, ensure confidentiality, and provide methods for anonymous and good-faith compliance issues reporting.
 - ASH Fitness maintains hotlines and emails for you to report compliance issues in good faith—please see pages 15 and 36 of this training.

5. Well-Publicized Disciplinary Standards

- Enforce standards through well-publicized disciplinary guidelines.
 - ASH Fitness publicizes its disciplinary guidelines. For fitness clubs this is addressed in the agreement with ASH Fitness and in the Operations Manual.

6. Effective System for Routine Monitoring, Auditing, and Identifying Compliance Risks

- Conduct routine monitoring and auditing to evaluate compliance with requirements as well as the overall effectiveness of the compliance program.
 - ASH Fitness does engage in monitoring and auditing of our contracted fitness centers to confirm compliance.

7. Procedures and System for Prompt Response to Compliance Issues

- Use effective measures to respond promptly to non-compliance and undertake appropriate corrective action
 - ASH Fitness is committed to correcting non-compliance promptly with necessary actions.

Ethics: Do the Right Thing!

As a downstream entity of ASH Fitness, you must conduct yourself in an ethical and legal manner. It's all about doing the right thing!

- Act fairly and honestly
- Adhere to high ethical standards in all you do
- Comply with all applicable laws, regulations and requirements
- Report suspected violations

How Do You Know What is Expected of You?

Now that you've read the general ethical guidelines on the previous page, how do you know what is expected of you in a specific situation?

ASH Fitness' Code of Conduct and Ethics Program states compliance expectations, operational principles and values and outlines how to report suspected non-compliance. As outlined in your Fitness Center Services Agreement, you and your fitness center are required to abide by ASH Fitness' Code of Conduct & Ethics Program. A copy of ASH Fitness' Code of Conduct & Ethics Program is readily available on ASHLink.

As a reminder, reporting Code of Conduct violations and suspected non-compliance is everyone's responsibility.

What is Non-Compliance

Noncompliance is conduct that does not conform to the law, health care program requirements or to ASH Fitness' policies and procedures.

Questions to Consider

- If you are not sure an action complies with a law or policy ask yourself:
- Could this action seem dishonest or unfair to others?
- Does the action contradict training you have received?
- Are you taking a shortcut or applying steps that are inconsistent with procedures?

Know the Consequences of Non-Compliance

Failure to follow requirements and can lead to serious consequences, including:

- Mandatory training or re-training
- Corrective Action Plan (CAP) under your contract with ASH Fitness
- Contract termination
- Criminal penalties
- Exclusion from participating in all State and/or Federal health care programs
- Civil monetary penalties

High-Risk Areas for Non-Compliance

The following are examples of high-risk areas:

- Agent/broker/delegate misrepresentation
- Appeals and grievance review (for example, coverage and organization determinations)
- Member notices
- Conflicts of interest
- Claims and Utilization Management processing
- Credentialing and provider networks
- Documentation and Timeliness requirements
- Ethics
- FDR oversight and monitoring
- Health Insurance Portability and Accountability Act (HIPAA)
- Marketing and enrollment
- Pharmacy, formulary, and benefit administration
- Quality of care
- IT System access and safeguards
- Claims and Utilization Management documentation manipulation

NOTE: Although not all these areas apply to fitness centers, it is being presented for informational purposes.

Non-Compliance Affects Everybody

Without programs to prevent, detect, and correct non-compliance, we all risk:

Harm to members, such as:

- Delayed services,
- denial of benefits
- difficulty in using providers of choice; and
- other hurdles to care.

Less money for everyone due to:

- high insurance copayments
- higher premiums
- lower benefits for individuals and employers; and
- lower profits

NOTE: Although not all these areas apply to fitness centers, it is being presented for informational purposes.

Reporting Potential Non-Compliance

Reporting potential Code of Conduct violations and suspected non-compliance is everyone's responsibility. Below are the various methods of reporting. Remember, reports of suspected non-compliance are confidential and can be made anonymously.

Email: ethicsandintegrity@ashn.com
Hotline: 866.998.2746
Write: American Specialty Health
Attn: ASH Compliance Officer
P.O. Box 509001
San Diego, CA 92150-9002

Retaliation against anyone reporting issues in good faith is strictly prohibited!

What Happens After Non-Compliance is Detected?

Once non-compliance is detected and corrected, steps should be taken to ensure that:

- No reoccurrence of the same non-compliance
- Ongoing compliance with federal and state requirements
- Efficient and effective internal controls
- Protected members

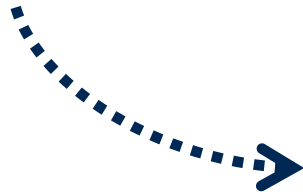
ASH Fitness monitors activities with regular reviews to confirm ongoing compliance and ensures that corrective actions are implemented and effective.

As a downstream entity of ASH Fitness, you must also take steps to correct non-compliance identified and take steps to ensure ongoing compliance and that the non-compliance does not reoccur.

Key REMINDER: Compliance is **Everyone's** Responsibility

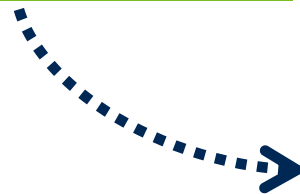
PREVENT

Operate within ASH Fitness' ethical expectations and policy requirements to **prevent** noncompliance!



DETECT AND REPORT

If you **detect** potential noncompliance, **report** it!



CORRECT

Correct noncompliance to protect members and to promote quality and efficiency!



WHAT IS FRAUD, WASTE & ABUSE

What is FWA?

- **Fraud** is knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program, or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, under the custody or control of, any health care benefit program.
- **Waste** includes overusing services, or other practices that, directly or indirectly, result in unnecessary costs. Waste is generally not considered to be caused by criminally negligent actions but rather by the misuse of resources.
- **Abuse** includes actions that may, directly or indirectly, result in unnecessary costs. Abuse involves payment for items or services when there is not legal entitlement to that payment and the person has not knowingly and/or intentionally misrepresented facts to obtain payment.

Differences Among FWA

- One of the primary distinctions between fraud, waste, and abuse is intent and knowledge. **Fraud requires intent to obtain payment and the knowledge that the actions are wrong.**
- Waste and abuse may involve obtaining an improper payment or creating an unnecessary cost but does not require the same **intent** and **knowledge**.

Potential FWA: Fitness Center Conduct

- No documents or records available to support billing for utilization occurrences
- Discrepancy between a member's use of the facility and the facility's record of the member's use
- Same dates billed for every member regardless of actual utilization; e.g. billing for all Silver&Fit members on the 1st, 5th, 10, 15th, 20th, and 25th of every month
- Alterations on billing utilization reports; falsification of reports

Potential FWA: Member Conduct

- Identity theft; using another person's fitness identification card or a fake fitness identification card to access a fitness facility

Understanding FWA

To detect potential instances of FWA, you need to know the applicable laws:

- False Claims Act
- Health Care Fraud Statute
- Criminal Fraud
- Anti-Kickback Statute
- Stark Statute (Physician Self-Referral Law);
- Exclusion from Federal health care programs
- Health Insurance Portability and Accountability Act (HIPAA)

*This is not an exhaustive list of all laws that are to applicable to FWA.



False Claims Act

The civil provisions of the FCA make a person liable to pay damages to the Government if he or she knowingly

- Conspires to violate the FCA
- Carries out other acts to obtain property from the Government by misrepresentation
- Conceals or improperly avoids or decreases an obligation to pay the Government
- Makes or uses a false record or statement supporting a false claim
- Presents a false claim for payment or approval

Examples

A physician who submits a bill to Medicare for medical services that they know has not been provided

Damages and Penalties

Any person who knowingly submits false claims to the Government is liable for three times the Government's damages caused by the violator plus a penalty.

Health Care Fraud Statute

Knowingly and willfully executing or attempting to execute, a scheme or artifice to defraud any health care benefit program.

Conviction under the statute does not require proof the violator had knowledge of the law or specific intent to violate the law.

Examples

A fitness center who submits a bill for services that they know has not been provided.

Damages and Penalties

Persons who knowingly make a false claim may be subject to:

- Criminal fines up to \$250,000
- Imprisonment for up to 20 years

If the violations resulted in death, the individual may be imprisoned for any term of years or for life.

Anti-Kickback Statute

The Anti-Kickback Statute prohibits knowingly and willfully soliciting, receiving, offering, or paying remuneration (including any kickback, bribe, or rebate) for referrals for services that are paid, in whole or in part, under a Federal health care program (including the Medicare Program).

Examples

Bribing people to enroll in a Medicare Advantage Plan with the Silver&Fit program.

Damages and Penalties

Violations are punishable by:

- A fine up to \$25,000
- Imprisonment up to 5 years

Stark Statute (Physician Self-Referral Law)

The Stark Statute prohibits physicians from referring Medicare patients to an entity with which the physician or a physician's immediate family member has a financial relationship (e.g. ownership, investment, or compensation arrangement), unless an exception applies.

Example

A physician who refers a member to a rehabilitation facility that his/her brother owns.

Damages and Penalties

Medicare claims tainted by an arrangement that does not comply with the Stark Statute are not payable. A penalty of around \$24,250 can be imposed for each service provided. There may also be around a \$161,000 fine for entering into an unlawful arrangement or scheme.

NOTE: Although this statute does not apply to fitness centers, it is being presented for informational purposes.

Civil Monetary Penalties (CMP) Law

The Office of Inspector General (OIG) may impose civil penalties for several reasons, including:

- Arranging for services or items from an excluded individual or entity
- Providing services or items while excluded
- Failing to grant OIG timely access to records
- Knowing of and failing to report and return an overpayment
- Making false claims
- Paying to influence referrals

Damages and Penalties

The penalties can be around \$15,000 to \$70,000 depending on the specific violation. Violators are also subject to three times the amount:

- Claimed for each service or item or
- Of remuneration offered, paid, solicited, or received

Exclusion from Government Program

No Federal health care program payment may be made for any item or service furnished, ordered, or prescribed by an individual or entity excluded by federally funded programs. Reasons for exclusions include conviction of fraud or abuse, default on federal student loans, controlled substance violations and licensing board actions.

ASH Fitness requires its downstream entities to check all key employees against the federal exclusion lists maintained by the Office of Inspector General (OIG) and U.S. General Services Administration (GSA). In addition, some State Medicaid agencies maintain their own exclusion lists. ASH Fitness also requires its downstream entities to check all available State Medicaid exclusion lists in addition to the lists maintained by the OIG and GSA as the lists may not be the same. All checks must be done prior to hire and monthly thereafter.

Damages and Penalties

Health insurance companies that knowingly contracted with an excluded fitness center are subject to potential False Claims Act liability and Civil Monetary Penalties.

REMEMBER: Fitness centers must maintain records of exclusion checks for 10 years from the longer of (a) the termination or expiration of the ASH Fitness contract with the Medicare Advantage and/or Medicaid Managed Care client or (b) completion of any audit.

Health Insurance Portability and Accountability Act (HIPAA)

HIPAA created greater access to health care insurance, strengthened the protection of privacy of health care data, and promoted standardization and efficiency in the health care industry.

HIPAA safeguards deter unauthorized access to protected health care information. As an individual with access to protected health care information, you must comply with HIPAA.

Damages and Penalties

Violations may result in Civil Monetary Penalties. In some cases, criminal penalties may apply.

Example

An employee of a health insurer pleaded guilty to criminal HIPAA charges after obtaining protected health information with the intent to use it for personal gain.

NOTE: Although this statute does not typically apply to fitness centers, it is being presented for informational purposes.



YOUR ROLE IN THE
FIGHT AGAINST FWA:

PREVENT, REPORT & CORRECT

What Are Your Responsibilities?

You play a vital part in preventing, detecting, and reporting potential FWA, as well as noncompliance:

- **FIRST**, you must **comply** with all applicable statutory, regulatory, and other regulatory requirements.
- **SECOND**, you have a **duty** to report any compliance concerns and suspected or actual violations of which you may be aware.
- **THIRD**, you have a duty to **conduct** yourself in a manner that aligns with ASH's Code of Conduct which articulates a commitment to standards of conduct and ethical rules of behavior.

How Do You Prevent FWA?

- Look for suspicious activity – and always act ethically
- Conduct yourself in an ethical manner
- Ensure accurate and timely data and billing
- Ensure coordination with other payers
- Know FWA policies and procedures, standards of conduct, laws, and regulations
- Verify all received information

Report FWA

Everyone must report suspected FWA. Our Code of Conduct & Ethics Program clearly states our affirmative obligation to report noncompliance and unethical behavior, including suspected fraud, waste and abuse.

- **Whistleblower Protections:** retaliation is prohibited when you report a concern in good faith.
- FWA referrals are **confidential** and can be made anonymously.
- Even when you're not sure whether something is fraud, waste or abuse, you should report your concerns so the issue can be investigated, and appropriate action taken.

Details to Include When Reporting FWA

- While reporting suspected FWA, please include the following information.
- Contact information for the source of information, suspect, and witnesses
- What was the event that triggered the suspicion of FWA
- When did the event occur (e.g. the date(s)/time(s))
- A narrative of the entire situation surrounding the suspected FWA, including the persons involved and the facts and circumstances surrounding the suspected FWA
- Copies, if possible, or a listing of documentation that may be relevant to the situation (e.g. claim numbers, telephone logs)
- Any other known information which may be relevant

Reporting Methods

Remember, if you suspect fraud, do not tell a member, fellow employee, or practice owner: “This sounds like fraud!” Remember, FWA referrals are confidential and can be made anonymously.

ASH’s Special Investigations Unit:

Email: antifraud@ashn.com

Hotline: 877.427.4722

Write: American Specialty Health
Attn: Special Investigation Unit
P.O. Box 509001
San Diego, CA 92150-9002

Office of Inspector General (OIG):

Email: HHTips@oig.hhs.gov

Call: 800.HHS.TIPS (800.447.8477)

Fax: 800.223.8164

Write: U.S. Department of Health and Human
Services Office of Inspector General
ATTN: OIG HOTLINE OPERATIONS
P.O. Box 23489
Washington, DC 20026

Correcting FWA

After a potential FWA situation has been reported and investigated, any findings will be promptly corrected. ASH's SIU will develop a plan to correct the issue. The actual plan will vary, depending on the specific circumstances, but the below provides some examples of actions that may be taken:

- Conducting training
- Providing education materials
- Revising policies and procedures
- Seeking restitution
- Corrective Action Plan (CAP) under your contract with ASH



ASH FITNESS' COMPLIANCE & ANTI-FRAUD PROGRAM

ASH's Compliance & Anti-Fraud Program

ASH Fitness has established a compliance and anti-fraud program to comply with state and federal requirements and to meet generally accepted, industry standard compliance and anti-fraud program standards. ASH Fitness maintains the following documents which support ASH Fitness' compliance and anti-fraud program:

- Code of Conduct & Ethics Program
- Compliance Program
- Anti-Fraud Policy

For a copy of the above documents, please log into ASHLink, call our Contract Services department, or email ASH Fitness at ethicsandintegrity@ashn.com or antifraud@ashn.com.

As a provider of services to members in government programs (i.e. Medicare and Medicaid), your fitness center should consider creating and implementing its own compliance program to prevent, detect and correct non-compliance and FWA.



NEXT STEPS &
CONSEQUENCES FOR
NON-COMPLIANCE

Next Steps

At the completion of the training, contracted fitness centers must document that all key employees have taken the training.

In addition, contracted fitness centers must complete the annual “Attestation of Compliance and Acknowledgment of Compliance Obligations” to show compliance with various requirements including training all key employees on general compliance and FWA.

A copy of the sample training log and the annual attestation can be located on ASHLink.

As a reminder, all training records and attestations must be kept for 10 years from the longer of (a) the termination or expiration of the ASH Fitness contract with the Medicare Advantage and/or Medicaid Managed Care client or (b) completion of any audit.

Consequences for Non-Compliance with the Training Requirement

As outlined in your Fitness Center Services Agreement, ASH Fitness may request a copy of the annual attestation at any time.

Failure to provide ASH Fitness with the annual attestation if requested to demonstrate compliance may result in the following actions:





THANK YOU

for participating and expanding compliance program effectiveness by ensuring you and your fitness center adopt the learning's into your individual compliance programs and business practices.