

Combating Fraud in Federal Healthcare Programs 2019



We Need

YOU



- Enforcement Landscape
- Identifying Fraud
- Compliance Program

AGENDA



Enforcement Landscape

- U.S. recovered \$4.20 for every \$1 spent on enforcement
- Estimated fraud: between \$99 billion and \$330 billion
 - Enforcement is only recovering about 1/10th of this amount
- 2017 Department of Justice opened:
 - 967 new criminal cases
 - 948 new civil cases



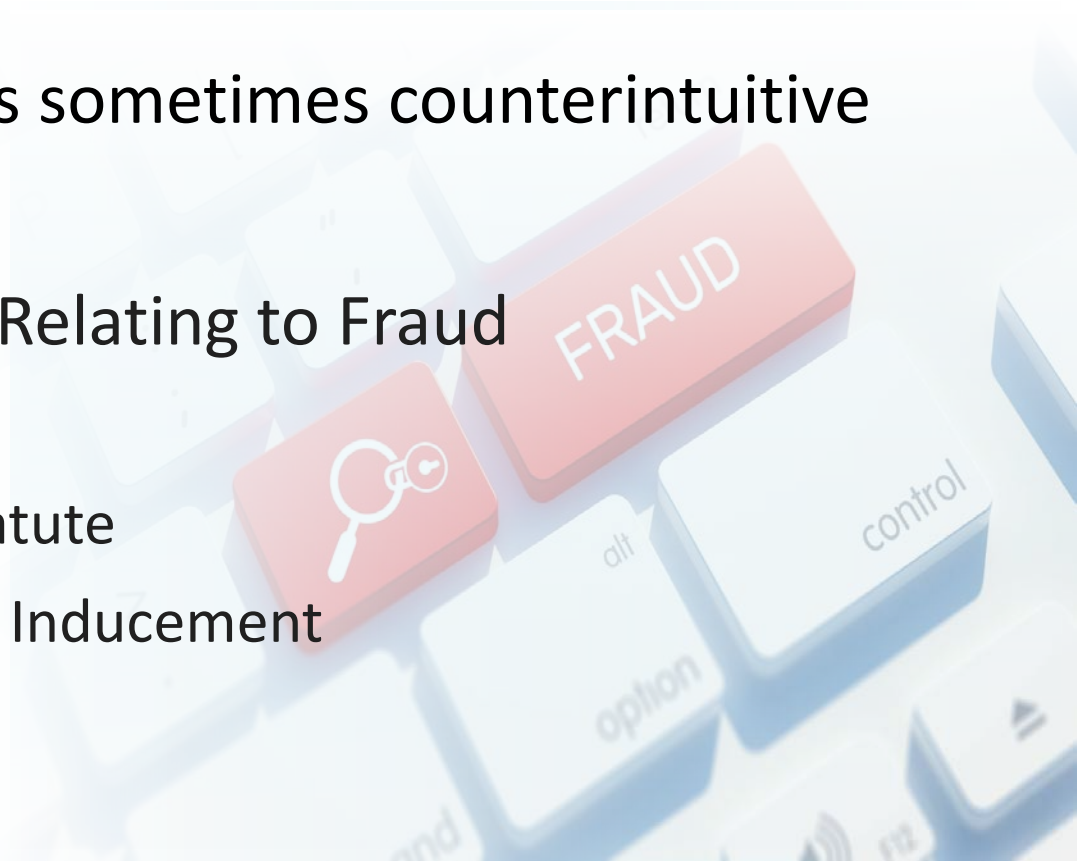
Our Role in Federal Healthcare Programs

- Historically, dentists have submitted claims directly to federal healthcare programs such as Medicare, Medicaid, and Tricare.
- Today, Delta Dental plans across the country have begun contracting with state Medicaid programs to administer the dental benefit in their state. They are also contracting with health plans to provide a supplemental dental benefit for Medicare patients.
- These new relationships require Delta Dental to play an active role in fraud and abuse identification and enforcement, which requires the development and implementation of an effective compliance program.



Identifying Fraud

- *Traditional Fraud* is broadly defined to include intentional deception or misrepresentation
- *Healthcare Fraud* is sometimes counterintuitive
- Common Statutes Relating to Fraud
 - False Claims Act
 - Anti-Kickback Statute
 - Unlawful Patient Inducement



State and Federal False Claims Act

- Knowingly submitting a “false or fraudulent” claim
- Knowing means:
 - Actual knowledge
 - Deliberate ignorance
 - Reckless disregard
- Simple error is not enough



Examples of False Claims

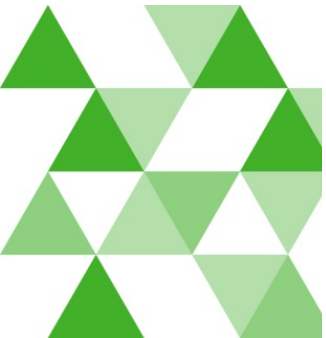
- A dental group paid \$5.1 million to settle a case alleging that they
 - Upcoded Simple Tooth Extractions (D7140) and improperly billed Surgical Extractions (D7210)
 - Improperly billed for Scale and Root Planing (Deep Cleaning) when they were either not performed or not medically necessary
- A dental group paid \$23.9 million to settle a case alleging that they billed for
 - Procedures that were not medically necessary including pulpotomies (baby root canals), tooth extractions, and stainless steel crowns
 - Procedures that were never actually performed



Anti-Kickback Statute

- It's a **crime** to knowingly and willfully **offer, pay**, solicit, or receive **anything of value**, directly or indirectly, in return for referrals or to induce referrals for which payment may **ultimately** be made **in part** under a federal health care program.
- False Claims Act Connection – services provided as a result of an unlawful kickback are considered false claims. Violations of Anti-Kickback Statute are frequently enforced through the False Claims Act.

For network providers it's important to identify potential kickbacks and consult with legal counsel to determine whether a safe harbor exists that would allow the practice.



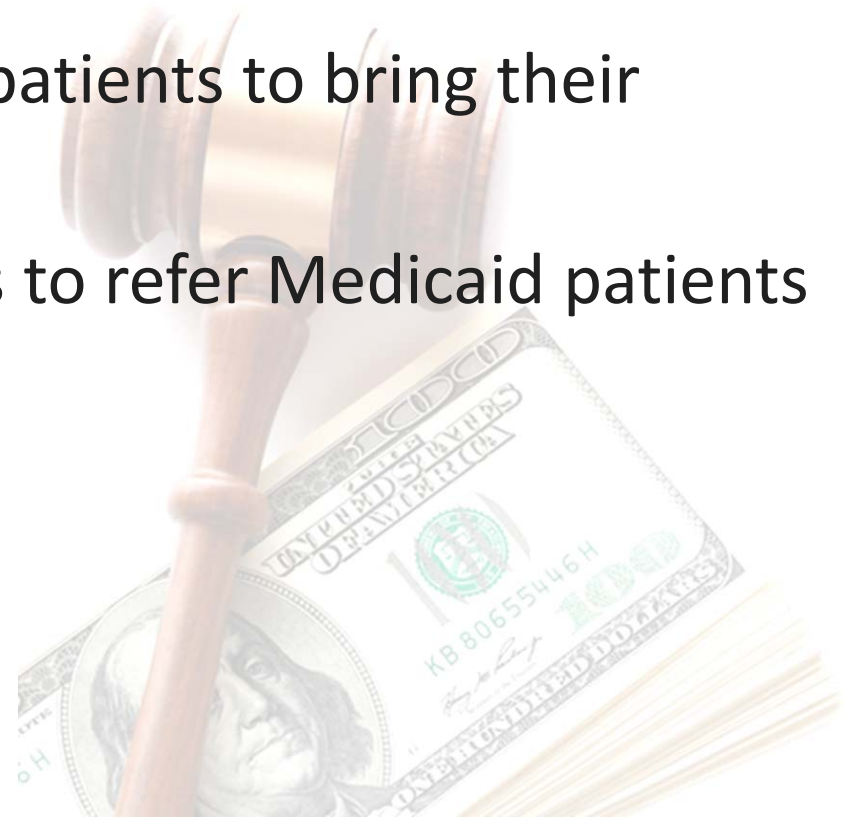
Unlawful Patient Inducement

- Unlawful to offer **remuneration** that the offeror knows or should know is likely to influence the selection of a particular provider, practitioner or supplier.
- Exception:
 - items and services less than \$15, and less than \$75 per year



Examples of Kickbacks/ Inducements

- A dental group paid \$8.45 million to settle a case alleging that they
 - Paid parents of Medicaid patients to bring their children in
 - Paid marketing companies to refer Medicaid patients to the clinic



Penalties

- Penalties for individuals and entities submitting false claims include:
 - Criminal prosecution
 - Fines up to \$21,916 per claim
 - Treble damages (i.e., 3 times the amount paid)
 - Exclusion from participation in Medicare and Medicaid

- Penalties Network Providers
 - Termination of provider agreement



Compliance Program

Purpose:

Prevent and detect fraud and promote an ethical culture.

By focusing on fraud, we seek to limit the scope of the compliance program to the issues that are the most serious and pose the greatest risk to the organization.

Our compliance program is the platform to facilitate compliance with the law. We each have an individual duty to understand regulatory standards applicable to our organization, and to report potential violations when we see them.



Compliance Program - Policies

This training program is designed to give you a general overview of our compliance program

- Establishes the ethical expectations that should guide our interactions with each other, our network providers, and our members.

Code of Conduct



- Establishes the framework for our compliance program

Compliance Plan



- Detail on the ways in which we identify and report fraud as an organization

Program Integrity Plan



Compliance Program – Communication

An important element of an effective compliance program is having open communications. Questions or concerns regarding compliance with any of the standards discussed in this training, individuals have a duty to report them. Any report can be made to the Compliance Hotline, which also allows individuals to make anonymous reports.

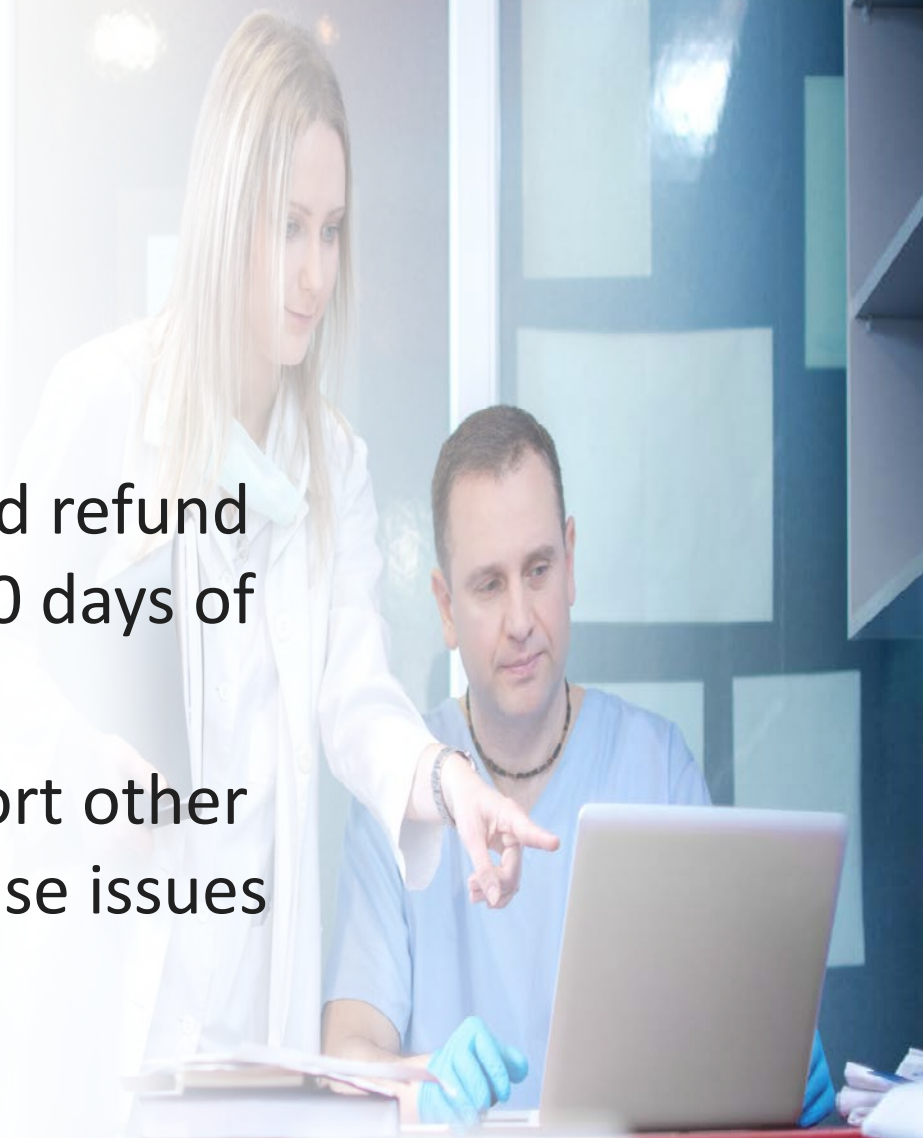
Reporting Options:

- ❖ Delta Dental Compliance Hotline
800-511-0831
- ❖ Report online using the **Fraud Report Form**
- ❖ Write to: Network Oversight and Compliance - One Delta Drive
Mechanicsburg, PA 17055
- ❖ Call 1-800-MEDICARE (1-800-633-4227)
- ❖ Call the Office of the Inspector General at 1-800-HHS-TIPS (1-800-447-8477) or TTY: 1-800-377-4950
- ❖ Report it online to the Office of the Inspector General at **<https://forms.oig.hhs.gov/hotline/operations/report-fraud-form.aspx>**



Self-Reporting

- Network Providers
 - Required to disclose and refund overpayments within 60 days of discovery
 - Encouraged to self-report other potential fraud and abuse issues



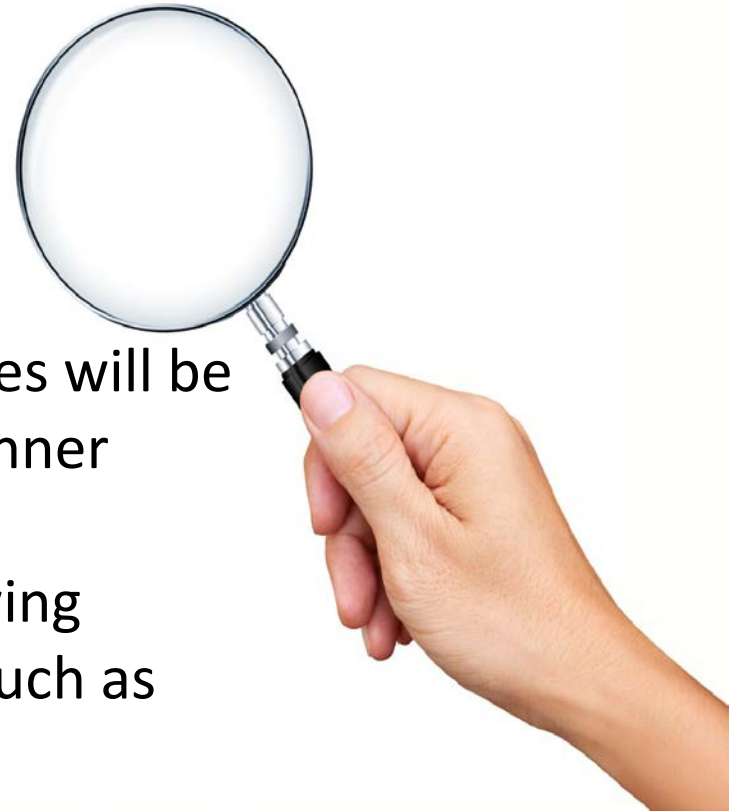
To report any suspected or known FWA or noncompliance or HIPAA concerns to Delta Dental, call our Compliance hotline at 800-511-0831



Compliance Program – Response

- Investigations

- All concerns regarding compliance issues will be thoroughly investigated in a timely manner
- The investigation can include interviewing individuals and reviewing documents such as medical records.

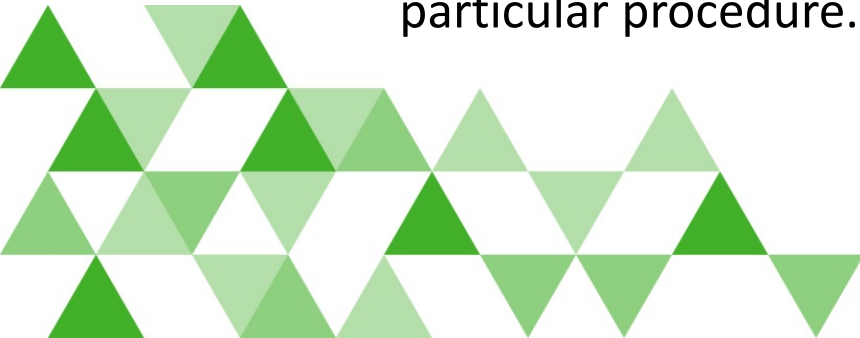


Compliance Program – Monitoring and Auditing

Special Investigations Unit –

Primarily accountable for monitoring and auditing claims submitted by network providers to identify either simple overpayments or fraudulent activity.

- ✓ investigate any allegations of fraudulent conduct
- ✓ proactively monitor claims submitted, identify anomalies, and conduct further investigation as needed
 - Some audits will be conducted on randomly selected network providers.
 - Other audits might be conducted to review a specific issue that seems unusual, such as an unusual number of claims related to a particular procedure.



Compliance Program – Prevention

- Upon conclusion of an investigation, if errors or deficiencies are identified, Delta Dental will take steps to prevent such conduct from occurring again in the future. Usually this will involve the development of a corrective action plan by the individual dentist or dental group. Corrective Action Plan (CAP) could include:
 - Education and Training
 - Monitoring and Auditing
- In some cases Delta Dental will be required to report the issue to the Office of Inspector General or to a Medicare Advantage plan.
- In some cases, if fraudulent activity is identified, prevention may include termination of the provider agreement with Delta Dental.



Benefits of Compliance

Studies show that employees and providers want to be a part of an organization with an **ethical culture**. We are all motivated to work in a mission-driven organization that seeks to promote dental wellness in our communities in a way that is effective, efficient, and safe. Delta Dental is such an organization.

An effective compliance program can increase employee engagement, **mitigate risks**, and **conserve scarce health care resources** for those who need it most.

The public consistently rates the honesty and ethical standards of dentists as very high or high. With the help of an effective compliance program, and by working together, we can keep it that way.



THANK YOU!

**VISIT OUR WEBSITE FOR ADDITIONAL
RESOURCES**

<https://www.deltadentalins.com/dentists/guidance/medicare-fraud-waste-abuse.html>