Frequently Asked Questions (FAQs) for First Tier, Downstream and Related Entities (FDRs)

These FAQs were developed for Aetna’s FDRs. They summarize common questions and answers about the Medicare compliance requirements. Each requirement is explained in more detail within our FDR Guide. FDRs can also review our tools and newsletters for more information.

Table of Contents

I. General questions ........................................................................................................................................ 3
   1. What does FDR mean? ................................................................................................................................. 3
   2. What Aetna products and plans do these requirements apply to? .............................................................. 3
   3. I am a Part A or B provider. Do these requirements apply to me? ........................................................... 3
   4. What if I do not contract with Aetna? ........................................................................................................... 3
   5. What is the source of these requirements? .................................................................................................... 4
   6. Are the requirements new? ......................................................................................................................... 4
   7. What will happen if I don’t comply with the requirements? ........................................................................ 4
   8. Why am I receiving a notice to complete an attestation? ........................................................................... 4
   9. I have no employees. Do I have to complete an attestation? ...................................................................... 4
  10. Does each staff member have to complete the attestation? ......................................................................... 4
  11. Do I need to submit an attestation if I am deemed? .................................................................................... 4
  12. What documentation must I keep? .............................................................................................................. 4
  13. Who do I contact if I have more questions? ................................................................................................ 4

II. General compliance and fraud, waste and abuse (FWA) training ................................................................. 5
   14. Who has to take these trainings? ................................................................................................................ 5
   15. Do all FDRs have to satisfy FWA training requirements? ......................................................................... 5
   16. How do I know if I am deemed? ................................................................................................................ 5
   17. If I am deemed, am I exempt from these requirements completely? ....................................................... 5
   18. Do we have to use CMS’s training? ............................................................................................................ 5
   19. How often do the trainings have to be completed? .................................................................................... 5
   20. What kind of documentation is needed to show training was completed? .............................................. 6

III. Code of Conduct and compliance policies .................................................................................................. 6
   21. What is a Code of Conduct? ...................................................................................................................... 6
   22. How often must the Code of Conduct be distributed? .............................................................................. 6

IV. Reporting Mechanisms ............................................................................................................................... 6
   24. Do we have to report noncompliance and FWA to Aetna? ....................................................................... 6
   25. What can I do if I suspect FWA or noncompliance? ................................................................................. 6
Frequently Asked Questions (FAQs) for First Tier, Downstream and Related Entities (FDRs)

V. Exclusion lists screening ........................................................................................................................................ 7
26. What are the exclusion lists? .................................................................................................................................... 7
27. What is the difference between the OIG LEIE and GSA SAM? .................................................................................. 7
28. What are the requirements related to exclusion list screenings? ......................................................................................... 7
29. How often do the exclusion list screenings have to be completed? .................................................................................... 7
30. What evidence must I keep to show that these checks are completed? ............................................................................. 7
31. What if an individual or entity is identified as excluded? ................................................................................................. 7

VI. Record retention ............................................................................................................................................. 8
32. How long do I need to maintain records? .................................................................................................................. 8

VII. Downstream entity oversight .................................................................................................................................. 8
33. Why are you asking about my downstream entities (i.e., subcontractors)? ................................................................. 8
34. What requirements apply to downstream entities? ........................................................................................................ 8
35. What oversight is expected for my downstream entities? ............................................................................................. 8

ATTACHMENT A: Evidence Examples .......................................................................................................................... 9
I. General questions

1. What does FDR mean?
FDR stands for first tier, downstream and related entities. The Centers for Medicare & Medicaid Services (CMS) defines them as:

- **First Tier Entity** - Any party that enters into a written arrangement, acceptable to CMS, with a Medicare Advantage Organization (MAO) or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the Medicare Advantage (MA) program or Part D program.

- **Downstream Entity** - Any party that enters into a written agreement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These arrangements continue down to the level of the ultimate provider of both health and administrative services.

- **Related Entity** – means any entity that is related to an MAO or Part D Sponsor by common ownership or control and:
  1. Performs some of the MAO or Part D plan sponsor’s management functions under contract or delegation;
  2. Furnishes services to Medicare enrollees under an oral or written agreement; or
  3. Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than $2,500 during a contract period.

2. What Aetna products and plans do these requirements apply to?
We offer Medicare Advantage (Part C) and Prescription Drug (Part D) coverage to Medicare members. These requirements apply to all of our Part C and Part D Medicare products:

- Medicare Advantage (MA)
- Medicare Advantage Prescription Drug (MAPD)
- Prescription Drug Plans (PDP)
- Medicare-Medicaid Plans (MMP)

3. I am a Part A or B provider. Do these requirements apply to me?
We offer Medicare Advantage (Part C) and Prescription Drug (Part D) coverage to Medicare members. If you are contracted to provide services to our Part C or D Medicare members, then these requirements still apply to you.

4. What if I do not contract with Aetna?
Even if you don’t contract with Aetna, these requirements may apply. You may be considered a downstream entity if you contract with an organization that contracts with us to service our Medicare products.
Frequently Asked Questions (FAQs) for First Tier, Downstream and Related Entities (FDRs)

5. **What is the source of these requirements?**

6. **Are the requirements new?**
No, these requirements are not new. Effective January 1, 2016, CMS updated the requirements. You should have received a similar notice about these requirements in previous years. If you aren’t familiar with the requirements, just review our FDR Guide.

7. **What will happen if I don’t comply with the requirements?**
We may take action against you if you don’t comply. This may include the development of a corrective action plan, termination of your contract or retraining.

8. **Why am I receiving a notice to complete an attestation?**
If you were asked to complete an attestation, then we think you are considered a first tier entity because of your contractual relationship with us. First tiers must comply with the Medicare compliance program requirements. We collect attestations to confirm that you understand and are complying with the requirements.

9. **I have no employees. Do I have to complete an attestation?**
Yes, you should submit an attestation even if you have no employees. This includes solo practitioners.

10. **Does each staff member have to complete the attestation?**
No. An authorized representative can submit an attestation on behalf of your organization. They just need to provide Aetna with your applicable Tax ID numbers (TINs). We describe who might be an authorized representative on page 4 of the FDR Guide.

11. **Do I need to submit an attestation if I am deemed?**
Yes, you still need to submit an attestation. Deeming only exempts you from fraud, waste and abuse (FWA) training. You must attest to compliance with all of the Medicare compliance program requirements. However, the attestation includes a statement to indicate the FWA training requirements aren’t applicable because of your deemed status.

12. **What documentation must I keep?**
You must have documentation to show you are compliant with each requirement. Attachment A has examples of the types of evidence that may be requested by Aetna and CMS.

13. **Who do I contact if I have more questions?**
If you have any questions about the requirements, just send an email to MedicareFDR@aetna.com.
Frequently Asked Questions (FAQs) for First Tier, Downstream and Related Entities (FDRs)

II. General compliance and fraud, waste and abuse (FWA) training

14. Who has to take these trainings?
You may not need to train all of your employees. This grid has examples of FDR employees that do and don’t need to complete the FDR training requirements. If you have questions about whether an employee at your organization must take the training, we can help. Just send an email to MedicareFDR@aetna.com.

15. Do all FDRs have to satisfy FWA training requirements?
Certain FDRs already meet the FWA training requirements through deeming. Deeming applies at the level of your entity’s enrollment or accreditation (i.e., for the individual or entire organization). Deeming only exempts you from the FWA training requirements. All other Medicare compliance program requirements apply.

16. How do I know if I am deemed?
You are deemed if you are:

- Enrolled into Parts A or B of the Medicare program
- Accredited as a supplier of Durable Medical Equipment Prosthetics Orthotics and Supplies (DMEPOS)

17. If I am deemed, am I exempt from these requirements completely?
No. Deeming only exempts you from the FWA training requirements. All other Medicare compliance program requirements apply, including general compliance training.

18. Do we have to use CMS’s training?
Yes. As of January 1, 2016, you must use CMS’s training courses:

- Combating Medicare Parts C and D Fraud, Waste and Abuse
- Medicare Parts C and D General Compliance Training

Your applicable employees and downstream entities can access these on the CMS Medicare Learning Network (MLN). You can also download or print the training modules and incorporate them into your existing training materials. However, you cannot change the content of the CMS training modules. This ensures the integrity and completeness of the training.

You must keep evidence to show your employees have completed the training. You can use attestations, training logs or other documents as evidence. And keep these records for at least 10 years.

19. How often do the trainings have to be completed?
The CMS training modules must be completed within 90 days of hire or contracting and annually thereafter.
20. **What kind of documentation is needed to show training was completed?**
The documentation must include employee names, dates of completion and scores (if captured). Evidence may be in the form of:

- Attendance sheets
- Certificates
- Attestations
- Training logs.

Keep these records for at least 10 years. Aetna and CMS may request this evidence to ensure completion of the training. If you are deemed and exempt from FWA training requirements, you must retain proof of your deemed status.

### III. Code of Conduct and compliance policies

21. **What is a Code of Conduct?**
A Code of Conduct is also known in some organizations as the “Standards of Conduct.” It states the overarching principles and values by which the company operates, and defines the framework for the compliance program.

22. **How often must the Code of Conduct be distributed?**
A Code of Conduct and/or compliance policies must be distributed to employees annually, as well as within 90 days of hire and when changes are made. FDRs can distribute Aetna’s [Code of Conduct](#) and [Medicare Compliance Policies](#), or comparable documents.

23. **Can I use my own Code of Conduct?**
Yes, you can use a comparable Code of Conduct and compliance policies. If you don’t have them, use Aetna’s [Code of Conduct](#) and [Medicare Compliance Policies](#).

### IV. Reporting Mechanisms

24. **Do we have to report noncompliance and FWA to Aetna?**
Issues that impact Aetna’s Medicare business must be reported to Aetna. You can have employees report directly to Aetna. Or you can train employees to use your own internal mechanisms for reporting noncompliance and FWA.

If you use your own reporting mechanisms, your internal processes must include a process to report concerns to Aetna. We enforce a zero-tolerance policy for retaliation or retribution against anyone who reports suspected misconduct.

25. **What can I do if I suspect FWA or noncompliance?**
You must report the issue to us so we can investigate and respond to it immediately. A few of the ways...
Frequently Asked Questions (FAQs) for First Tier, Downstream and Related Entities (FDRs)

you can report issues are on this poster. Others are outlined in our Code of Conduct.

Don’t worry about retaliation. We enforce a zero-tolerance policy for retaliation or retribution against anyone who reports suspected misconduct.

V. Exclusion lists screening

26. What are the exclusion lists?
There are two exclusion lists:

- Office of Inspector General (OIG) maintains a List of Excluded Individuals/Entities (LEIE)
- General Services Administration (GSA) System for Award Management (SAM)
  Note: the Excluded Parties List System (EPLS) is now part of GSA’s SAM.

27. What is the difference between the OIG LEIE and GSA SAM?
The OIG LEIE only contains the exclusion actions taken by the OIG. SAM includes exclusion and debarment actions taken by various federal agencies.

28. What are the requirements related to exclusion list screenings?
FDRs must review the OIG and GSA SAM exclusion lists. Review these lists before hiring/contracting and monthly thereafter. This ensures employees and downstream entities are not excluded from participating in federal health care programs. We explain the requirement on page 6 of the FDR Guide.

29. How often do the exclusion list screenings have to be completed?
The OIG and GSA’s SAM exclusion lists must be checked before hiring/contracting and monthly thereafter.

30. What evidence must I keep to show that these checks are completed?
The documentation may vary depending on how you do screenings. If you perform these checks using an automated system or program, your documentation may be based on the information available within that system.

Regardless of how you do these checks, the documentation you maintain should show:

- What exclusion list was checked
- The name of the entity or individual checked
- Date completed
- Result

31. What if an individual or entity is identified as excluded?
If you employed or contracted with an excluded individual or entity you must report this to Aetna. You must also remove them from directly or indirectly servicing Aetna’s Medicare products.
VI. Record retention

32. How long do I need to maintain records?
Keep records of your Medicare compliance program requirements (for example, employee training records and exclusion list screenings) for at least 10 years.

VII. Downstream entity oversight

33. Why are you asking about my downstream entities (i.e., subcontractors)?
We are accountable to CMS for all of our FDRs. If you are subcontracting, then we need to ensure you are doing appropriate oversight of your downstream entities.

34. What requirements apply to downstream entities?
Downstream entities must comply with all applicable regulatory and sub regulatory requirements that apply to the Medicare Parts C & D program. This includes the compliance program requirements explained in our FDR Guide.

35. What oversight is expected for my downstream entities?
If you use downstream entities you must have adequate oversight of their compliance and performance. This includes:

- Testing the compliance and performance of your downstream entities through audits or monitors
- Imposing corrective actions when deficiencies are identified
ATTACHMENT A: Evidence Examples

This table is meant to be a list of examples only. It is not intended to be all inclusive of CMS compliance requirements. The examples are not a list of all the items required nor a statement of the maximum evidence needed to demonstrate compliance.

<table>
<thead>
<tr>
<th>Summary of expectation</th>
<th>Examples of evidence/documentation</th>
</tr>
</thead>
</table>
| FDR employees and downstream entities received Aetna’s or comparable Code of Conduct (COC) upon hire/initial contracting and annually thereafter | • Policy  
• Organization attestation confirming dissemination to employees and downstream entities  
• Employee attestations confirming receipt  
• Training agendas and sign-in sheets for COC training  
• Participation/onboarding/orientation manuals  |
| FDR employees and downstream entities completed CMS’s FWA and General Compliance Training within 90 days of hire/initial contracting and annually thereafter | • Policy  
• Organization attestation confirming employee and downstream entity completion  
• Employee attestations confirming completion  
• Training agendas and sign-in sheets for training, copies of certificates of CMS training completion  
• Proof of deemed status  |
| FDRs check OIG & GSA Lists for employees and downstream entities prior to hire/contracting and monthly thereafter | • Policy  
• Website screenshots of list check  
• Automated results from acquired tools (e.g., Bridger)  
• Attestation from individual within organization that conducts these ongoing checks (e.g., Human Resources)  
• Evidence of reporting found individuals/entities to Aetna as they are identified downstream entity contractual provision  |
| FDR employees and downstream entities received reporting mechanisms for reporting potential or actual noncompliance and/or FWA either internally then to Aetna or to Aetna directly (including non-retaliation policy for good faith reporting) | • Policy  
• Reporting Mechanism Posters in facilities  
• Code of Conduct content in trainings with training sign-in sheets, etc.  
• Downstream entity contractual provision  
• Organization attestation confirming dissemination  |
| FDR keeps records related to Aetna Medicare product service delivery/activities for a period of at least 10 years | • Policy  
• Record destruction schedule  
• Notice and/or training content disseminated to employees and downstream entities  
• Downstream entity contractual provision  
• Organization attestation confirming retention  |
| FDRs conduct sufficient oversight of their downstream entities’ CMS compliance | • Policy  
• Audit plan  
• Audit reports with review results  
• Monitoring of entity functions with results  |