

Amerigroup Tennessee Compliance Webinar

Tuesday, October 6, 2015

Presented by: Dorothy Marks

Introductions

TN Health Plan Compliance Team

- Rhonda Batey, Project Administrator
- Dorothy Marks, Sr. Ethics & Compliance Analyst
- Carvin Vaughn, Plan Compliance Officer



Topics for Discussion

- Nondiscrimination
- Deficit Reduction Act (DRA)
- Background and Exclusions Checks

NONDISCRIMINATION

Nondiscrimination and Title VI

Title VI of the Civil Rights Act of 1964 – Federal law that protects members from discrimination based on their race, color or national origin in programs and activities that receive federal financial assistance.

If members are eligible for Medicaid, other health care or human services, they cannot be denied assistance because of race, color or national origin.

Nondiscrimination (continued)

Entities receiving financial assistance shall not do any of the following based on protected status:

- Deny an individual a service, aid or other benefit
- Provide a benefit, etc. that is different or is provided in a different manner
- Subject an individual to segregation or separate treatment
- Restrict an individual in the enjoyment of benefits, privileges, etc.
- Treat an individual differently when determining eligibility
- Select sites or locations of facilities that exclude protected individuals

Nondiscrimination and Title II

Title II of the American with Disabilities Act (ADA) of 1990 –
Prohibits discrimination on the basis of disability in the services, programs or activities of all state and local governments.

A disability is a physical or mental impairment that substantially limits a person's major life activities.

Nondiscrimination (continued)

DOs and DON'Ts for compliance with the ADA

DO

- Provide services, programs and activities in an integrated setting
- Make reasonable changes to policies, practices and procedures to avoid discrimination on the basis of disability
- Provide auxiliary aids to individuals with disabilities (e.g., qualified interpreters, materials in Braille)

DON'T

- Refuse to allow a person with a disability to participate in or benefit from services, programs or activities
- Provide services to individuals with disabilities through programs that are separate or different unless the programs ensure the benefits and services are equally effective

Age Discrimination

The Age Discrimination Act of 1975 – Federal law that prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

- Applies to persons of all ages
- Does not cover employment discrimination
 - The Age Discrimination in Employment Act applies specifically to employment practices and programs, both in the public and private sectors, and applies only to persons over age 40.

Nondiscrimination (continued)

The Age Discrimination Act contains certain exceptions that permit, under limited circumstances, the use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.

For example, the Age Discrimination Act does not apply to an age distinction contained in that part of a federal, state or local statute or ordinance adopted by an elected, general purpose legislative body that:

- Provides any benefits or assistance to persons based on age
- Establishes criteria for participation in age-related terms
- Describes intended beneficiaries or target groups in age-related terms

Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 (Section 504) – Federal law that protects qualified individuals from discrimination based on their disabilities. The nondiscrimination requirements of the law apply to employers and organizations that received financial assistance from any federal department or agency.

- Forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services
- Defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services

Rehabilitation Act (continued)

Section 504 protects qualified individuals with disabilities. Under this law, individuals with disabilities are defined as the following:

- Persons with a physical or mental impairment which substantially limits one or more major life activities
- People who have a history, or who are regarded as having a physical or mental impairment, that substantially limits one or more major life activities

Member Rights

- We do not allow unfair treatment.
- No one is treated in a different way because of race, language, religion, birthplace, disability, sex, color or age.
- Members have the right to file a complaint if they feel they've been treated unfairly by Amerigroup or our providers.

Interpreter/Translator Services

- Amerigroup will provide your office with interpreter/translator services free of charge for our members
 - Available 24 hours a day, 7 days a week
 - Over 170 languages
 - Contact our Member Services department at 1-800-600-4441*
- * Members who are deaf or hard of hearing should call our TTY/TDD service at 711.

TennCare Nondiscrimination Training Presentation

- TennCare has added a training presentation on their website for entities contracted to provide services to TennCare recipients. It can be found at the following location:

<http://www.tn.gov/tenncare/nondiscriminationComplianceTraining.shtml>

- See Provider NewsBlast - April 2015

DEFICIT REDUCTION ACT (DRA) OF 2005

History of the DRA

- The Deficit Reduction Act (DRA) of 2005 was signed into law to help the Centers for Medicare & Medicaid Services (CMS) combat Medicaid fraud, waste and abuse.
- Under the DRA of 2005, the Medicaid Integrity Program (MIP) was implemented.
- CMS has two broad responsibilities under MIP:
 - Hiring contractors to review Medicaid provider activities
 - Providing support and assistance to states

Federal False Claims and Tennessee Medicaid False Claims Acts

- Providers and affiliates are required to abide by federal and state laws and regulations governing the administration and operations of managed entities within the health care program.

Federal False Claims and Tennessee Medicaid False Claims Acts (continued)

- The Federal False Claims Act (Deficit Reduction Act 6032) and Tennessee Medicaid False Claim Act establish liability for a number of activities related to knowingly falsifying claims, records or practices.
- Violation of these acts may result in penalties, damages, suspension or debarment.

Whistleblower Protections

- Protections against retaliation exist under federal and state laws for anyone providing a good faith report or filing and/or participating in litigation or other investigations under the various false claims acts.

Reporting Fraud

Any suspected fraud and abuse will be reported to any of the following:

- Amerigroup Compliance Hotline at 757-518-3633
- Office of Inspector General (OIG) at 1-800-433-3982 for member fraud
- Tennessee Bureau of Investigation (TBI) at 1-800-433-5454 for provider fraud
- Go to www.state.tn.us/tenncare; then click on Report Fraud

Mandatory False Claims Act Education/DRA Compliance

Education of employees, contractors and agents about the following topics:

- Federal False Claims Act and administrative remedies for false claims and statements
- Any civil or criminal penalties under Tennessee Medicaid False Claims laws
- Whistleblower protections under federal and state law

Annual DRA Review

- Amerigroup conducts an annual compliance review of contracted providers to ensure awareness of their obligation to educate their employees and contractors on the provisions of the federal and state False Claims Acts and whistleblower protections in accordance with the Deficit Reduction Act of 2005.

Annual DRA Review (continued)

- Providers are asked to provide Amerigroup with documentation of their employee handbook, training, or policies and procedures communicated to staff regarding the federal and state False Claims Acts and whistleblower protections.
- Examples of this documentation include training logs, emails, website postings, etc.

BACKGROUND AND EXCLUSION CHECKS

Background Checks

Providers have an obligation to ...

- Conduct background checks in accordance with Tennessee law to include, at a minimum, a check of:
 - The Tennessee Abuse Registry
 - Tennessee Felony Registry
 - National and Tennessee Sex Offender Registry
 - OIG List of Excluded Individuals/Entities (LEIE)
- Maintain documentation

Exclusion Checks

- Providers receiving Medicaid funds must take steps to ensure employees and contractors are not excluded from program participation
- Screening against the System for Award Management (SAM) database (<https://www.sam.gov/portal/SAM/#1>)

AND

- HHS-OIG's List of Excluded Entities/Individuals (LEIE) database (<http://oig.hhs.gov/exclusions/index.asp>)
 - Prior to hiring/contracting
 - On a monthly basis

Exclusion Checks (continued)

- Discovered exclusions should be reported via fax to the attention of the Amerigroup Tennessee Plan Compliance Officer at 1-866-796-4532

Annual Background/Exclusion Checks Review

- Compliance review of contracted providers
- Focus: providers' obligation to perform background checks (in accordance with T.C.A. 63-1-149 and TennCare MCO CRA § A.2.29.2.2) AND monthly employee exclusion screenings

Annual Background/Exclusion Check Review (continued)

- Providers are asked to provide documentation of their policies and procedures on these processes
- Documentation examples showing the performance of required background checks and required monthly exclusion screenings

QUESTIONS?