

OIG publishes Resource Guide for measuring compliance program effectiveness

March 31, 2017

On March 27, 2017, the Office of Inspector General for the U.S. Department of Health and Human Services (OIG) published a “Resource Guide” to assist health care organizations in measuring the effectiveness of their healthcare fraud compliance programs. Publication of the guide was announced by Inspector General Daniel R. Levinson at the Health Care Compliance Association (HCCA) Compliance Institute in National Harbor, Maryland.

The 52-page Resource Guide was developed by the OIG in collaboration with 30 health care compliance professionals through a joint effort with HCCA. It contains a list of survey questions and metrics that compliance professionals can use to assess performance across the seven elements that should be addressed under an organization’s compliance program. These elements are:

- Standards, policies and procedures
- Compliance program administration
- Screening and evaluation of employees physicians, vendors and other agents
- Communication, education and training on compliance issues
- Monitoring, auditing and internal reporting systems
- Discipline for non-compliance
- Investigations and remedial measures

The guide contains more than 400 metrics that organizations can use to evaluate “what to measure” and “how to measure” with respect to the seven elements. While some of the metrics relate back to previous OIG guidance, many are either entirely new or offer a greater level of detail than OIG has previously provided. Some of the notable metrics included in the Resource Guide include:

- *Accessibility of standards, policies and procedures* – Test the organization’s policies, procedures and other compliance related documents where they are stored online (for example, on the intranet) to see if they are key word searchable; also test the reading level of those policies, procedures and other compliance-related documents to ensure they are not at higher than a 10th grade reading level.
- *Active Board of Directors* – Review minutes of meetings where the Compliance Officer reports in person to the Audit and Compliance Committee of the board on a quarterly basis.
- *Leadership accountability* – Completion of audit or review action items within the established time frame.
- *Organizational perception of compliance officer and program* – Are the compliance staff looked at as solution facilitators or as the organizational police force?
- *Organization retaliation* – Track whistleblower promotion, bonuses, sick days, disciplinary, corrective action measures and exit interviews over the long term.
- *Risk area specific training* – Audit to ensure the organization has designated the positions deemed to be high risk and establish training requirements for these high risk positions.

- *Compliance program communication plan* – Conduct focus group discussions with employees and survey them on the effectiveness of compliance program messaging.
- *Compliance participation in senior management and governance level meetings* – Confirm by audit that a compliance representative has attended all such meetings.
- *Senior executive performance reviews* – Before promotion, does compliance conduct an interview to identify or discuss compliance issues, and does the compliance officer participate in reviews of senior executives?
- *Performance evaluations* – Is compliance a performance appraisal element? Does completion of compliance education, promotion of compliance through words, actions or no documented disciplinary action and/or completion of correction action plans within due dates play a role in the calculation of merit increases?
- *Exit interviews* – Compliance concerns that come up in exit interviews are addressed.

While these metrics may be helpful in evaluating a compliance program's effectiveness, OIG warns against using all of the metrics as a checklist. Instead, the OIG recommends selecting measurements based on the organization's risk areas, size, resources and industry segment and using a number of measurements based on the organization's individual needs as "one size truly does not fit all."

Developing and implementing an effective compliance program is critical for health care organizations. Health care organizations should carefully review the Resource Guide as a means of measuring the effectiveness of their compliance programs.

Authors

Copyright © 2023 Bricker & Eckler LLP. All rights reserved.