



Navigating EMS Compliance

The Strategic Guide to Establishing an Effective
Compliance Plan



As the EMS industry faces increased scrutiny, providers will continue to face unique compliance challenges.

I Introduction

Emergency Medical Services (EMS) providers face unique compliance challenges that require careful attention and management. From getting ahead of complex regulatory issues to keeping up with constantly evolving reporting requirements, compliance is more than just a “set it and forget it” initiative—it’s a sustained, ongoing effort and commitment to following all laws and regulations in all aspects of operations.

For many EMS providers, compliance is low on the list of priorities—until an auditor knocks on the door. Yet, with increased scrutiny from regulators, and increased penalties in the event of non-compliance, EMS providers can no longer afford to treat compliance as an afterthought. The Department of Justice (DOJ) has consistently invested a significant amount to investigating healthcare fraud and crimes against Medicare and Medicaid, recovering over \$2.6 billion in 2019—representing an ROI of \$4.20 for every \$1 spent. And with the recent publication of the 2023 General Compliance Program Guidance by the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG), this greater emphasis placed on compliance is more relevant than ever before.

In 2021 alone:

Investigations by the DOJ

- **831**
new criminal health care
fraud investigations
- **462**
criminal charges filed
- **312 out of 741**
defendants convicted
- **805**
new civil health care
fraud investigations

Investigations by the FBI

- **559**
operational disruptions
of criminal fraud
- **107**
health care fraud
enterprises dismantled

Investigations by HHS-OIG

- **504**
criminal actions
- **669**
civil actions
- **1,689**
individuals and entities
excluded from
Medicare participation

Source: *The Health Care Fraud and Abuse Control Program Annual Report for the Fiscal Year 2021*, published July 2022 by the Department of Health and Human Services (HHS) Office of Inspector General (OIG).

A robust compliance program not only safeguards your agency, patients, and the communities you serve—it is also a critical aspect in ensuring high-quality patient care. More importantly, it's a business investment in your agency and employees, enabling you to prevent, detect, and correct issues that could otherwise lead to catastrophic consequences.

One example of this is the mishandling of sensitive patient data like health records and credit information. This can endanger your patients' privacy and security, negatively affecting your relationship with your community and harming your reputation as an EMS provider. A significant decrease in revenue is likely to follow, but this isn't the worst of the consequences of non-compliance.

Violating any regulations may also bring civil and criminal penalties, which can include additional fines, being excluded from participating in federal health care programs, and even jail time for parties involved. With all health care providers and suppliers now required to establish a compliance program under a provision of the Affordable Care Act, the compliance of your EMS operations will soon face a heightened level of scrutiny.

And that's why compliance—and the creation of an effective compliance program—is so important. A well-made compliance plan will establish the appropriate safeguards within your agency to prevent the submission of erroneous claims and protect your agency against fraudulent and abusive conduct.





8 Elements of an Effective Compliance Plan

Compliance programs, against popular belief, are not just one-size-fits-all document templates, checklists, or rigid formulas. In fact, truly effective compliance programs aren't neglected or outdated, but will consistently have their risks evaluated and are revised on an ongoing basis. It's often better to have an official guideline to follow when committing to these evaluations and revisions, and to always keep your ear to the ground for the latest news or updates.

According to the Federal Government's Office of the Inspector General (OIG) and the DOJ, an effective compliance plan needs eight crucial elements:

1. Written policies and procedures
2. Compliance program oversight
3. Education and training programs
4. Internal auditing, monitoring, and risk assessment
5. Investigation, response, and prevention
6. Open and effective lines of communication
7. Well-publicized and enforced disciplinary standards
8. Measurable effectiveness

In the following sections, you'll gain an understanding of what makes each element work, as well as insights into best practices to implement in your agency's compliance program.

01

Written Policies and Procedures

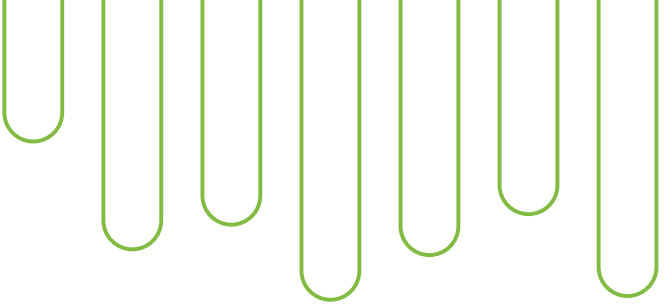


Written policies and procedures are more than just the basis of any compliance program — they're the key cornerstones for your agency to develop consistent and compliant business practices, and your roadmap to make sure that you're on the right track.

When crafting your written policies and procedures, it's ideal to utilize guides published by the OIG and DOJ, such as the 2003 OIG Guide for Ambulance Suppliers, the 2020 DOJ Evaluation of Effective Compliance Programs, and the 2023 General Compliance Program Guidance. Your written policies and procedures should also be reviewed and revised periodically, and redistributed to all employees upon each new update. Having out-of-date policies, or even ones that aren't being adhered to, could actually be more harmful than not having any policies at all.

Written compliance policies and procedures should:





One of these key written policies is the code of conduct, which should be provided to all employees on an annual basis. The code of conduct reflects the EMS provider's commitment to compliance and addresses specific areas of potential risk. It outlines the ethical attitude of your agency and your specific legal duty as EMS providers, and should be kept simple, short, and separate from other policies and procedures.

Your code of conduct should also be posted prominently throughout your agency via posters or the intranet, and another best practice would be to require all of your employees to acknowledge their receipt of the code of conduct. This should be done upon their hiring date – and annually thereafter – through the use of signed attestations.

Other examples of written policies and procedures you can prepare for your compliance program include ePCR documentation policies, beneficiary signature authorizations, billing policies, and even complaint resolution policies. Each of these written policies and procedures serves as an important safeguard in the event of an audit – especially as they would be required in your response.



02

Compliance Program Oversight



Every official initiative needs someone at its helm, and your agency's compliance program is no different. Because of that, it's essential that a certified Compliance Officer be assigned the responsibility of operating and monitoring your agency's compliance program and its structure. Your Compliance Officer should be a high-level individual in the organization — someone who reports directly to the upper management, and has the express authority to provide unfiltered reports to your board of directors. In some cases, your Compliance Officer can also play the dual role of Privacy Officer, whose role is specifically focused on the areas of Health Insurance Portability and Accountability Act (HIPAA) Privacy, Security, and Breach Notification.

The responsibilities of the Compliance Officer may include, but are not limited to:

Establishing a compliance plan,
including periodic reviews and
revisions as regulations are updated

Developing written
policies and procedures

Monitoring compliance performance

Enforcing disciplinary standards
and ensuring consistency

Implementing risk assessments

Developing an audit work plan

Conducting regularly scheduled
compliance training and education

Acting as point of contact for
compliance-related complaints

Providing quality assurance reviews

Monitoring effectiveness
of compliance program

Alternatively, your agency can also delegate a multi-disciplinary compliance committee, with various members undertaking different aspects of the operation. Your agency's compliance committee should meet regularly to discuss any compliance activities as well as the status of the compliance program, including any issues investigated, identified, and resolved by your compliance initiative.

03



Education and Training Programs

To maintain the robustness of your compliance plan, providing regular training and education for your agency employees and other appropriate individuals is a crucial investment. Attendance should be mandatory, and everyone—including the management, board of directors, and third-party contractors—should be present. Effective and ongoing training methods should be created for these education programs, and your Compliance Officer should be as involved as possible in these developments.

There are various kinds of training, such as general compliance training, billing training, and even PCR documentation training. But training content should be tailored appropriately to the individual and their job responsibilities, and delivered in a way that will maximize the understanding of the employees involved. The Compliance Officer should also track attendance and comprehension by retaining all training materials, sign-in sheets, and testing results. These training logs should always be maintained for transparency and future reference.

Examples of training programs by job responsibility:

	Field personnel	Patient care report documentation
	Supervisory staff	Quality assurance processes, policies for data collection
	Management	Contracting and business arrangements
	Billing staff	Proper coding, reimbursement, bad debt collections
	Facilities	SNF consolidated billing, hospital PPS, HIPAA exchange of information



04

Internal Auditing, Monitoring, and Risk Assessment



The most efficient kind of machine is one that's well-maintained and constantly diagnosed for potential complications. To detect and identify any compliance problems (and to help reduce the likelihood of future ones), coming up with appropriate monitoring methods is vital.

Conducting a risk assessment is vital to ensure your EMS organization is compliant with HIPAA's administrative, physical, and technical safeguards. Utilize assessment programs such as the HIPAA Security Risk Assessment (SRA) Tool to reveal areas where your organization's protected health information (PHI) could be at risk. The SRA Tool was jointly developed by the Office of the National Coordinator for Health Information Technology (ONC) and the HHS Office for Civil Rights (OCR), and is designed to assist healthcare providers in conducting internal security risk assessments.

One thing an effective compliance program should do in this regard is to provide realistic goals for the number of reports that will be reviewed. For example, a statement that 100% of all ePCRs will be reviewed for quality assurance may be unrealistic when the staff is only able to successfully complete a much lower percentage. To aid this, many ePCR programs offer a quality management tool or module to assist EMS agencies in the quality assurance process.

Once the quality assurance review is complete, the results should be utilized in identifying key problem areas in the compliance of your agency operations. Corresponding training and education programs should then be developed to provide specific training in those particular risk areas.

Independent audits, which are repeatedly recommended by the OIG, are also often used as a source to determine the effectiveness of your internal monitors and reviews. Annual plans are then developed from risk assessments, and include reviewing previous audits, monitors, and other pertinent internal and external information.

05

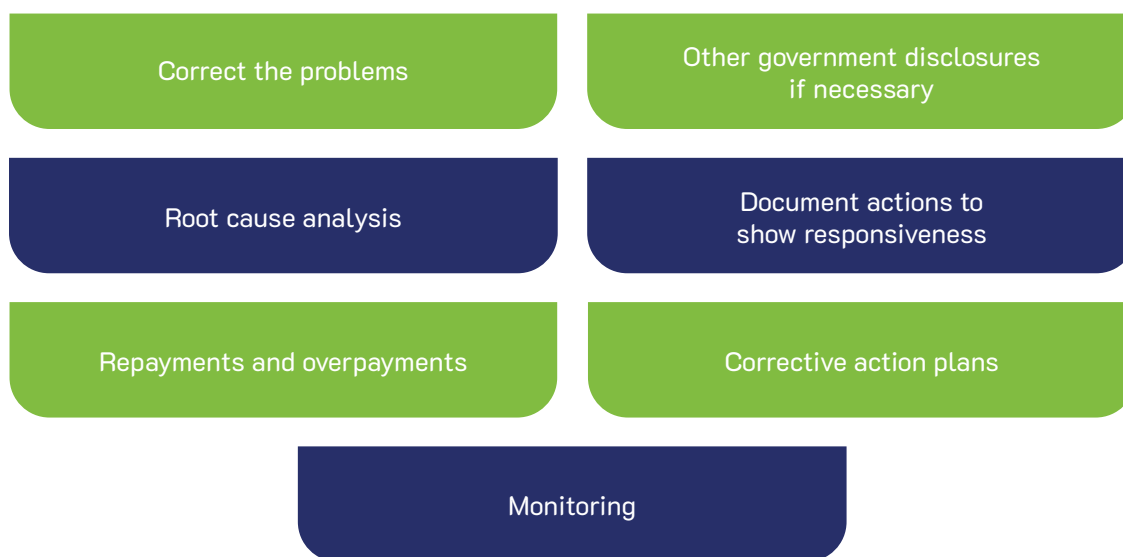


Investigation, Response, and Prevention

No matter the circumstance, it's always best to have a plan. To maintain compliance, your agency should develop policies and procedures directed at ensuring that you respond appropriately to detected offenses, including the initiation of appropriate corrective actions. Of course, an agency's response to any detected misconduct will vary based on the facts and circumstances of each case. However, the appropriate response should always be to resolve and correct the situation in the timeliest manner possible.

Once a serious misconduct is identified, your Compliance Officer (and in some circumstances, your legal counsel as well) should be involved in the investigations of any complaints. These investigations should include written documentation of the complaint, the results of any research done, and the response to the individual complainant. Your investigators should be trained in procedures related to interviewing and collecting information, and all investigations should be confidential, tracked electronically, and reported to leadership.

The Right Responses to Detected Behavior



In the event a misconduct is identified, corresponding changes should also be made to your policies and procedures. The right training and education should be provided to your employees, and a specific follow-up process should be carried out to ensure the future compliance of your agency operations.

To mitigate any remaining risks, it's also recommended that you prepare a risk assessment, with your focus prioritized around the top compliance high-risk areas as cited by the DOJ and OIG. It's also important to conduct regular surveys among employees to determine areas of concern. According to the DOJ, around 93% of its civil fraud cases were brought to light thanks to whistle-blowers alleging compliance violations.



06

Open and Effective Lines of Communication



When it comes to compliance, communication is one of the most effective tools in any EMS agency's arsenal. To ensure effective lines of communication between the Compliance Officer and all employees, EMS agencies must create and maintain a designated process for both receiving and processing complaints. The Compliance Officer should also be visible and accessible, and regularly communicate guidance regarding any statutory, regulatory, and sub-regulatory changes to their staff.

For the reporting of misconduct, you can never go wrong with the “reasonable person standard”, and simply require reporting for any conduct a reasonable person would believe to be erroneous or fraudulent. Procedures should be adopted to protect the anonymity of complainants and to protect whistle-blowers from retaliation, and these non-retaliation policies should be well-publicized throughout your agency. Employees must be strongly encouraged to share their concerns without this fear of retaliation, and your agency should commit to an open-door policy in which the employee should feel comfortable reporting any suspected behavior to their supervisor, any member of management, or your Compliance Officer.

Some user-friendly anonymous reporting options that your EMS agency can adopt include:

Generic email addresses

Websites that enable anonymous reporting

Complaint drop-boxes located in strategic locations

Anonymous hotlines that provide multiple reporting methods



07

Well-Publicized and Enforced Disciplinary Standards



Every EMS provider should implement their own set of disciplinary standards, and adhere to them with no deviation from how they are written. These standards should be written clearly and concisely, to avoid any misinterpretation or abuse of loopholes. Employees who commit violations that are more negligent or reckless in nature should be subjected to more severe sanctions, and sanctions for non-compliant behavior should also be applied consistently across all levels. Levels of severity should be set in these standards, but there should also be some room for flexibility depending on the individual circumstances.

All disciplinary actions should be documented and signed by the employee, their department head, and their supervisor, with a copy of the documentation placed within the employee's file for safekeeping and recording purposes.

OIG Guidance on Disciplinary Procedures:

Set expectations

Identify what constitutes non-compliant behavior

Set forth possible disciplinary actions

Create more significant sanctions for intentional or reckless behavior

08



Measurable Effectiveness

In 2020, the DOJ updated their Evaluations of Corporate Compliance programs and built it upon 2017 and 2019 guidance, reemphasizing and reasserting the importance of being able to measure a compliance program's effectiveness. The DOJ's updated score card from 2020 also reorganizes its evaluation of the main elements needed to create an effective compliance program based on these three fundamental questions:

01

Is the compliance program well-designed?

02

Is the program adequately resourced and empowered to function effectively?

03

Does the program work in practice?

When determining whether your compliance program does work in practice, it's best to put it through annual reviews and consider a periodic third-party evaluation of your compliance program. These reviews and evaluations should be conducted under attorney-client privilege, and it's necessary to make the recommended changes to ensure that your program is meeting all the right benchmarks.

The DOJ also provides multiple "element-specific factors" that should be considered when applying the three fundamental questions above to evaluate the following:

Risk assessment processes

Policies and procedures

Training and communications

Confidential reporting structures

Due diligence in mergers
and acquisitions



Key Takeaways

At this point, it's clear that a 'template' compliance plan is not only ineffective, but it could also do more harm than good. When creating an effective compliance plan, it's important to keep these eight elements in mind, and work with your legal counsel or utilize any external consultants as needed.

Start having conversations with key stakeholders about building an effective compliance program that meets DOJ guidance, and about risk assessments with plans to close the gaps. Consider how your compliance plan will help you address HIPAA Privacy and Security.

But above all, aim for consistent progress and adaptation — compliance isn't a day's work, but upholding it in your everyday operations will be sure to protect you and your agency in more ways than one.

How EMS|MC Can Help

While navigating the challenges of EMS compliance can be difficult, EMS|MC is here to help. EMS|MC operates with our own compliance program and provides the essential element of auditing and monitoring your billing and your claims. This means that EMS|MC can fulfil certain elements of your compliance program, filling in the blanks for you wherever you need us to.

The EMScholar program, EMS|MC's proprietary education portal, is designed for employees to complete their training online and provides comprehension testing after each module. We also provide your Compliance Officer with the appropriate reporting from these modules to show you your employees' levels of completion and understanding.

PWW Advisory Group (PWW|AG), the gold standard in the industry, is also part of the EMS|MC family. Through their advisory services, we can help your agency design and document an effective compliance program, or audit your current program's effectiveness and make recommendations for improvement. PWW|AG also offers insight into current and future regulatory changes that may impact you, with decades of expertise to help you confidently navigate and solidify your agency's regulatory compliance.



About EMS|MC

Built by paramedics and rooted in innovation, EMS|MC understands the critical nature of EMS and the exact pain points of its operations. That's why we're raising the bar through our approach, and providing you with holistic EMS solutions that enhance your most important operational functions.

We optimize reimbursement, resources, and regulatory compliance for more than 1,000 EMS providers in hospital systems, municipalities, and private companies across the country. With over 25 years of experience, EMS|MC is your operational partner that drives decision-making through services, technology, and education that's solely dedicated to the EMS industry.

Combined with consulting services from PWW Advisory Group (PWW|AG), we do what we do best so that you can focus on what matters the most — delivering quality care to your patients, and serving your community.

Ready to get started?

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in revenue collected
annually for clients

99.8%
compliance in
payment delivery

1,500+
national clients

5.5+ million
annual transports

99.7%
claim quality levels



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