



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

## General Questions

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### 1. What does FDR mean?

FDR stands for first tier, downstream and related entities. If you perform administrative or health care services on behalf of ApexHealth's Medicare business, then you are an FDR

Examples of FDRs include physicians, hospitals, dentists, and other provider types, including dental and vision providers, contracted to provide services to our Medicare members, sales partners/agents contracted to market and sell our Medicare products, vendors providing administrative services for our Medicare members and delegates contracted to make decisions on our behalf for our Medicare members/products.

The Centers for Medicare and Medicaid Services (CMS) defines FDRs as:

- **First Tier Entity** - Any party that enters 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 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** - This refers to 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 sponsors 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 ApexHealth products, plans, and providers do these requirements apply to?

We offer Medicare Advantage coverage to Medicare members. These requirements apply to all entities that participate in our plans.

### 3. Am I still required to meet these compliance requirements if I do not service or accept Medicare Advantage plan members?



If your organization provides services that impact our Medicare plans, you are required to meet these requirements. For provider organizations, if your organization participates in our Medicare Advantage plans, these requirements apply to your organization even if you do not see members in this plan.

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

These regulatory requirements are from CMS. They are outlined within the Medicare Managed Care Manual Chapter 21 and Prescription Drug Benefit Manual Chapter 9

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/mc86c21.pdf>

**5. Are the requirements new?**

No, these requirements are not new. If you aren't familiar with the requirements, review our **FDR Guide**.

**6. Our organization is not complying with all the Medicare Compliance requirements. Who do we report this to? Will we be terminated?**

If your organization is not meeting the requirements, you can contact our compliance department (email). Don't worry about retaliation. We enforce a zero-tolerance policy for retaliation against anyone who reports concerns in good faith. You can also make reports anonymously; just refer to our **reporting poster**.

**7. What will happen if I don't comply with the requirements?**

If you are willing to comply, we partner with you to resolve the issue. You will be given training and education on the requirements, and we will assure that you develop a comprehensive corrective action plan (CAP). We ask that you provide a written CAP that addresses the issue and outlines the actions you will take to correct it. If you refuse to comply or fail to implement your CAP, there could be ramifications, up to and including contract termination.

**8. Why did our organization receive a Compliance attestation to complete?**

Your organization has been identified as a first-tier entity because of your contractual relationship with us. Our compliance team performs various oversight activities each year to test your organization's compliance with Medicare Compliance requirements. We may conduct an audit, a monitoring event, and/or require an attestation to be completed.

**9. I have no employees. Do I have to complete an attestation?**

Yes. If we send you an attestation, it must be completed even if you have no employees.

**10. Does each staff member have to complete the attestation?**

No. An authorized representative can submit an attestation on behalf of your organization. We describe who might be an authorized representative in our FDR Guide.

**11. What documentation are we required to keep?**

You must have documentation to show you are compliant with each requirement. Examples include policies and procedures, training logs, and attestations.

**12. Who do I contact if I have more questions?**

If you have any questions about the Medicare Compliance requirements that are not addressed in our [FDR Guide](#), please refer to the **Contact Us** section on the last page of this document.

## Code of Conduct and compliance policies

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**13. What are Standards of Conduct?**

Standards of Conduct are also known as the “Code of Conduct” in some organizations. It states the overarching principles and values by which the company operates and defines the framework for the compliance program.

**14. How often must the Standards of Conduct be distributed?**

Your Standards of Conduct and/or compliance policies must be distributed to employees:

- Within 90 days of hire
- Each Calander year
- When changes are made

**If you don't have your own Standards of Conduct feel free to distribute ours.**

**15. Can I use my own Standards of Conduct?**

Yes, you can use your own Standards of Conduct and compliance policies. They must contain the elements set forth in Section 50.1 and its subsections of within the Medicare Managed Care Manual Chapter 21 and Prescription Drug Benefit Manual Chapter 9. They must articulate the entity's commitment to comply with federal and state laws, ethical behavior, and compliance program operations.

## Reporting Mechanisms

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**16. Do we have to report noncompliance and FWA to ApexHealth?**

Yes, your internal process must include a mechanism to report concerns to ApexHealth. You must notify ApexHealth about actual and potential noncompliance and FWA if it impacts our Medicare business.

As an ApexHealth FDR, you can make reports using the mechanisms found in our Code of Conduct. We enforce a zero-tolerance policy for retaliation or retribution against anyone who in good faith reports suspected misconduct.

If you don't have internal reporting mechanisms, you can share our reporting poster with your employees and downstream entities so they can report directly to us.

#### 17. What can I do if I suspect FWA or noncompliance?

You must report the issue to us so that we can investigate and respond immediately. Our [reporting poster](#) describes a few of the ways you can make a report.

## Exclusion lists screenings

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#### 18. What are the exclusion lists?

There are 2 exclusion lists:

- [Search the Exclusions Database | Office of Inspector General \(hhs.gov\)](#)
- [SAM.gov | Exclusions](#)

#### 19. What is the difference between the OIG and GSA SAM?

The [GSA SAM](#) includes exclusion and debarment actions taken by various federal agencies. The [OIG](#) only contains exclusions taken by the OIG. You **MUST** screen both lists.

#### 20. What are the requirements related to the exclusion screenings?

FDRs must review both the OIG and GSA SAM exclusion lists prior to hiring and contracting, then monthly thereafter. We explain the requirements in more detail in our [FDR Guide](#).

Regular screenings ensure that your employees and downstream entities are not excluded from participating in federal health care programs. Federal money cannot be used to pay for services provided or prescribed by an excluded individual or entity.

#### 21. What evidence must I keep showing that these screenings are completed?

The documentation may vary depending on how the screenings are completed. If you perform these checks using an automated system or program, your documentation may be based on the limitations of that system. Regardless of how you complete these checks, the documentation shows the following:

- Which exclusion lists were checked

- The date on which the screening was completed
- Names of the individuals and entities that were checked
- Results of the screening

**22. What if an individual or entity is excluded?**

You should immediately stop them from doing any work on ApexHealth's Medicare business and also report this to us.

## Downstream entity oversight

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**23. Why are you asking about my downstream entities (i.e., subcontractors)?**

ApexHealth is accountable to CMS for all of our FDRs. If you are subcontracting, then we must ensure that you are overseeing your downstream entities.

**24. Which of my subcontractors should be considered downstream entities?**

Not every subcontractor is considered a downstream entity. Only those entities you've contracted with that provide administrative or health care services for ApexHealth's Medicare business are downstream entities. FDRs should have a process in place to identify and classify these entities.

**25. What requirements apply to downstream entities?**

Downstream entities must comply with all applicable regulatory requirements that apply to the Medicare Part C & D programs. This includes the compliance program requirements within our **FDR Guide**.

**26. What oversight is expected for my downstream entities?**

If you use downstream entities, you must have acceptable oversight of their compliance and performance. This includes testing compliance and performance of their downstream entities through audits or monitors and requesting corrective actions when deficiencies are uncovered.

## Contact Us

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**Compliance Team**

[Compliance@apexhealth.com](mailto:Compliance@apexhealth.com)

**Our dedicated FDR website**

[www.apexhealth.com/fdr](http://www.apexhealth.com/fdr)

**Our Dedicated FDR E-Mail**

[FDR@ApexHealth.com](mailto:FDR@ApexHealth.com)