

## What is an FDR?

**FDR** is a Centers for Medicare & Medicaid Services (CMS) acronym for first tier, downstream, or related entity.

A **first tier entity** is a party with a written arrangement with a Medicare Advantage (MA) plan to provide administrative or health care services to Medicare-eligible individuals. Independent Physicians Associations (IPAs) are considered first tier entities.

A **downstream entity** is a party with a written arrangement, below the level of the arrangement between the MA plan and a first tier entity, to provide administrative or health care services to Medicare-eligible individuals. Your organization is considered a downstream entity.

Your subcontractors might also be considered downstream entities. Not all subcontractors are downstream entities.

A **related entity** is a party that holds common ownership or control of a Medicare Advantage plan.

**FDR employee** refers to employees, temporary employees, volunteers, consultants, and members of an organization's governing body (such as a Board of Directors).

## FDR Responsibilities

As a first tier entity, the IPA is responsible to fulfill the terms and conditions in our contracts with MA plans, including compliance program requirements. As a downstream entity, you are responsible to adhere to these requirements as well. This includes ensuring that your downstream entities also comply with all applicable requirements.

You must keep evidence of your compliance with these requirements for at least 10 years. This may include employee training records, exclusion screening results, or proof of the way you oversee your downstream entities. You may be asked to complete an attestation or audit to verify your adherence to these requirements.

If you or your downstream entities fail to meet compliance program requirements, it may lead to retraining, corrective actions, or other sanctions. If you discover a compliance issue, you must take quick action to fix and report the issue. And, you need to prevent it from happening again.

## FDR Compliance Requirements

### Standards of Conduct and/or Compliance Policies

As a downstream entity, you must provide standards of conduct and/or compliance policies to your employees and downstream entities. The material(s) must include:

- Your commitment to comply with all applicable federal and state laws, ethical behavior, and compliance program requirements;

- The requirement for employees and downstream entities to report compliance and FWA concerns, and all available reporting methods;
- The requirement to report compliance and FWA concerns (that impact the IPA) to Physicians DataTrust; and
- Your zero-tolerance policy for retaliation or intimidation in response to good faith reporting of noncompliance, FWA, or other misconduct.

You must provide this material within 30 days of hire or contracting, annually thereafter, and when the materials are updated. You must also save proof that you provided the material, such as a sign-in sheet, electronic acknowledgement, or signed attestation.

The PDT Code of Conduct and PDT's "Reporting Compliance & FWA Concerns" poster are available at <https://pdtrust.com/compliance>. You are not required to use these materials.

### **General Compliance Training & Fraud, Waste, and Abuse Training**

As a downstream entity, you must conduct General Compliance training and Fraud, Waste, and Abuse (FWA) Training with your employees and downstream entities. You may use the two training modules developed by CMS, or another version of these training materials, as long as they include all of the concepts from the CMS versions.

You must conduct this training within 30 days of hire or contracting, annually thereafter, and when the materials are updated. You must also save proof that you conducted the training. If you use training logs, reports, or sign-in sheets as evidence of completion, they must include names, dates, and training topics.

The CMS training modules are available at <https://pdtrust.com/compliance>. You are not required to use these materials.

### **OIG/GSA Exclusion Screenings**

Federal law prohibits Medicare, Medicaid, and other federal healthcare programs from paying for items or services provided by a person or entity excluded from these federal programs. So, before hiring or contracting and monthly thereafter, you must check two exclusion lists. This will help confirm that your employees and downstream entities aren't excluded. The two exclusion lists are:

1. Department of Health and Human Services (DHHS) Office of the Inspector General (OIG) List of Excluded individuals and Entities (LEIE) <https://oig.hhs.gov/exclusions/>
2. General Service Administration (GSA) System for Award Management (SAM) <https://sam.gov>

Your organization must maintain evidence that you've screened your employees and downstream entities against both lists. This may include screenshots, input lists, or reports from a third-party vendor. The evidence must show the person or entity's name, the date, the list that was checked, and the outcome of the screening.

If your employee or downstream entity matches with a person or entity found on one of these lists, you must investigate potential match, and document the outcome of your investigation.

False match:

- Document that the match is false. This can be as simple as a note on the screening results that says “false match.”
- Save the source documentation, such as a screenshot, that shows the person or entity name, the date, the source, and the information that proves that the match is false.

Confirmed match:

- Immediately remove the person or entity from direct or indirect work supporting IPA business
- Notify Physicians DataTrust at [compliance@pdtrust.com](mailto:compliance@pdtrust.com), or by phone at (562) 860-8771, ext. 114

Detailed instructions on how to conduct OIG/GSA exclusion screenings, and how to document having done so, are available at <https://pdtrust.com/compliance>.

### Downstream Entity Oversight

As a downstream entity, you must monitor the compliance of your downstream entities. If you choose to subcontract with other parties for services for IPA business, you must make sure they abide by all requirements that apply to you as a downstream entity. This includes ensuring that:

- Written agreements between you and a downstream entity include all CMS-required provisions
- The downstream entity complies with the requirements described in this guide
- The downstream entity complies with applicable operational requirements

You must conduct enough oversight (auditing and monitoring) to ensure your employees and downstream entities are compliant. You must:

- Retain evidence of this oversight
- Ensure that a root cause analysis is conducted for any deficiencies
- Implement corrective actions to prevent recurrence of noncompliance

Not every subcontractor is a downstream entity. Only subcontractors that provide administrative or healthcare services for Medicare beneficiaries, such as a third-party biller, are considered downstream entities. The following types of subcontractors are NOT downstream entities:

- Housekeeping/custodial
- Grounds and maintenance
- Machine repair or servicing

For help identifying which of your subcontractors are downstream entities, please contact Physicians DataTrust at [compliance@pdtrust.com](mailto:compliance@pdtrust.com), or by phone at (562) 860-8771, ext. 114.