

How Effective Is Your Compliance Program? New OIG and DOJ Guidance for Measuring the Effectiveness of Your Corporate Compliance Program

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by Alissa Smith

Compliance programs are an important tool for health care providers. Compliance programs help to prevent fraud, waste and abuse, create a mechanism for catching problems early, and effective compliance programs can also provide the basis for a penalty reduction under the US Sentencing Guidelines if an entity is ever faced with sentencing for a criminal violation.

It can be difficult to know whether your current compliance program in place is effective since no agency has published a template that will work in all cases. Instead, the effectiveness of a compliance program is to be evaluated based on the size, operations, resources and risks facing each unique organization. While an individualized assessment is still necessary, and no “one size fits all” program is available, both the Department of Justice and the Office of Inspector General (along with the Health Care Compliance Association) have recently published guidance to help organizations measure the effectiveness of their compliance programs.

The DOJ guidance (available here <https://www.justice.gov/criminal-fraud/page/file/937501/download>) is not specific to healthcare; however, it does apply to health care organizations. It provides a checklist of questions for organizations to answer in the process of evaluating their ethics and compliance programs.

The OIG guidance (available here <https://oig.hhs.gov/compliance/101/files/HCCA-OIG-Resource-Guide.pdf>) was published with health care organizations in mind. It is longer and provides more than 400 ideas of “what to measure” and “how to measure” each of the seven elements of an effective healthcare compliance program. The Inspector General reiterated that no organization is expected to adopt all or even a large number of the suggestions in the guidance document at any one time. Instead, organizations are encouraged to select the measures that are applicable to them, based on their unique needs, resources and risks, as part of their ongoing compliance program assessment.

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These two new guidance documents provide valuable and practical assistance to compliance professionals and counsel who work continuously to evaluate and improve compliance programs for organizations in the health care industry.