OIG Compliance Monitoring: Practitioner and Small Business Integrity Agreements

Nicole Caucci, Deputy Branch Chief
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

Adrienne Shelfer, Program Analyst
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

Cornelia M. Dorfschmid, Ph.D.
Executive Vice President
Strategic Management Services, LLC

Background on Integrity Agreements

- OIG enters into Integrity Agreements (IAs) in connection with the settlement of health care fraud cases
  - False Claims Act (FCA)
  - Civil Monetary Penalties Law (CMPL)
- IA in exchange for OIG’s release of its permissive exclusion authority
  - 1128(b)(7) (Fraud, kickbacks and other prohibited activities)
Integrity Agreements

- Parties:
  - Individual practitioners or small group practice
  - Small business
  - Term: 3 years

Integrity Agreement Subject Types

- Clinic: 4
- Home Health Agency: 4
- Hospice: 1
- Indiv Practitioner/Small Group (9 or less): 34
- Medical Group Practice (10 or more): 7
- Mental Health Facility: 1
- Pharmacy: 2
### Integrity Agreement Requirements

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Small Business IA Requirements

• Practitioner IA Requirements, plus:
  • Compliance Officer
  • Policies and Procedures

Claims Review Requirements

• Quarterly Claims Reviews
  • 30 paid claims per quarter
  • Repay identified overpayments and evaluate sample results under 60 day rule
  • IRO must identify actual overpayment in the population at the midpoint
Common Claims Review Issues: IRO Perspective

• First Reporting Period Challenges and More
  • Role of Independent Review Organization (IRO)
  • Timelines
  • Data Issues
  • Error Rate and CMS Overpayment Rule
  • Year 2 and 3 Smooth Sailing?
  • Tips of Dos and Don’ts when working with the IRO

Common Claims Review Issues: Role of IRO

• Role of Independent Review Organization (IRO) is not always well understood:
  • Independence and Objectivity Requirement.
  • IRO is not an agent of the government or an advocate for entity.
  • IRO is not a typical consultant or advisor but an independent auditor.
  • Does not prepare or help with Implementation Report or Annual Report.
  • Scope of work is outlined in Appendices of IA.
  • Prepares the IRO Claims Review Report (quarterly).
  • Does not send reports to OIG, entity responsible for doing that.
  • IRO and OIG Monitor have very different and separate roles.
Common Claims Review Issues: Timelines

- Due Dates and Timelines for Reports:
  - With IA Effective Date the clock starts!
  - Three-month periods (Claims Review Quarters) are shifted from Reporting Period quarters, by one month.
  - 15 days after Claims Review Quarter ends sampling is due.
  - 60 days after each quarter IRO reports due to OIG, i.e., 180 days of Reporting Period.
  - IRO will give additional deadlines for submission to them.
  - Implementation Report (90 days) and Annual Report (1 year + 60 days). Not IRO’s job to monitor these deadlines.
  - Planning, planning, planning

Common Claims Review Issues: Data Issues

- IRO will ask for data set of Paid Claims.
  - Can the provider extract claims data in an appropriate format?
  - What reporting features are available?
  - Software vendor typically required to assist in first quarter?
  - Multiple software products may require backend merge.
  - Do the extracted claims data make sense?
  - Do data list all of the correct payors, paid claims?
  - Testing the extraction before the real first run is advisable.
  - IRO cannot do a test medical review of sampled claims.
  - Transmissions must be HIPAA compliant.
Common Claims Review Issues: Error Rate and Mean Point Estimate

- IRO must calculate and report from 30-claim sample:
  - Error Rate
  - Mean Point Estimate
- Provider must determine how to refund identified Overpayments:
  - What amount has been identified?
  - CMS Overpayment Rule.
  - No threshold error rate (e.g., 5%), no mandatory refund at Mean Point.
  - What to do?
  - Providers typically not well prepared for this decision in the first quarter.
  - Policy/Procedure?

Common Claims Review Issues: Year 2 and 3 – Smooth Sailing?

- Once IRO and Entity have mastered four quarters.
  - Error rates typically zero/low/lower as should be the case.
  - Smooth sailing?
- Issues may still come up:
  - Management/staff changes
  - New software/system upgrades
  - New regulations with major impact
  - New services
  - Acquisition
  - Investigations
  - Knowing when to inform OIG Monitor
Common Claims Review Issues: Tips

- Dos and Don’ts When Working with the IRO
  - Don’t panic. First quarter involves a lot of learning by doing.
  - Don’t delay readiness planning before the ink dries. Plenty of IA examples on OIG site.
  - Read, read, read:
    - IA (Physicians, Practice Administrator, Managers, Billers, Coders).
    - IRO Workplan.
    - Instructions for IRO record submission and follow them.
  - Make a timetable with all due dates in the Reporting Period.

- Dos and Don’ts When Working with the IRO
  - If IRO’s timelines cannot reasonably be met file for extension. Don’t wait till last minute.
  - Review initial submission materials extremely carefully. Avoid unnecessary supplementals.
  - Designate a main designated contact to deal with IRO. Backup.
  - Ask software vendor early to assess reporting features of practice management software/EMR.
  - Worry about systemic errors or patterns? Weed them out.
Common Claims Review Issues: Tips

• Dos and Don’ts When Working with the IRO
  • Watch copy/paste and overdocumentation risk. Always a good idea.
  • Transmissions must be HIPAA compliant. Ask IRO for communication protocols for PHI.
  • Cross train staff – the quarterly reviews come fast, 3 years is a long time. Retain records.
  • Know where to go with refunding checks in case of extrapolation, if needed.

Common Compliance Issues: Tips for Working with Monitor

• Counsel should ensure that all terms of the IA are reviewed and understood by practitioner and/or entity compliance officer
• Practitioner/entity should develop plan to successfully implement agreement (working with counsel/consultants as needed)
• Communicate with monitor
• Track deadlines to ensure timeliness of reports
IA Enforcement Actions

• IA enforcement actions posted on OIG’s website
  • Stipulated Penalties
  • Material Breach

https://oig.hhs.gov/fraud/enforcement/ciae/index.asp

IA Enforcement Actions

• 12-21-2017
  Connecticut Dentist and Practice Pay IA Stipulated Penalty

• 10-31-2017
  New York Physician and Practice Pay IA Stipulated Penalty

• 02-23-2016
  Maryland Cardiology Practice and Physicians Pay IA Stipulated Penalty

• 02-10-2016
  North Carolina Physician Pays IA Stipulated Penalty

• 11-15-2015
  OIG Excludes Todd Roberts and his Practice for Material Breach
Resources

https://oig.hhs.gov/compliance/index.asp

Resources

Resources


Resources

Questions?