Top Home Health Compliance Risks

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Objectives

- Identify Top Compliance Targets
- Audit/Monitoring Activities
- Common Red Flag Findings
Current Enforcement Landscape

- Medicare/Medicaid contractors:
  - Medicare Administrative Contractors (MAC)
  - Recovery Audit Contractors (RAC)
  - Supplemental Medical Review Contractor (SMRC)
  - Zone Program Integrity Contractor (ZPIC)
- Managed Care Organizations
- Office of Inspector General (OIG)
- Federal Bureau of Investigation (FBI)
- Department of Justice (DOJ)
- Department of Health and Human Services Health Care Fraud Prevention and Enforcement Action Team (HEAT)
- Whistleblowers

HHS HEAT Team

- Also known as the Medicare Fraud Strike Force
- Current Cities Targeted:
  - Baton Rouge, Louisiana
  - New Orleans, Louisiana
  - Brooklyn, New York
  - Chicago, Illinois
  - Dallas, Texas
  - Detroit, Michigan
  - Houston, Texas
  - Los Angeles, California
  - Miami-Dade, Florida
  - Tampa/Orlando, Florida
  - Washington, D.C.
  - Newark, New Jersey
  - Philadelphia, Pennsylvania
  - Appalachian Region

- 2018 National Health Care Fraud Takedown:
  - Charges: 601 individuals
  - Losses: $2 Billion
  - Excluded: 587 individuals
On-staff data analyst at Department of Justice

On-staff Compliance Counsel

Targets include:
- Medical Professionals
- Billing of Part D, Lab and Hospices
- Drug Diversion (pharmacy chains & wholesale suppliers)
- Opioids – Appalachian Task Forces

FY2019 PPS Changes

- Implements Temporary transitional payments for home infusion therapy service effective 1/1/2019.
- Continued implementation of the Home Health Value-Based Purchasing Model.
- Continued implementation of the Home Health Quality Reporting Program.
- Implements New Case-Mix adjustment methodology for the HH PPS.
- Financial Changes:
  - 2.2% home health payment update percentage
  - .1% increase in payments due to the decreasing FDL ratio.
  - .1% decrease in payments due to rural add-on policy changes
FY2020
Pending PPS Changes

- Changed the Home Health unit of payment from 60 days to 30 days for CY2020.
- For Home Health Periods beginning on or after 1/1/2020:
  - Patient-Driven Grouping Model (PDGM)
    - Removes incentives to over-provide therapy
    - Focuses on Clinical Characteristics

OIG Compliance Focus Areas

- Review of Home Health Claims for Services with 5 to 10 visits
- Home Health Compliance with Medicare Requirements
- Medicaid Home Health Services for Beneficiaries with Chronic Conditions
- High-Risk, Error-Prone HHA Providers using HHA Historical Data
- Medicare Payments for Unallowable Overlapping Home Health Claims and Part B Claims
Industry’s Compliance Concerns

- Growth in oversight activities in home care and hospice
  - Medicare and Medicaid
- High Level Fraud and False Claims Act investigations
  - Referrals
  - Wholesale unnecessary care
  - Failure to provide any service
- Day-to-day compliance oversight
  - Claims
  - Coverage
  - Quality of care

Operational Compliance Risks

- Human Resources Following Policies and Procedures
- Setting of Metrics for Employees – how they respond to these metrics
- Monitoring of Disciplinary Activities – including retaliatory behavior
- Quality of Care Compliance
- Physician Relationships
- Medication Management and Storage
- Infusion Pharmacy Regulatory Compliance
Concerns from Compliance Officers

• Face-to-Face new rules
  • Physician Record – no form

• Technical Requirements
  • Denials for Physicians not dating signatures

• Medical Necessity Documentation

• Therapy Assessments, Long and Short-term goals

• Civil Monetary Sanctions for Conditions of Participation

Medicaid Compliance Concerns

• Increased Regulatory Scrutiny – Increased Enforcement
  • Claims
  • Services Rendered
  • False Billings
  • Staff Qualifications
  • Referrals/Inducements/Kickbacks

• Dual-Eligible Patients and associated requirements

• Private Duty Nursing

• Personal Care Services
Top Monitoring Targets

- Face to Face completion and support
- Therapy assessments and reassessments
- Conditions of Participation
- Private Duty and Personal Care documentation
- Dual Eligible patients – supporting documentation and appropriate billing

Top Monitoring Targets

- Medical Record Documentation
  - Nursing care plans, visit notes and goals
  - Therapy assessments, visit notes and goals
  - Physician documentation – Plan of Care, verbal orders, Face to Face, Homebound status

- Quality Metrics
  - Performance compared to peers
  - Outliers based on quality data
Top Monitoring Targets

• Physician Relationships
  • Appropriateness of contractual relationships
  • High-volume referrals
• Hospital and Nursing Home relationships
  • Outreach programs
  • Patient acceptance
• Claims
  • Monitoring of OASIS to supporting documentation
  • Quality Measures
  • Claim timing (inpatient or SNF stays, or death)

Top Monitoring Targets

• Human Resources
• Denials Management
• Disaster Preparedness
• Evidence Based Practices
• Compliance Program Effectiveness and HIPAA Compliance
• Information Technology
• Medication Management and Pharmacy
Red Flag Findings

• HR doesn’t conduct background checks OR hasn’t completed annual checks.

• Performance Improvements are not reviewed to validate integrity of the improvement.

• Referring Physicians receive special attention or benefits.

• A process doesn’t exist to validate employees provide the scheduled services.

• A process does not exist to prevent or detect therapy assistants or other employees from practicing beyond their scope of practice as per state and federal laws.

Red Flag Findings

• Patients’ homebound status changes during the treatment program and patients are not discharged.

• Key quality indicators suggest problems with care.
  • Management fails to address.

• Physicians do not respond in timely manner with their documentation, or do not thoroughly complete their documentation.

• Medical Record Documentation is not monitored for completeness.

• Medical Record Documentation templates don’t include key elements required by CMS to support claims.
Key Takeaways

• Home Health enforcement is on the rise.

• Implementation of a strong monitoring program in coordination with Compliance, Quality and Internal Audit is a must.

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