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Session P28 Post-Acute Care
Actively Assess and Audit Your Post-Acute Service Lines

YOUR SPEAKERS

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Actively Assess and Audit Your Post-Acute Services Lines

Objectives

- Identify the current high-risk areas of compliance for skilled nursing facilities, home health companies and hospice agencies; learn how to incorporate these into an annual risk and effectiveness assessment.
- Discuss the development, implementation, and resolutions of monthly, quarterly, and annual audit plans and the differences and importance of internal and external auditing and monitoring plans.
- Deliberate the issue of when enough is enough; or, do you audit again and again? And to what end? Avoid large overpayments by creating a methodology for compliance assessments and audits.

Why is Post-Acute Care Under Scrutiny?

- The Medicare SNF, home health & hospice benefits are costly and will continue to increase with increase of Medicare beneficiaries.
  - Significant government resources: Medicare, Medicaid, Waiver, Tri-Care.
- Fraud and abusive practices are real: see OIG Most Wanted Fugitives https://oig.hhs.gov/fraud/fugitives/
- Mandates under the Patient Protection and Affordable Care Act (ACA).
- Government fraud and abuse prevention and identification initiatives.
- Government reports identifying patterns of potential or actual abusive practices, i.e. OIG/OAS Studies and Reports, OEI reports.
- Data Analytics — state, regional, MAC jurisdiction, national.
  - PEPPER Data; claims, quality, and beneficiary data.
Risk Areas /Mitigation for Post-Acute Care Providers

- Kickbacks/Inappropriate Referrals.
- Medical Necessity/Eligibility of Services (and documentation).
- Homebound Status for Home Health (and documentation).
- Insufficient Documentation.
- Unsupervised Services.
- Service Issues:
  - Services ordered but not performed.
  - Services performed and billed but not ordered.
- Overbilling/Up-coding/OASIS/ICD-10/MDS.
- Therapy Manipulation.
- Staff Training/Education.
- Credentialing/Certification.
- OIG Exclusion List- Monitoring and prebill auditing.

Focus of Government Auditing and Investigations

- Home Health Focus:
  - 485/POC
  - Medical Necessity
  - Homebound Status
  - Face-to-Face
  - Therapies
Focus of Government Auditing and Investigations

- Hospice Focus:
  - Eligibility
  - Levels of Care: General Inpatient Care and Continuous Home Care
  - Long Length of Stays
  - Patients in SNFs or ALFs

Focus of Government Auditing and Investigations

- Assisted Living Communities:
  - Quality of Care
  - Lack of consistency with reporting deficiencies and Government Accountability Office (GAO) findings
  - Understanding state focused auditing
Government Audits

- Medicare Administrative Contractors (MAC).
- Zone Integrity Program Contractors (ZPIC) — Focus on Fraud.
- Unified Integrity Program Contractors (UPIC).
  - Replacing the ZPIC, PSC and other
  - Seven initial contracts
  - Advance Med Corp ($76.8 million task order — first under the UPIC)
- Other Medicare Contractors: TriCenturion, Inc.; StrategicHealthSolutions LLC; Noridian Healthcare Solutions, LLC; IntegriGuard LLC d/b/a/ HMS Federal; Health Integrity, LLC
- Medicare and Medicaid audits (replace MIC)

Government Audits (Continued)

  - OAS Audits agencies with intent to publish findings
  - Sample size
  - Example:
    - Hospice of New York, LLC, Improperly Claimed Medicare Reimbursement for Some Hospice Services - June 2015
Government Audits (Continued)

- RACS — created administrative backlog
- Comprehensive Error Rate Testing (CERTS)
- Medicaid Fraud Control Unit (MFCU)
  - Each state has a MFCU with different focuses in different states
  - Significant number of audits and recoupments.
  - Criminal actions

Targeted Probe and Educate (TPE)

- MACs Medical Review Program
- MACs must develop an annual Improper Payment Reduction Strategy (IPRS)—required by CMS
  - Data is analyzed by provider, services and beneficiary.
    - Historical claims data
    - Use of patterns/trends; high volume/cost and change in frequency/outliers
    - Comparative billing reports: state, regional and national
    - CMS Reports and other government reports (OIG/GAO)
TPE: What Providers Need to Know

- Once the MAC identifies your risk, claims review is initiated.
  - Validate issue.
  - Target and Probe of 20-40 claims:
    - Selected Sample of 20-40
    - Initial request for records may be a smaller number of patients if agency has small census (but a total of 20-40 for round one is still applicable)
    - Benchmarks are established
    - One on one provider education is provided
    - Providers with high error rates will continue to second and possibly third rounds

What Can Post-Acute Care Providers Do To Avoid Government Audits ---Or Perform Well When Audited?

- Educate staff on importance of clinical documentation for your service line
- Understand your Electronic Medical Record System and how it can work for you:
  - Review billing edits
  - Set-up Red Flags
  - Review your Data Analytics -Customize EMR reports
  - Review PEPPER Reports
  - Create your audits plans based on data analytics
Proactive & Continuous Assessments & Auditing

► How do we get there?
  ► Start with strong Compliance & Ethics Plan framework and company culture

Refresh: Seven Elements of a Compliance Program

1. Policy/Procedure/Written Code
2. Compliance Officer/Committee
3. Training/Education
4. Communications/Anonymous
5. Auditing Monitoring — External monitoring by experts (Attorney Client Privileges issues/ethics)
6. Disciplinary Measures
7. Disclosure /Timely Investigations and Reporting
8. NY OMIG: A Policy of Non-Intimidation and Non-Retaliation
  ► LEARN FROM current Corporate Integrity Agreements (CIAs)—next slide...
Other CIA Enforceable Compliance Requirements

- Management and Board Certifications: Governing Board Education and Consulting Experts
- Contract Arrangement Review
- Annual Internal Audit Plan
- Annual Compliance Program Risk/Effectiveness Assessment
- Reporting Overpayments
- Coding
- Annual IRO Audits and Claims Reviews (usually for five years) under an OIG Monitor Attorney
- Annual Reports to the OIG

Learn from Requirements of Annual CIA Audits

- CIAs based on allegations of false claims billed and paid require annual clinical record and claims audits by an Independent Review Organization (IRO)
- CIAs based on allegations of violations of Anti-Kickback statute: require annual audits of contracts and “arrangements”
- Reporting Period Annually for five years: Date CIA fully executed through the next year
  - CIA will identify sample to be audited
  - Specific issues such as medical necessity or eligibility, coding
CIA Enforcement

- The Office of Inspector General (OIG) enters into Corporate Integrity Agreements (CIAs) and Integrity Agreements (IAs) with healthcare providers and other entities as part of the settlement of a government investigation arising under a variety of civil false claims.
- OIG has the authority to impose civil monetary penalties --- also known as Stipulated Penalties for breaches of the terms of a CIA.
- OIG may also consider exclusion if there is a material breach of the CIA/IA.

Stipulated Penalties Imposed

11-29-2018: Cornerstone Healthcare Services, LLC: paid a stipulated penalty of $15,000 for failure of its Compliance Officer to make a quarterly report to Cornerstone Governing Body during the first two calendar quarters of 2018.

10-26-2018: Pediatric Home Health Company (PSA) paid a penalty of $22,500 for PSA’s failure to establish and implement the obligations relating to having a Compliance Officer and a Compliance Committee. No quarterly meetings or report to the Board of Directors.

12-29-2016: CF Watsonville east, LLC and Watsonville West, LLC paid a stipulated penalty of $70,000 for its failure to notify OIG of adverse final determinations made by the State of California Health and Human Services Agency.

09-13-2016: Kindred paid a Stipulated Penalty in the amount of $3,073,961.98 for failure to correct improper billing practices in the fourth year of the five-year agreement.
Self-Auditing: Annual Assessments & Audit Plan(s)

- Conduct an Annual Risk and Effectiveness Assessment of your Compliance Program/Plan based on the seven elements and CIA requirements
- Create a solid ongoing auditing plan annually and follow-up
  - Considerations and discussion:
    - Multiple facility/agency provider companies
    - Multiple-State Providers
    - Multiple Service-Line Providers
    - Who will conduct the audits?

Internal Versus External Audits

Considerations for audits:
- Internal auditing and monitoring
  - What is the difference between auditing and monitoring?
- External Auditing
  - Role of Consultants
  - Role of Attorneys
- When/Why do you perform audits under attorney-client privilege.
  - Routine
    - Focused? Why Focused Audits?
- PRE-BILL: advantages/disadvantages
- POST-CLAIMS billed and paid: advantages/disadvantages
- Frequency
Real Life Methodologies Examples for Compliance Auditing

- Multi-state hospice.
  - 54 Locations in 23 States
  - Corporate Integrity Agreement 2015

Where to begin?

Risk Assessment

- CIA requirements
- Compliance audit results
- OIG work plan
- CHAP survey results
- State survey results
- PEPPER
- ADR/TPE/CERTS
- Compliance hotline
- Key Performance Indicators
- Regulatory changes
- QAPI trends
- Probe results
- Department
  - Patient Care
  - Human Resources
  - IT
  - Billing/Intake
  - Operations
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<td>More than one diagnosis on the claim</td>
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**What do you do with your Audits Results?**

- Gap analysis
- Overpayment issues? Reporting issues? (Seek appropriate consulting and/or legal guidance)
- Educate appropriate staff
- Audit .... And Audit Again....
Effects of a Culture of Compliance

- Accountability
- Best Practices
- Consistency
- Collaboration

Compliance is everyone’s job!
Education Purposes

This presentation is for education purposes and should not be construed as providing legal advice.

THANK YOU!

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