Health Care Reform and Compliance

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Medicare and Medicaid Anti-kickback and Civil Monetary Penalties Laws

- May be implicated by

  - Programs which seek to give away something of value to attract patients
  - Programs which might be viewed as promoting stinting on care

Many of these programs are found in models where the stakeholders focus on payment for quality and cost-effectiveness
Programs That Seek to Give Away Something of Value to Attract Patients
► Certain wellness programs/health fairs/health promotions
► Patient assistance programs
► Transportation/lodging assistance
► Payment of health plan premiums
► Incentives to remain in network

Programs That Might Be Viewed as Stinting on Care
► Promotion of adherence to certain treatment regimens/protocols/practice parameters
► A focus on readmission reductions
► End of life/palliative care programs
Clinical Integration

- An active and ongoing program to evaluate and modify practice patterns by a network's physician participants and create a high degree of interdependence and cooperation among physicians to control costs and ensure quality

- Models may raise regulatory and compliance issues
  - They may use mechanisms to monitor and control utilization of healthcare services
  - They may selectively choose network physicians who are likely to further efficiency objectives
  - They may require significant investment of capital, both monetary and human, in the necessary infrastructure to realize the claimed efficiencies

Clinical Integration Models

- Often involve
  - Cross-collaborative team models
  - Patient-centered medical homes
  - Effective management of chronic conditions
  - Preferably with aligned financial incentives for clinicians and hospitals
Effective Clinical Integration

- Is generally facilitated by
  - Electronic Health Records (EHRs)
  - Personal Health Records (PHRs)

Effective Clinical Integration (cont.)

- Clinical Decision Support Systems (CDSSs)
  - Alerting
  - Reminding
  - Critiquing
  - Interpreting
  - Diagnosing
  - Assisting
  - Suggesting
Effective Clinical Integration (cont.)

- Computerized Physician Order Entry (CPOE)
- Health Information Exchange (HIE)

Effective Clinical Integration (cont.)

- E-Prescribing
- Telemedicine
Effective Clinical Integration (cont.)

- mHealth and social media
- Evidence-Based Medicine (EBM)

Analytics

- Data Analytics
- Personalized Medicine
- Precision Medicine
- Predictive Analytics
Compliance Considerations

➤ Are the requirements for Meaningful Use met?
➤ Does the technology do what the vendor says it will do?
  ▪ Is it appropriately supported and updated?
  ▪ Has the vendor carved out liability?
➤ Privacy and Security Issues

Compliance Considerations (cont.)

➤ What can patients do with their PHRs?
➤ Is the external EBM, the best evidence?
➤ How can a clinician be assured that the alerts, reminders, critiques, interpretations, diagnoses, assistance and suggestions are
  ▪ Up to date?
  ▪ Function properly?
  ▪ Provide the correct information?
Compliance Considerations (cont.)

- Can a clinician still make the ultimate decision with respect to patient care, given the practice parameters and protocols which have been adopted?

- Is the EBM behind the CDSS really the best EBM?
  - Is it dynamic enough in nature to keep up with the state-of-the-art practice of medicine?

- What is the effect of clinician work-arounds from a liability perspective?

- What happens when a nurse in a unit reports to Compliance about clinicians ignoring alerts and fashioning workarounds?

Compliance Considerations (cont.)

- What happens when all of one’s allergies are not in the system for whatever reason?

- What happens when the compliance officer is alerted in a transition from one system to another that part of one’s information has been dropped?

- What happens when data is not clean or truly comparable, and this is reported to Compliance?

- Is information being appropriately shared to develop the baseline and the metrics?
  - Are HIPAA privacy and security rules an impediment?
Compliance Considerations (cont.)

► What happens when telemedicine services are not reimbursed?
► What happens when a physician's smart phone with patient information is lost, stolen or misplaced?
► What happens when a physician jumps into a discussion on a social media site where he or she has patients?
► What about clinical trials being run out of social media sites?

Summary / Conclusion

► Health Care Reform
  • Has brought many new compliance considerations to the forefront, as a result of
    • Its incentives to focus on quality and cost-effectiveness
    • Increased use of health information technologies
    • Its focus on data analytics

It is a challenging time for Compliance Professionals, but then again, when has it not been?
Questions
and
Thank You

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