FDR OVERSIGHT - What can you do to provide FDR oversight?

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Overview

- Regulations and Guidance
- Contracting
- Risk Assessment & Management
- Auditing & Monitoring
- Tools
- Common Findings / Improvements
- Case Study – SynerMed
- Top Takeaways!
Regulations and Guidance

Medicare Advantage - Prescription Drug (MA-PD) Plan and Medicare-Medicare Plan (MMP) require the Managed Care Organization to implement an effective system for routine monitoring and identification of compliance risks. (Medicare Managed Care Manual, Chapter 21, Section 40.)

Definitions from MMCM, Chapter 21, § 20 and § 40.

- **First Tier Entity** is any party that enters into a written arrangement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program.

- **Downstream Entity** is any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit or Part D benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services.

- **Related Entity** means any entity that is related to an MAO or Part D sponsor by common ownership or control and
  - Performs some of the MAO or Part D plan sponsor’s management functions under contract or delegation;
  - Furnishes services to Medicare enrollees under an oral or written agreement; or
  - Leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than $2,500 during a contract period.
Contracting

- Define your expectations:
  - Performance Standards (KPIs, SLAs etc.)
  - Performance Guarantees
  - Data sharing
  - Privacy and Security

Contracting

- Reporting and Audit:
  - Operational reporting content and frequency
  - Regulatory submissions
  - Preparation of universes
  - Development, QA and error resolution (the devil is in the details)
Contracting

- Systems and software:
  - Outage, error resolution, escalation, SDLC.
- Regulatory changes
  - Review, action and software changes
- CMPs and other government penalties
- CAP turn around and exit strategy

Risk Assessment - Actions

- Interviews from Stakeholders (e.g. leadership, business owners)
- Current Compliance Data
  - Past Regulatory Actions
  - Internal and External Audits
  - Corrective Action Plans within the past 12 months
  - Emerging Risks in the Marketplace
**Risk Assessment - Actions**

- Industry Trends/OIG Work Plan
- New Regulatory Requirements
- Other Sources, i.e., the News!
- Independent, External Mock Audits of Organization
- Develop Risk Inventory from Input Above

**Risk Management - Prioritizing**

- Business Owners rank risks in their areas
  - Experience
  - Knowledge
- Review
  - Likelihood of occurrence – High, Medium, Low or 1-5 Scale
  - Impact to the Organization – High, Medium, Low or 1-5 Scale
Risk Management - Prioritizing

- Velocity – Time to Impact
- Evaluate results at Compliance Level
- Calculate
  - Likelihood x Impact = Risk Score
  - Likelihood x Velocity x Impact = Risk Score
- Risk Map – Plots areas of Risks

Next Steps for Risk Mgt.

- Develop a work plan to manage the identified risks.
  - Transfer
  - Mitigate/Reduce
  - Eliminate
  - Accept

Next Steps - continued

- Work Plan must be detailed
  - Risk, Domain, Priority
  - Owner, Action
  - Start and Completion Date
  - Validation Completion Date
A Note of Caution

- The worst thing you can do is identify risks and not take action, unless you prioritized accordingly.

- With limited resources, risk prioritization and documentation of the prioritization process is critical.

Auditing & Monitoring

CMS requires Sponsors to develop procedures to promote and ensure that all FDRs are in compliance with Medicare regulations. And, have a system in place to monitor FDRs.

- Do you have a documented auditing and monitoring plan to provide oversight?
- Do you evaluate your FDRs performance with standard metrics?
Auditing & Monitoring

- Do you Audit & Monitor all First Tier Entities? If not, how do you determine who gets what type of oversight?
- Does the delegated entity:
  - Touch a member’s life directly through service delivery or other face-to-face interaction?

Auditing & Monitoring

- Receive, create or maintain PHI?
- Have decision-making authority?
- Ability to harm members and/or Commit Fraud, Waste, and Abuse?

- Other Factors: Outstanding CAPS, Significant Deficiencies, New FTE, etc.
## FTE Delegated Function Grid

<table>
<thead>
<tr>
<th>FTE Name</th>
<th>Delegated Function</th>
<th>Face to Face Member Impact</th>
<th>Some Member contact</th>
<th>Access to PHI</th>
<th>Decision Making Authority</th>
<th>Potential Harm to Member</th>
<th>Potential to commit FWA</th>
<th>Open CAPs</th>
<th>New FTE</th>
<th>Risk Score</th>
<th>Risk Level</th>
<th>Audit Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>PBM</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>12</td>
<td>H</td>
<td>Full</td>
</tr>
<tr>
<td>B</td>
<td>Bid Prep</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>4</td>
<td>L</td>
<td>Attestation</td>
</tr>
<tr>
<td>C</td>
<td>Claims Process (with CS)</td>
<td>N</td>
<td>Y</td>
<td>Y</td>
<td>Y</td>
<td>N</td>
<td>Y</td>
<td>N</td>
<td>N</td>
<td>8</td>
<td>M</td>
<td>Monitor</td>
</tr>
</tbody>
</table>

### Legend

- **Y** = 2
- **N** = 0

### Risk Ranking

- 0-5 = Low
- 6-10 = Medium
- 11-16 = High

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## Auditing / Monitoring Tools

<table>
<thead>
<tr>
<th>Audit Title</th>
<th>Audit Period</th>
<th>Conclusion: Requirement Met/Not Met</th>
<th>Description of Requirement</th>
<th>Scope</th>
<th>Audit Procedures</th>
<th>Findings</th>
<th>Recommendations</th>
<th>Corrective Action Requirements</th>
<th>Responsible Party</th>
<th>Implementation Date</th>
</tr>
</thead>
</table>

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III) Sample of credentialing files and documentation (20 provider (P) and 20 facility (F) files). 95% of the completed credentialing and re-credentialing files contain:

- Correctly completed application (P)(F)
- Current credentialing (no more than 6 months from appointment date – initial, no more than 3 years old – recredentialing), (P)(F)
- License, (P) Operating Certificate (F)
- Board Certification (P)
- Education (Board uses primary source) (P)
- Clinical Privileges (P)
- Malpractice Insurance, (P)
- DEA or CDS Certificate, (P)
- NPDB, (P)
- Quality of Care issues, (P) (F)
- Exclusion Checks (OIG, OMIG, LEIE, SAMI, (P) (F)
- Medicare Opt Out List/ NPI (P) (F)
Auditing / Monitoring Tools

<table>
<thead>
<tr>
<th>Function</th>
<th>Plan</th>
<th>Indicator</th>
<th>Targets</th>
<th>YTD Average</th>
<th>Jan</th>
<th>Feb</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MAPD (001)</td>
<td>Enrollment Transactions submitted to CMS within 7 days of receipt of Form</td>
<td>100%</td>
<td>96%</td>
<td>90%</td>
<td>90%</td>
<td>93%</td>
<td>97%</td>
<td>96%</td>
<td>98%</td>
<td>99%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>MAPD (001)</td>
<td>Confirmation Notice sent within 10 days of TRR</td>
<td>100%</td>
<td>95%</td>
<td>96%</td>
<td>97%</td>
<td>95%</td>
<td>98%</td>
<td>99%</td>
<td>87%</td>
<td>87%</td>
<td>99%</td>
</tr>
<tr>
<td></td>
<td>MAPD (001)</td>
<td>ID Card mailed within 10 days of TRR</td>
<td>100%</td>
<td>100%</td>
<td>98%</td>
<td>99%</td>
<td>100%</td>
<td>100%</td>
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<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>MAPD (001)</td>
<td>EOC/Directory Notice mailed within 10 days of TRR</td>
<td>100%</td>
<td>96%</td>
<td>80%</td>
<td>80%</td>
<td>90%</td>
<td>89%</td>
<td>90%</td>
<td>93%</td>
<td>95%</td>
<td>99%</td>
</tr>
</tbody>
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Commons Findings – Sponsors Did Not:

- Follow-up on previous audit findings to ensure that issues were resolved
- Provide FWA Training or FWA materials to FDRs or have evidence
- Check the OIG and GSA Exclusion List
- Establish/implement effective systems for A&M as well as oversight mechanisms
- Institute communications lines
- Effective process to identify risks.
Why?

Sponsors did not:
- Have process to ensure FDRs were identified as requiring training at contracting and annually thereafter.
- Have sufficient resources to implement an effective compliance program.
- Know these items were Medicare requirements.

Improvement Strategies

- Communication
- Automate Sanction Screening process
- Use CMS Compliance & FWA Training
- Develop robust FDR A&M program
- Validate CAPs have been implemented
SynerMed – In the News

By CHAD TERHUNE | KAISER HEALTH NEWS | NOV 15, 2017 | 10:40 AM

“Company that runs physician practices is closing down amid heightened scrutiny!”

- In an internal email, the CEO of SynerMed said audits by health plans found “several system and control failures.”
- As a result, the company "will begin the legal and operational steps to shut down all operations."

Some Facts

- 8/18/17 – HealhtNet Audit of SynerMed
- 9/1/17 – Compliance materials
- 9/7/17 – Audit files requested; due 9/15/17
- 9/15/17 – Extension requested to 9/25/17
- 9/25/17 – Missing some denial files
- 9/27/17 – Delegated Oversight Coordinator informs Compliance delay due to staff falsifying letters and faxes to pass audit.
Facts continued

- 9/27/17 to 10/4/17 – Investigation
- Sr. Management not responding to Compliance
- 10/4/17 – Sr. Compliance Director feeling threatened but will continue to fight
- Report of Findings, dated 10/5/17, is sent internally and, a few days later to CA regulators. (Date sent unknown.)

Findings

Significant Non-compliance with provider and member denial notifications and falsified documents to pass audits.
- Provider/Members unaware of ODAG
- No appeal rights
- Non-clinical staff writing clinical rationale; Staff signing MD name
- Member harm; potential delay in care and financial hardship
Top Takeaways!

- Identify your FDRs!
- Prioritize your Risks!
- Trust but Verify!

Thank You!

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