The Office Compliance Program

By
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By the end of this year Medicare or their contractors will have initiated up to four separate reviews or audits against most chiropractors in the country. Some of these reviews and/or audits are currently underway and some will begin in the last half of this year. I will detail these below:

1. State Wide Probe Review
Starting in the last quarter of last year, almost every carrier or Medicare Administrative Contractor (MAC) in the country has conducted statewide Probe Reviews in their respective states.

The Probe Review is generally the first step in Progressive Corrective Action (PCA). Records for a small number of dates of service on a small number of patients are requested and reviewed. If errors are found then the MAC or carrier moves to the next phase, which is the Expanded Postpayment Review.

2. Recovery Audit Contractor (RAC) Prepayment Review Demonstration Project
If you live in the states of Florida, California, Michigan, Texas, New York, Louisiana, Illinois, Pennsylvania, Ohio, North Carolina or Missouri you will soon be part of a prepayment demonstration project.

"Prepayment complex medical review determinations require the reviewer to make a clinical or other judgment about whether an item or service is covered (i.e. meet the criteria of a Medicare benefit category, are not statutory excluded, and are reasonable and necessary), properly coded and are compliant with documentation rules."

"When a contractor identifies a likelihood of sustained or high level of payment error, the contractor may request supporting medical record documentation."

"Examples that signify a likelihood of a high level of payment errors are dramatic change in the frequency of use, high cost, high risk problem-prone areas, or unexplained increases in volume when compared to historical or peer trends."

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I underlined the phrase "unexplained increases in volume when compared to historical or peer trends" because this is information that was identified in the Comparative Billing Reports (CBRs) that were released in the last two years.
This demonstration project is due to start on or after June 1 of this yea

3. Zone Program Integrity Contractor (ZPIC) Review
When a carrier or MAC suspects fraud, they turn the case over to the ZPIC for investigation. There are currently six ZPICs across the country. The ZPIC will investigate and, if they find evidence of fraud, they will turn the case over to the Office of Inspector General.

The ZPICS are currently requesting records from selected chiropractors across the country and reviewing those records. The criterion for selection of those records has not been released to the public.

4. The Office of Inspector General (OIG) Profession Wide Review of Chiropractic
The OIG will be conducting a profession wide review of every chiropractor in the country starting later this year. The following is quoted from the 2012 OIG Work Plan:

"Chiropractors: Part B Payments for Services (New)
We will review Medicare Part B payments for chiropractic services to determine whether such payments were in accordance with Medicare requirements. Prior OIG work identified inappropriate payments for chiropractic services furnished during CY 2006."

After discussions with OIG personnel, I found that the OIG plans to review every chiropractor in the country. OIG auditors are currently collecting sample records from randomly selected chiropractors to familiarize themselves with the documentation style of chiropractors. These reviews are scheduled to begin later this year.

As you can see, the threat to the profession and to you, the individual doctor is substantial. You must take steps now to ensure that you are prepared for this level of scrutiny.

How to Prepare for the Upcoming Reviews and Audits
The following actions should be taken immediately to prepare for these upcoming reviews and audits:

1. Review your Medicare policies and procedures to ensure that you are in compliance with Medicare laws, rules and regulations.

2. If you are uncertain regarding your Medicare policies and procedures, seek the help of a certified expert.

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3. Implement an Office Compliance Program as soon as possible. This is especially important if you have received a Comparative Billing Report in 2010 or 2011. An Office Compliance Program needs to be developed by a certified expert, such as a Medical Compliance Specialist, to be considered an effective program by the OIG. Officials with the OIG have repeatedly stated that they do not consider an off-the-shelf compliance program to be effective.

Self-Audit

- Medicare expects you to audit yourself from time-to-time
- If you find that you have been overpaid, they expect you to voluntarily refund the money
- Providers may discover an incorrect Medicare payment issued by WPS because of a billing or processing error. If this occurs, providers are encouraged to return these incorrect payments to prevent future offsets.
- Voluntary refund checks payable to the Medicare program cannot be returned, regardless of the amount of the refund. If you need to refund Medicare, please verify you are sending the correct amount.
- The acceptance of a voluntary refund in no way affects or limits the rights of the Federal Government or any of its agencies or agents to pursue any appropriate criminal, civil, or administrative remedies arising from or relating to these or any other claims.

Mandatory Office Compliance Program

- "A provider of medical or other items or services or a supplier shall, as a condition of enrollment in Medicare, Medicaid or CHIP, establish a compliance program that contains certain "core elements"
- The seven elements of an effective compliance and ethics program described in the Federal Sentencing Guidelines are proposed to be used as the basis for the "core elements" of the required compliance program for Medicare.

- **Important Caution:** An effective Office Compliance Program cannot be developed from a do-it-yourself one-size-fits-all manual. You need a trained and certified professional to customize and develop the program for you.

    - These elements are:
        - 1: The development and distribution of written policies, procedures and standards of conduct to prevent and detect inappropriate behavior.
        - 2: The designation of a chief compliance officer and other appropriate bodies (for example a corporate compliance committee) charged with the responsibility of operating and

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monitoring the compliance program and who report directly to high-level personnel and the governing body.
    - 3: The use of reasonable efforts not to include any individual in the substantial authority personnel whom the organization knew, or should have known, has engaged in illegal activities or other conduct inconsistent with an effective compliance and ethics program.
    - 4: The development and implementation of regular, effective education and training programs for the governing body, all employees, including high-level personnel, and, as appropriate, the organization's agents.
    - 5: The maintenance of a process, such as a hotline, to receive complaints and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation.
    - 6: The development of a system to respond to allegations of improper conduct and the enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable statutes, regulations or Federal health care program requirements.
    - 7: The use of audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas.
    - 8: The investigation and remediation of identified systemic problems including making any necessary modifications to the organization's compliance and ethics program.
- The proposed rules for the Office Compliance Program will be published for comment again with the comments already received in a upcoming Federal Register.
- The Mandatory Office Compliance Program will be implemented later than the other changes to Medicare enrollment.
- You can find the Federal Register article here: http://edocket.access.gpo.gov/2010/pdf/2010-23579.pdf.

What does an Office Compliance Program cover?

- Centers for Medicare and Medicaid Services regulations
- Office of Inspector General for Health and human Services regulations
- HIPAA regulations
- OSHA regulations
- CLIA regulations
- Antikickback laws
- Stark laws
- State laws

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What does it take to establish an effective Office Compliance Program?

- Review of the facility.
- Review of HIPAA manual and procedures.
- Review of OSHA manual and Exposure Plan.
- Review of office procedures and policies.Review of 10 randomly selected records for each doctor with 5 of the records from Medicare patients.
- Review of the claims for the selected records.
- Review of the EOBs for the selected records.
- As a result of these reviews you will receive:
    - A list of deficiencies identified for the facility with recommended corrections.
    - A list of deficiencies identified for the documentation with recommended corrections.
    - A compliance manual for your practice.
- An office compliance program is customized to each office.
- Due to the detailed nature of the office compliance program it cannot be put into a standardized format.
- You will need a certified Medical Compliance Specialist to develop an effective Office Compliance Program.

To discuss compliance options or for your office call Dr. Short at 217-285-2300 or e-mail him at chiromedicare@gmail.com.

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