Developing a Successful Compliance Program in a Retina Practice

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Financial Disclosure

• Advisory Boards
  • Allergan
  • Genentech
  • Regeneron

• Speaker Bureaus
  • Allergan
  • Genentech
  • Regeneron

Compliance

COMPLIANCE

1 a: the act or process of complying to a desire, demand, proposal, or regimen or to coercion

b: conformity in fulfilling official requirements

Source: Merriam-Webster On-line Dictionary
Medicare Program Integrity

The primary principle of Program Integrity (PI) is to protect the Medicare Trust Fund from fraud, waste and abuse. In order to meet this goal, contractors must ensure that they pay the right amount for covered and correctly coded services rendered to eligible beneficiaries by legitimate providers.

Source: Medicare Program Integrity Manual, Chapter 1 §1.1

Fraud

Fraud is the intentional deception or misrepresentation that the individual knows to be false or does not believe to be true, and the individual makes knowing that the deception could result in some unauthorized benefit to himself/herself or some other person.

Source: Medicare Program Integrity Manual, Exhibits, §1, Definitions

Fraud

- Examples of Medicare Fraud
  - Incorrect reporting of diagnosis or procedures to maximize payment
  - Billing for services not furnished and/or supplies not provided
  - Altering claim forms to obtain a higher payment amount

Source: Medicare Program Integrity Manual, Chapter 4, §4.2.1
Waste

- To spend or use carelessly

Source: Merriam-Webster On-line Dictionary

Abuse

- Billing Medicare for services that are not covered or are not correctly coded.

Source: Medicare Program Integrity Manual, Exhibits, §1, Definitions

Office of Inspector General (OIG)
2013 Work Plan

Ophthalmological Services—Questionable Billing (New)

We will review Medicare claims data to identify questionable billing for ophthalmological services during 2011. We will also review the geographic locations of providers exhibiting questionable billing for ophthalmological services in 2011. Medicare payments for Part B for physician services, which include ophthalmologists, are authorized by the Social Security Act, § 1832(a)(1), and 42 CFR § 410.20. In 2010, Medicare allowed over $6.8 billion for services provided by ophthalmologists. (OEI: 04-12-00280; expected issue date: FY 2014; work in progress)
OIG Compliance Guidance

- OIG Compliance Program for Individual and Small Group Physician Practices
  - Components of an Effective Compliance Program
  - Publication of the OIG’s Provider Self-Disclosure Protocol
    - Work openly and cooperatively with the OIG

Compliance Program

- Formal Compliance Program
  - Written compliance plan
- Quality Assurance Program
  - Verbal commitment of compliance
  - Voluntary

OIG Compliance Guidance

Voluntary compliance programs also provide benefits by not only helping to prevent erroneous or fraudulent claims, but also by showing that the physician practice is making additional good faith efforts to submit claims appropriately. Physicians should view compliance programs as analogous to practicing preventive medicine for their practice. Practices that embrace the active application of compliance principles in their practice culture and put efforts towards compliance on a continued basis can help to prevent problems from occurring in the future.

OIG Compliance Program for Individual and Small Group Physician Practices
**Practice Culture**

A way of thinking, behaving, or working that exists in a place or organization (such as a business)

Source: Merriam-Webster On-line Dictionary

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**Paper vs. EMR Challenges**

- **Paper**
  - Non EMR offices
  - Not enough documentation
  - Support retina specific services
- **EMR**
  - Retina specific documentation
  - Too much documentation
  - Over coding

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**ICD-10**

- **ICD - 9**
  - 3 to 5 digits
- **ICD - 10**
  - 3 to 7 digits
  - 14,000 to 68,000 codes
  - Higher specificity
  - More documentation
ICD-10

• Laterality
  • Right eye vs. Left eye
  • No laterality
• Combination codes
  • Diabetes Mellitus
  • No laterality

W22.02XD Walked into lamppost, subsequent encounter

Components of an Effective Compliance Program

• Implementing compliance and practice standards
• Developing open lines of communication
• Designating a compliance officer or contact
• Conducting internal monitoring and auditing
• Responding appropriately to detected offenses and developing corrective action
• Conducting appropriate training and education
• Enforcing disciplinary standards through well-publicized guidelines

Components of an Effective Compliance Program

• Implementing compliance and practice standards
• Coding standards
  • Code utilization
  • Increased utilization of 92014 in retina
• Accepted standards
  • “Community Standards”
• Payer policies
  • National Coverage Determinations (NCD)
  • Local Coverage Determinations (LCD)
Standard Operating Procedures

- Retina specific
- Triage
  - Same day
    - Retinal detachment
    - Endophthalmitis
  - Same or Next day
    - Flashing lights and floaters
    - Next available appointment
    - Routine follow-up

Standard Operating Procedures

- Registration
  - Demographics
  - Insurance information / Authorizations
- Intake
  - Chief complaint / History of Present Illness
  - Exam elements
- Physician exam
- Test orders
- Surgery scheduling

What’s Wrong With This Picture?

- Patient in for annual exam
- Hx of diabetic retinopathy
- Insurance same per patient
- Patient married since last exam
- Patient had PPO plan
- Now has HMO Plan
- No authorization
- Chart put up for tech to check patient in........
Components of an Effective Compliance Program

• Developing open lines of communication
  - Physician
  - Compliance Committee
  - Management
  - Clinical Staff
  - Billing Staff

Components of an Effective Compliance Program

• Designating a compliance officer or contact
  - Stakeholder
    - Physician
  - Qualified staff member(s)
    - Billing staff
    - Clinical staff
    - Compliance Committee

Components of an Effective Compliance Program

• Conducting internal monitoring and auditing
  - Focused review
  - General review
  - Prospective review
    - Claims to be filed
  - Retrospective review
    - Claims already filed
  - Missed charges
  - Overpayments
Example

- 99204 New Patient Level 4 E/M Code
  - Comprehensive history
  - Comprehensive examination
  - Moderate Level of Medical Decision Making
  - Management of multiple diagnosis with associated risk
  - Elective major surgery
  - Macula off retinal detachment
  - ERM

1997 Evaluation and Management Guidelines

Example

- 99205 New Patient Level 5 E/M Code
  - Comprehensive history
  - Comprehensive examination
  - High level of Medical Decision Making
  - Emergent major surgery
  - Macula on retinal detachment
  - Endophthalmitis
  - Same or next day surgery

1997 Evaluation and Management Guidelines

OIG Compliance Guidance

An ongoing evaluation process is important to a successful compliance program. This ongoing evaluation includes not only whether the physician practice’s standards and procedures are in fact current and accurate, but also whether the compliance program is working, i.e., whether individuals are properly carrying out their responsibilities and claims are submitted appropriately.

OIG Compliance Program for Individual and Small Group Physician Practices
Components of an Effective Compliance Program

- Responding appropriately to detected offenses and developing corrective action
- Proceed with caution
  - Innocent errors
    - 99204 vs. 99205
    - Mac on vs. mac off retinal detachment
  - Fraud
    - Intentional or recklessly false
    - OIG’s Provider Self-Disclosure Protocol

OIG Compliance Guidance

To address these concerns, the OIG would like to emphasize the following points. First, the OIG does not disparage physicians, other medical professionals or medical enterprises. In our view, the great majority of physicians are working ethically to render high quality medical care and to submit proper claims.

Second, under the law, physicians are not subject to criminal, civil or administrative penalties for innocent errors, or even negligence.

OIG Compliance Program for Individual and Small Group Physician Practices

Components of an Effective Compliance Program

- Conducting appropriate training and education
  - You don’t know what you don’t know
  - Ongoing comprehensive training
    - Society meetings
    - In-house training by qualified staff
    - Specialized training seminars / webinars
  - Increase billing knowledge of clinical staff
  - Increase clinical knowledge of administrative and billing staff
Speak the Same Language

- Physicians
  - Tend to see things from a medical standpoint
- Exudative Macular Degeneration
  - Sub-retinal fluid – Treatment
- Billing Staff
  - Tend to see things from a reimbursement standpoint
  - Exudative Macular Degeneration
    - ICD-9 Code 362.52

Components of an Effective Compliance Program

- Enforcing disciplinary standards through well-publicized guidelines
  - Oversight
  - Accountability
- Training should include disciplinary guidelines
- Sanctions including termination
- Account for mitigating or aggravating circumstances
- Consistency

Case Study

- Medicare audit
- Missing documentation
  - Illegible documentation including abbreviations
- Extrapolated overpayment determination
- Practice received overpayment demand letter
Case Study

• 3 year battle with Medicare audit contractor
• Redetermination
• Reconsideration
• Administrative Law Judge (ALJ)
• Medicare appealed ALJ decision
• Cost to practice was considerable

Outcome

• Full compliance program overhaul
  • Self imposed integrity agreement
  • Physician engagement in compliance
  • Comprehensive training
  • Regular visits by consultant
  • Focused reviews
  • Regular third-party chart reviews

Developing a Culture of Compliance

• Proactive process?
• Reactive process?
• Learn from other practices successes and failures
• Take advantage of every teaching moment
• If it’s not written down, it wasn’t done
  • Physicians
  • Clinical staff
  • Administrative staff
OIG Compliance Guidance

A compliance program also sends an important message to a physician practice’s employees that while the practice recognizes that mistakes will occur, employees have an affirmative, ethical duty to come forward and report erroneous or fraudulent conduct, so that it may be corrected.

OIG Compliance Program for Individual and Small Group Physician Practices

Compliance is a Team Sport