Tips For an Effective Compliance Plan

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AAPC

What is Compliance?

Commitment to correctness

- Do things right

Commitment to consistency

- Do the right things all of the time

Commitment to communication

- Everyone understands
- Everyone participates

Create a Culture of Compliance

Are Compliance Plans Mandatory for Physician Practices?

- Section 6401(a) of the PPACA made a significant change to the status quo by requiring all providers and suppliers to establish a compliance program that contains certain "core elements" as a condition of enrollment in Medicare, Medicaid and CHIP.
- The PPACA directs the Secretary to establish the core elements in consultation with the OIG
- CMS does not intend to finalize the compliance plan requirements but plans to propose regulations regarding compliance program requirements at a later date and is soliciting comments before doing so
- Some states have mandatory certification requirements already in place

An effective compliance program

Not only helps to prevent erroneous and fraudulent claim submissions, but it can strategically result in benefits to the practice by:

- Minimizing billing mistakes
- Optimizing proper payment of claims
- Reducing chances of audits
- Avoiding conflicts with the self-referral and Anti Kickback statutes

Accurate Documentation = Better Patient Care

Consequences of Not Implementing a Compliance Program

- Exclusion from Medicare, Medicaid, and CHIP programs
- Increase the chance of submitting erroneous and fraudulent claims
- Potential violations of the federal and state fraud and abuse statutes with possible imposition of civil penalties, criminal prosecutions, and/or exclusion from federal health care programs.
- Increased risk for Whistleblower

Fraud Waste & Abuse Defined

Fraud

An intentional act of deception, misrepresentation, or concealment in order to gain something of value

Waste

Over-utilization of services (not caused by criminally negligent actions) and the misuse of resources

Abuse

Excessive or improper use of services or actions that are inconsistent with acceptable business or medical practice. Refers to incidents that, although not fraudulent, may directly or indirectly cause financial loss

Fraud & Abuse

- The only difference between fraud & abuse is **intent**

Fraud & Abuse Examples

- Charging in excess for services or supplies
- Providing medically unnecessary services
- Billing for items or services that should not be paid for by Medicare

Fraud & Abuse Examples

- Billing for services that were never rendered
- Billing for services at a higher rate than is actually justified
- Misrepresenting services resulting in unnecessary cost to the Medicare program, improper payments to providers, or overpayments

- The U.S. Department of Health and Human Services, (OIG) Compliance Program Guidance identifies **seven elements** that should be included in every Compliance Program
- The sentencing guidelines set forth criteria by which courts determine corporate culpability and impose appropriate sanctions for organizations that are found, through the actions of their employees and agents, to have violated criminal law
- Significantly, if an organization is determined to have in place an effective program to prevent and detect violations of law, the court may impose a reduced fine

#1 Implement Written Standards and Procedures

The implementation of written standards and procedures ensures that expectations for an individuals conduct are clearly communicated

Policies and Procedures:

- Should reflect the organizations principal risk areas
- Should address each of the seven elements of its Compliance Program.

Why do we need Policies and Procedures?

-They ensure that employees understand what is expected of them

-Everyone follows the same standards

-When administered properly they can protect the practice

Policy and Procedure Tips

-Review P&P's annually and as situations change

-Send updated P&P's to employees and require a reply of receipt and understanding

-Have open discussions, staff meetings and encourage feedback and questions

-Publish your code of conduct on your intranet or website

-Include language in your plan that outlines the benefits of a corporate compliance program as a way to obtain buy-in

Do not implement a P&P that you do not follow

#2 Designating a Compliance Officer or Contact

- The designation of a single person to accept responsibility for the Compliance Program and manage its day-to-day operations is critical to ensuring that the Compliance Program remains visible, active, and accountable.
- Direct contact with the Board of Directors and CEO
- Depending on practices size, CO may utilize a compliance committee

Why Do We Need a Compliance Officer?

The compliance officer reports directly to the governing board, with dotted line responsibility to a member of senior management

The chief executive officer receives regular reports from the compliance officer if the compliance officer does not report directly to the CEO

Why Do We Need a Compliance Officer?

Oversees and revises the compliance program according to regulatory change and internal risk assessments

-Determines who needs training , when and how much..

-Develops and coordinates annual and continuing education and training for ongoing compliance

Compliance Officer ABC's

-**A**ccountability

-**B**e an example

-**C**onsistency

-**D**oor open to all employees

-**E**arn Respect

#3 Conducting Appropriate Training and Education

- Training and education provide individuals with an understanding of the Compliance Program, legal requirements, and written policies and procedures
- Annual training events create an important opportunity for an organization to convey its values, including its commitment to ethical and legal conduct

Conducting Appropriate Training and Education

- Training on the Compliance Program should include fraud and abuse detection and how to report it
- In addition, specific training should be provided to individuals whose job functions raise significant risks (e.g., coding and billing staff, practitioners, and finance staff)

Why do we need Continuing Compliance Education?

Healthcare is in a state of constant change

Better prepare for change

Why do we need Continuing Compliance Education?

Mitigate risk to our practices

Keeps us current, knowledgeable and profitable

Who needs compliance training?

- Providers, Board and management, all staff

How often do they need it?

- Annually, upon hire, as necessary

Training and Education Tips

Customize training to your organization
Use an electronic training system

- Teach employees about fraud and abuse how to report it

4. Developing Open Lines of Communication

- Prevent
- Detect
- Contain
- Correct

Why do we need Open Lines of Communication?

- Encourages everyone to be on alert and report non-compliant behavior
- Many hands make light work
- The CO cannot be everywhere all the time
- Good communication discourages Whistleblowers
- Mitigates practice risk
- Sends the right message to employees and encourages a culture of compliance

Open Lines of Communication Tips

Have an open door policy
Operate in an environment of transparency
Conduct exit interviews with the staff
Use electronic information board for compliance education
Establish a hotline
Create a user friendly methods for reporting- drop box

#5 Conducting Internal Monitoring and Auditing

- Monitoring is an ongoing process of reviewing the operations as they occur in the present
- Auditing consists of conducting reviews of risk areas to determine compliance with legal requirements
- An audit provides a "snapshot" of compliance at a specific point in time, often in the past
- Establish Benchmark Audits

Why do we need Auditing and Monitoring?

- Determines if **standards and procedures are current and accurate**
- **Determines whether the compliance program is working**, *i.e.*, whether individuals are properly carrying out their responsibilities and claims are submitted appropriately.
- Excellent way to identify if problem areas exist
- Focus on the risk areas that are associated with problems identified in audits

2013: Audits Federal ROI

- OIG was responsible for overseeing 24 cents of every Federal dollar spent.
- Eighty-two percent of efforts were dedicated to oversight of the Centers for Medicare and Medicaid Services (CMS) and 18 percent to non-CMS oversight

2014 OIG Work Plan

- Expected Recoveries: $6.9 billion in total investigative and audit receivables were reported
- Program Exclusions: 3,131 individuals and organizations were excluded from participation in Federal health care programs

2014 OIG Work Plan

- Return on Investment (ROI):
- $7.9 to $1 actual ROI was reported for the HCFAC program, to which OIG is a key contributor.
- Quality and Management Improvement Recommendations: 190 quality and management improvement recommendations were accepted by HHS program managers in fiscal year (FY) 2012.

If You Think That The OIG Won't Find You, Think Again…..

1,773 FTE located in 82 cities and growing fast!

- On average, each OIG full-time equivalent (FTE) was responsible for overseeing $478 million
- 138% increase PHI Breaches in 2013

Potential Risk Areas

- Data Entry Accuracy
- Encounter Form vs. Billing Record
- EOB's
- Denial's
- Secondary Insurance Submission
- Patient Statements

Potential Risk Areas

- Inpatient Billing Recording Forms
- Legibility
- Identification of Patient
- Date of Service
- POS
- Chief Complaint/Reason for Encounter
- Cloning / Copy and Pasting

Potential Risk Areas

- Sufficient documentation to validate medical necessity (for billing purposes as opposed to clinical purposes)
- Legible identity of the provider
- Documentation in the record
- Unsupported Time-Based Codes
- "Incident to" Compliance Review

Potential Risk Areas

- **Review** areas of the practice that have a history of needing improvement.
- **Review** high denials for certain codes or modifiers.
- **Check for documentation problems**, such as legibility and completeness.
- **Adhere** to the "the coding triangle" — Does the code match the diagnosis? Does the diagnosis match the documentation? Does the documentation match the code?
- **Complete** a paper audit by reviewing all the practice's forms to see how they are being completed or whether they need to be updated because of new regulations. This should include the new patient form, encounter form, explanation of benefits, certificate of medical necessity, advance beneficiary notice, etc.

Potential Risk Areas

- **Review the utilization** profile to see how your practice compares in the geographic area. If the practice is on the high side of the comparison, review the documentation to make sure it meets the requirements for that code. Be aware that if the practice is out of profile on either end of the scale it will arouse suspicion and scrutiny, so see if coding needs to be corrected.
- **Find out where the Centers for Medicare & Medicaid Services** (CMS) is heading by reviewing the OIG Work Plan, legal opinions, fraud alerts, audit reports, and the latest compendium of significant OIG cost-saving recommendations that have not been fully implemented. Full implementation of the recommendations could produce big savings for your practice.

Auditing and Monitoring Tips

Use a comprehensive risk assessment tool to plan and develop your annual compliance work plan

Use compliance dashboard that centralizes information to track and provide reports on compliance activities

Track, and analyze identified risks month to month, and monitor the identified risk area activity

Auditing and Monitoring Tips

Share risk assessments with committee members and the governing board with the goal of improving the number of identified risk areas, processes, and outcomes

Conduct sampling of medical records to assess the accuracy of ordered services and whether the services were actually rendered

If your risk assessment is not identifying any risks , then you are most likely not looking in the right places....

#6 Respond Appropriately to Detected Offenses & Develop Corrective Action Plans

Take steps to correct any potential or actual occurrences of non-compliance.

- As part of this process the Compliance Officer (or his or her designee) should investigate credible allegations to determine their scope, causes, and seriousness.

If possible, non-compliant conduct should be halted immediately and the effects of non-compliance conduct should be mitigated

- Any corrective actions taken to address non-compliance should aim to reduce the likelihood of similar instances of non-compliance occurring in the future.

Make sure to have clear documentation reflecting all aspects any non-compliance, investigations and plans of corrective action.

Why do we need to Respond to and Manage Incidents?

- Failure to comply with federal and state law and other types of misconduct threaten the practices status as reliable, honest and trustworthy
- Mitigates potential civil and criminal allegations and monetary damages
- Prevents continued noncompliance
- Sends the right message to employees that non-compliance will not be tolerated
- Indicates the compliance program may need revision if risks were not previously detected

60 Day Repayment Rule

- § 6402 of PPACA requires reporting and repayment of overpayments within 60 days of identification
  - Applies to Medicare and other federal health care programs
  - What's "identification"?
- Failure to repay within 60-days may be a false claim

Incident Management Tips

-Review OIG's & CMS web sites for regulatory work plans and alerts Assess your practice for risk in those areas and develop appropriate action plans to address it

Take all reported incidents seriously
Conduct interviews and investigate
Take appropriate actions immediately
Develop a plan of corrective action and follow through
Assign additional training, staff discipline, return overpayments
Contact a health law attorney for guidance if needed

#7 Enforce Disciplinary Standards through Well-Publicized Guidelines

- In some cases, it will be appropriate to discipline individuals who violate standards or policies.
- Enforcing disciplinary standards is important not only to give the Compliance Program credibility, but also to demonstrate integrity and commitment to compliance and a desire to prevent recurrence.
- Organization should make the staff aware that compliance is a condition of employment

ACCOUNTABILITY

Why do we need Disciplinary Standards and Guidelines?

- Ensures that employees understand the consequences of non compliant behavior
- Necessary to add credibility and integrity to the organization and the program
- Provides a guide for consistency
- Employee Engagement

Disciplinary Standards and Guidelines Tips

- Take all violations seriously
- Be consistent -Follow through
- Hold everyone to the same standard
- Regularly check employees against exclusions database
- Document in detail
- Disciplinary actions should include: warnings(oral); and reprimands(written); suspension, termination; restitution and referral for criminal prosecution if warranted

In Conclusion- Create a culture of compliance

Compliance plans are living and breathing, not a dust collector on the shelf

- Know your risk areas
- Educate your employees
- Manage your financial relationships
- Conduct audits
- Take corrective action
- When in doubt, ask for help
  (legal representation, OIG, AAPC Client Services)