Best Practices in Compliance for the Retina Practice

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Financial Disclosure

William T. Koch
• Advisory Boards
  • Allergan
  • Genentech
  • Regeneron
• Speaker Bureaus
  • Allergan
  • Genentech
  • Regeneron

Financial Disclosure

• Kirk A. Mack acknowledges a financial interest in the subject matter of this presentation.
**Compliance**

COMPLIANCE

1a: 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

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**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

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**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)
Findings

QUESTIONABLE BILLING FOR MEDICARE OPHTHALMOLOGY SERVICES

Four percent of providers billing for ophthalmology services in 2012 demonstrated questionable billing on at least one of our measures; Medicare paid them $171 million for services related to these measures.

Findings

| Category and Measure of Questionable Billing | Number of Providers Noncompliant, % | Number of Providers Noncompliant, Absolute | Medicare Overpayment, $M
|---------------------------------------------|-------------------------------------|------------------------------------------|-------------------------|
| Proportion of providers with unreasonably high billing for complex cataracts | 22 | 2 | $1 million
| Proportion of providers with unreasonably high billing for laser eye surgery | 23 | 6 | $2 million
| Proportion of providers with unreasonably high billing for retinal detachment repairs | 25 | 6 | $2 million
| Proportion of providers with unreasonably high billing for optical coherence tomography | 25 | 6 | $2 million
| Total | 7,782 | 22 | $171 million

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

Medicare Advantage Organizations

- Medicare PART C Compliance Requirements
  - MAO – must have compliance plan
    All sponsors are required to adopt and implement an effective compliance program, which must include measures to prevent, detect and correct Part C or D program noncompliance as well as FWA.

Medicare Managed Care Manual Chapter 21 §30 Overview of Mandatory Compliance Plan
FWA – fraud, waste and abuse

Medicare Advantage Organizations

- MAOs must insure that FDRs (First Tier Downstream or Related Entity) are compliant by 1/1/16
- 3 Options for MAOs to ensure FDRs are compliant
  - Web based training through CMS MLN network
  - Incorporate CMS modules into current training materials
  - Incorporate CMS training into written documents (policies, manuals, BAAs, etc…)

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

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
Components of an Effective Compliance Program

- Developing open lines of communication
- Designating a compliance officer or contact
- Implementing compliance and practice standards
- 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

- Developing open lines of communication

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

- Implementing compliance and practice standards
  - Coding standards
    - Code utilization
  - Payer policies
  - National Coverage Determinations (NCD)
  - Local Coverage Determinations (LCD)
  - Accepted standards
    - “Community Standards”
  - Current

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

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
Documentation

*If it’s not written down it wasn’t done*

Medical Necessity

- Medically Necessary Services
  - Chief complaint
  - Documentation
    - The medical record should be complete and legible.
    - Chronic disease

Documentation Challenges

- Illegible documentation
- Missing documentation
- Abbreviations
  - Maintain comprehensive list of abbreviations
  - Send with coding audits
<table>
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<th>Paper vs. EMR</th>
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<tbody>
<tr>
<td>• Paper</td>
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<tr>
<td>• Non EMR offices</td>
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<tr>
<td>• Not always enough documentation</td>
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<tr>
<td>• EMR</td>
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<tr>
<td>• Retina specific documentation</td>
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<td>• Too much documentation</td>
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<table>
<thead>
<tr>
<th>Paper Challenges</th>
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<tr>
<td>• Weak or no Chief Complaint</td>
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<tr>
<td>• Limited History of Present Illness (HPI)</td>
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<tr>
<td>• Missing exam elements</td>
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<tr>
<td>• Weak or missing test interpretations</td>
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<tr>
<td>• Physician signature</td>
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<table>
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<tr>
<th>EMR Challenges</th>
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<tr>
<td>• Too much documentation</td>
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<tr>
<td>• Billing higher level exams</td>
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<tr>
<td>• Contradictory or erroneous entries</td>
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<tr>
<td>• Missing test interpretations</td>
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<tr>
<td>• Missing procedure notes</td>
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<tr>
<td>• Physician not reviewing final chart</td>
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<tr>
<td>• Electronic signature</td>
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<td>• Log-in and Log-out practices</td>
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Auto Populating

- Copy and paste
- Pull forward
- More efficient use of time?
  - Same Chief Complaint for multiple visits
  - Same diagnosis
  - Same impression and plan

E/M Coding

- History
  - HPI – History of Present Illness
    - 4 elements
  - ROS – Review of Systems
    - 10 systems
  - PFSH – Past Family and/or Social History
    - 2-3 history areas
- Examination
  - 12 exam elements

Medical Decision Making (MDM)

- Medical Decision Making
  - Diagnoses – number of diagnosis
  - Tests – amount of data reviewed
  - Risk – severity of disease

Source: 1997 Evaluation and Management (E/M) Guidelines
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

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
  - Same or next day surgery
  - Higher level of documentation

1997 Evaluation and Management Guidelines

Example

- 92014 Established Patient Comprehensive Eye Code
  - Driven by utilization
  - Compared to other ophthalmologists
  - Expected utilization
  - 1 encounter every 6 months to 12 months

Source: CPT Manual
Diagnostic Tests

- Physician’s order
- Ancillary Staff
- Reliability of test
- Patient cooperation
- Findings
- Assessment
- Impact on treatment
- Physician’s signature

Components of an Effective Compliance Program

- Responding appropriately to detected offenses and developing corrective action
  - Proceed with caution
    - Erroneous claims
      - Innocent billing errors
      - 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
  • In-house training by qualified staff
  • Society meetings
  • 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
• Billing Staff
  • Tend to see things from a reimbursement standpoint

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
Summary

• 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

Compliance is a Team Sport

Thank You!

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