Who Are These People and What Do They Want?

Objectives

• Review ordinary and extraordinary regulatory and investigative entities
• Describe how to identify the type of entity requesting records.
• Explain the difference between a pre and post pay edit.
• List six preparatory steps to be taken for a pre-announced on-site visit.
Ordinary Entities
- MACs
- CERT Contractor
- PERM Contractor

Extraordinary Entities
- OIG
- PSCs
- ZPICs
- MICs
- Recovery Auditors
- Specialty Med Review
- Any Mystery Entity

MAC Probe Edits

Service Specific
- Usually a 100 claim sample based on a specific service
- Claims randomly selected
- MAC medical review department will publish an article notifying providers when a service-specific review is initiated and an article with results

Provider Specific
- 20 to 40 claim samples based on claims from the selected provider.
- Providers notified by letter at start
- Duration of review and % of claims reviewed depends on charge denial rate (% of claim $$ denied)

Beneficiary Specific Edits (non-probe)
- Follows a patient from hospice to hospice

Recent MAC Activities

<table>
<thead>
<tr>
<th>NHIC – Service Specific</th>
<th>CGS – Service Specific</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Certification Period</strong></td>
<td><strong>Recent</strong></td>
</tr>
<tr>
<td><strong>Measurement % Rate</strong></td>
<td><strong>Claims &gt; 730 days.</strong></td>
</tr>
<tr>
<td>First</td>
<td>5% of all claims billed</td>
</tr>
<tr>
<td>Second</td>
<td>10% of all claims billed</td>
</tr>
<tr>
<td>Third</td>
<td>15% of all claims billed</td>
</tr>
<tr>
<td>Second 7 days or more of GIP in billing period</td>
<td><strong>Debility unspecified DX in NF with LOS &gt; 180 days</strong></td>
</tr>
<tr>
<td>Third LOS &gt; 180 days</td>
<td><strong>Debility</strong></td>
</tr>
<tr>
<td>Third COPD</td>
<td><strong>Alzheimer's LOS &gt; 180 days</strong></td>
</tr>
</tbody>
</table>

February 2013
MAC Activities

Palmetto
- Continues with periodic provider specific edits on non-cancer length of stay
- Invitations issued based on Non-Cancer Length of Stay (NCLOS) score

Number of non-cancer beneficiaries with LOS >210
Total number of non-cancer beneficiaries

NGS – quiet at the moment

February 2013

CERT & PERM Reviews

Purpose: to determine the payment error rate of the claims processing contractor
- Totally random post-pay review, usually single claim pull
- Expect a call from the MAC if you ignore a CERT record request – your success is their success

CERT – Medicare Claims
Comprehensive Error Rate Testing Review

PERM – Medicaid Claims
Payment Error Rate Measurement
Extraordinary Entities

Their Common Interest

- Did the services that the Medicare (or, in the case of the MICs, Medicaid) system paid for meet the requirements for coverage and payment?
  - If not, why not?
  - Was there fraud involved?
  - How much money should be recouped?
  - What other penalties should be levied?

The OIG

- Granddaddy of the extraordinary entities
- Have broad investigative powers and skills devoted to curtailing or eliminating fraud and abuse
- Expect providers to voluntarily participate in that goal through internal compliance programs
- From almost the beginning of the HMB have been paying particular attention to
  - Hospice care in the nursing home
  - Determination of eligibility
- Very good friends with the Department of Justice
With Whom Are You Dealing?

Office of Audit Services (OAS) conducts to examine the performance of HHS programs in carrying out their responsibilities and provide independent assessments of HHS programs and operations.

Office of Evaluation and Inspections (OEI) conducts national evaluations that “incorporate practical recommendations and focus on preventing fraud, waste or abuse and encourage efficiency and effectiveness in HHS programs.”

Office of Investigations (OI) conducts criminal, civil and administrative investigations of fraud and misconduct related to HHS programs, operations and beneficiaries. State-of-the-art tools and technology assist OIG investigators around the country and help OI meet its goal of becoming the world’s premier health care law enforcement agency.

OIG FY2013 Work Plan

Hospice Care
2. Hospice - General Inpatient Care (OEI)

Hospitals
3. Acute-Care Hospital Inpatient Transfers to Inpatient Hospice Care (OAS)

Medical Reviews: Other Medicaid Services & Payments
4. Hospice Services: Compliance With Reimbursement Requirements (OAS)
Extraordinary Entities

Current Known Activities

OAS Working out of regional offices, carrying out FY2013 Work Plan project looking at how closely Medicaid programs are following payment rules for hospice claims

Ohio: personnel qualifications of staff providing hospice care under Medicaid
Missouri:
Rhode Island (2012): GIP in SNF

OEI Working on projects from the 2013 Work Plan

OIE Not widely shared

Extraordinary Entities

PSCs > ZPICs

• Currently the most active extraordinary entity in the hospice world
• Their MO
  • Request medical records and conduct medical review to evaluate the identified potential fraud
  • May also make on-site visits
  • May or may not share what they are looking for or at
  • Utilize sophisticated data mining and analysis techniques
  • Employ extrapolation in determining paybacks
• Also good friends with DOJ & law enforcement
• Hospice community is still learning their ways

PSC: Program Safeguard Contractors
ZPIC: Zone Program Integrity Contractors
Transitioning from PSCs to ZIPS as part of payment reform
Extraordinary Entities

PSC > ZPIC Transition

- OIG
- PSCs ZPICs
- MICs
- Recovery Auditors
- Specialty Med Review
- Any Mystery Entity

RHHI Fraud Units

Program Safeguard Contractors

Zone Program Integrity Contractors

<table>
<thead>
<tr>
<th>ZONE</th>
<th>State / Territory</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CA, NV, American Samoa, Guam, HI and many islands</td>
</tr>
<tr>
<td>2</td>
<td>AK, WA, OR, MT, ID, WY, UT, AZ, ND, SD, NE, KS, IA, MO</td>
</tr>
<tr>
<td>3</td>
<td>MN, WI, IL, IN, MI, OH and KY</td>
</tr>
<tr>
<td>4</td>
<td>CO, NM, OK, TX</td>
</tr>
<tr>
<td>5</td>
<td>AL, AR, GA, LA, MS, NC, SC, TN, VA and WV</td>
</tr>
<tr>
<td>6</td>
<td>PA, NY, MD, DC, DE and ME, MA, NJ, CT, RI, NH and VT</td>
</tr>
<tr>
<td>7</td>
<td>FL, PR and VI</td>
</tr>
</tbody>
</table>
PSCs > ZPICs

The primary goal of the Zone Program Integrity Contractors (ZPICs) is to identify cases of suspected fraud, develop them thoroughly and in a timely manner, and take immediate action to ensure that Medicare Trust Fund monies are not inappropriately paid out and that any mistaken payments are recouped.

ZPICs are tasked with performing program integrity for Medicare Parts A, B, C, Durable Medical Equipment (DME), Home Health and Hospice (HH +H), and the Medicare-Medicaid data match program (Medi-Medi).

Medicaid Integrity Contractors

Similar function to the ZPICs for Medicaid.

Overall program is the Medicaid Integrity Program (MIP) – operated under jurisdiction of Center for Medicaid & State Operations.

Consists of 3 types of contractors:
- Review MICs
- Audit MICs
- Education MICs

Have come under criticism by OIG for returns that were not commensurate with investment (across all services).
Recovery Audit Program - RACs

- The bounty hunters of the system; paid a % of identified over or underpayments instead of flat fee
- Projects must receive approval from CMS before initiation
- Automated or complex record reviews
- Reviewed test claims for beneficiaries receiving hospice care in the nursing home in 2012; no action to date

<table>
<thead>
<tr>
<th>RAC</th>
<th>Contingency Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region A: Diversified Collection Services (DCS)</td>
<td>12.45%</td>
</tr>
<tr>
<td>Region B: CGI</td>
<td>12.50%</td>
</tr>
<tr>
<td>Region C: Connolly, Inc.</td>
<td>9.00%</td>
</tr>
<tr>
<td>Region D: HealthDataInsights, Inc.</td>
<td>9.49%</td>
</tr>
</tbody>
</table>
Current Hospice Related Audits

**Region C:** AL, AR, CO, FL, GA, LA, MS, NM, NC, OK, PR, SC, TN, TX, VI, VA, WV

**Hospice Related Services – Part B**

**Description:** Services related to a hospice terminal diagnosis provided during a hospice period are included in the hospice payment and are not paid separately.

**Region D:** AK, AZ, CA, HI, IA, ID, KS, MO, MT, ND, NE, NV, OR, WY, SD, UT, WA, Guam, American Samoa, Northern Marianas

**Hospice Related Services – Part B and Part A**

**Description:** Services related to a Hospice terminal diagnosis provided during a Hospice period are included in the Hospice payment and are not paid separately.

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**Review Types**

**Automated**

- Determination made at system level, no human review
- Review area must be written Medicare policy, Medicare article, or coding guideline

**Complex**

- Review by RN, therapist or certified coder
- Records may be reviewed at provider location or mailed to RAC

**Semi-Automated**

- Automatized identification of billing deviation followed by submission and review of records
Medicaid RACs

- By 1/1/2012 all states were to have established their Medicaid RACS
- Function in almost the same way as the Medicare RACs
- Although CMS encourages states to establish a process similar to the Medicare New Issue Review Board, there is no such requirement
- Final rule focused on flexibility for the states

Specialty Medical Review

- A minor player and new to hospice
- CMS fact-finding studies “to allow CMS to better understand trends in billing behavior that may lead to improper payments. These studies occur quarterly basis and vary in topics. claims chosen for review are selected randomly.”
  - MLN Matters SE1123
- Reviewed claims for hospice care in the nursing home in 2012
Mystery Entity

If you receive a request for medical records or for an on-site visit from a contractor with which you are familiar, treat it as an extraordinary entity until you find out differently.

### Extraordinary Entities

- **OIG**
- **PSCs / ZPICs**
- **MICs**
- **Recovery Auditors**
- **Specialty Med Review**
- Any Mystery Entity

### Review Type

<table>
<thead>
<tr>
<th>Review Type</th>
<th>Postpay</th>
<th>Prepay</th>
<th>Automated</th>
<th>Complex</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAC</td>
<td>(X)</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>OIG</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PSC</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>MICs</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>RACs</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**Purpose**

- Prevent future improper payments
- Identify fraud
- Identify potential fraud
- Detect and correct past improper payments
**Postpay versus Prepay Edits**

**Prepay Edits**
- Cash flow implications
- Uses current interpretations and expectations
- Easier to obtain necessary data

**Postpay**
- May ultimately be a payback but current cash flow continues uninterrupted
- Reviewers have tendency to apply current interpretations and expectations to material from the past
- May be harder to find data or piece together information

**Decoding Request Letters**

1. Who is it from?
2. Acting in what capacity?
3. What are they looking at?
4. Why were you selected?
5. When will this be happening?
6. How can you find out more?
Decoding a Request Letter

Letter from StrategicHealthSolutions, LLC

Dear Medicare Provider,

The Centers for Medicare & Medicaid Services (CMS) has retained StrategicHealthSolutions, LLC to conduct Specialty Medical Reviews of selected Part A and Part B claims. Additional information regarding this contract can be found at: http://www.cms.gov/data-analysis/.

Opening paragraph, letter from OIG (regional office)

This is to notify you of our intention to conduct an audit of Federal Medicaid hospice services claims made by providers in the state of Ohio and of the qualifications of Medicaid hospice workers at these providers. The objective of our audit is to determine whether costs claimed for hospice services by the Ohio Department of Jobs and Family Services (the State) were reasonable, allowable, and adequately supported in accordance with the terms of applicable State and Federal regulations. Although our audit is of the State, your entity is included in our review since it submitted claims for which the State received Federal Medicaid reimbursement. The audit period will include payments made during the period July 1, 2009, through June 30, 2011.
Actions of the Prudent Hospice™

• Pay attention to the basics
• Know your numbers – how might your program stand out in data analysis and what steps are you taking to address it?
• Focus on documentation – how is yours?
  • Define standards
  • Train / retrain as needed
  • Assess the effectiveness of your orientation
  • Establish on-going monitoring
  • Hold people accountable
  • Refuse to describe anyone as a “such a good nurse” that is not a top-notch documenter
• Formulate an ADR response plan

Actions of the Prudent Hospice™

If your number comes up with an extraordinary entity

• Establish contact with your healthcare attorney
• Find out all you can about the entity
  • What type of entity are they?
  • What else have they been doing?
  • What are other program’s experience with them?
• Put your ADR plan into place
In this Process, Don’t Expect

Auditors or reviewers to have

• Deep understanding of
  • The Hospice Medicare Benefit
  • Hospice operations & delivery of care
  • History of regulatory changes
  • Personalities that are naturally comfortable with grey areas
  • Reverence because “this is hospice”

A Few Words about Unannounced Visits

• Score of 10 out of 10 on the Meter of Seriousness
• As with a fire
  • Low probability of it ever happening
  • Don’t want to be formulating a response plan with flames licking at your feet
• Establish your plan & review periodically

• Read UNEXPECTED GOVERNMENT INVESTIGATIONS: WHAT TO DO WHEN THE GOVERNMENT VISITS YOUR HEALTH CARE ORGANIZATION Reinhart Law 2007

Preparing for a Preannounced On-Site Visit

• Contact Attorney
• Chart Preparation
• Staff Preparation
• Entrance Conference
• Accommodations
• Interviews

Somewhat Helpful Resources

Contractor Entities at a Glance: Who May Contact You about Specific Centers for Medicare & Medicaid Services (CMS) Activities
