

The Living Compliance Program

Compliance Auditing, Documentation and Other Best Practices

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Presentation to Northland Medical Managers

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Agenda

- Compliance Enforcement Environment
- Operating an Effective Compliance Program
 1. Implementing Compliance Standards
 2. Designating a Compliance Officer
 3. Developing Open Lines of Communication
 4. Conducting Education
 5. Internal Monitoring and Auditing
 6. Responding to Findings
 7. Enforcing Disciplinary Standards
- Benefits of an Effective Compliance Program

Compliance Enforcement Environment



“I Always Feel
Like Somebody’s
Watching Me...”

Combating Fraud

- Obamacare
- HEAT Initiative
 - Announced in May, 2009 by Sebelius and Holder
 - “Every year we lose tens of billions of dollars in Medicare and Medicaid funds to fraud. Those billions represent healthcare dollars that could be spent on medicine, elder care or emergency room visits, but instead are wasted on greed.”
 - DOJ & HHS interagency effort
 - Expansion of strike force teams
 - Data driven – unexplainable billing patterns

Law Enforcement Agents

- OIG
- DOJ
- FBI
- USAO
- IRS
- DOL



Healthcare Integrity Audits



Healthcare Integrity Audits

- Legislative Origins
- RACs: Recovery Audit Contractors
 - Demonstration program – 3 years, 6 states
 - Savings: \$1.03B in improper payments identified, \$693.6M returned to Medicare trust
 - Permanent program
 - Health Data Insights
 - 9.49% Contingency Fee

Healthcare Integrity Audits

- MACs: Medicare Administrative Contractors
- PSCs: Program Safeguard Contractors
- ZPICs: Zone Program Integrity Contractors
- CERT: Comprehensive Error Rate Testing
- MICs: Medicaid Integrity Contractors
- MIGs: Medicaid Inspector Generals
- PERM: Payment Error Rate Measurement

Operating an Effective Compliance Program

The Seven Elements in Action

Implementing Compliance Standards

- Code of Conduct
- Written procedures manual
- Topics covered
- Commercial products
- Program approved by Board in writing
- Updates

Designating a Compliance Officer

- Single officer or committee
- Designate annually in minutes
- Duties (outline in writing)
 - Oversee program
 - Design audits
 - Revise /update policies
 - Develop and conduct training
 - Investigate compliance reports
- Board oversight



Developing Open Lines of Communication

- Access to Compliance Officer
- Access to Board
- Require Employees to report erroneous or fraudulent conduct
- No retribution for good-faith reports
- Anonymous drop box or phone line
- Exit Interviews

Conducting Education

- New hires
- Annual training
- Examples
- Tests
- Document attendance
- Internal presenter
- Computer module
- Outside speaker
- Newsletters



Conducting Education

- Topics
 - Policies & Procedures of Program
 - Basic reimbursement principles
 - Claim development and submission, including proper selection of diagnosis
 - Improper signature of and alterations to records
 - Documentation standards
 - Duty to report misconduct
 - Consequences of violating Program

Internal Monitoring and Auditing

- Types of Audits
 - Routine, per compliance program
 - Response to identified error
 - Revenue accuracy
- Benchmarking
 - Baseline
 - Chart compliance efforts

Internal Monitoring and Auditing

- Staffing Audits
 - Internal
 - Billing personnel
 - Medical personnel
 - Certified coders
 - External
 - Need independence or sensitive issue
 - Retain through counsel
 - Privilege / work product doctrine

Internal Monitoring and Auditing

- **OIG Compliance Guidance for Physicians**
 - **Coding and Billing**
 - Billing for items or services not rendered or not provided as claimed
 - Submitting claims for services that are not reasonable & necessary
 - Double billing resulting in duplicate payment
 - Billing for non-covered services as if covered
 - Knowing misuse of provider identification numbers
 - Unbundling
 - Failure to properly use coding modifiers
 - Clustering
 - Upcoding the level of service provided

Internal Monitoring and Auditing

- OIG Compliance Guidance for Physicians
 - Reasonable & Necessary
 - ABN – Form CMS-R-131
 - Documentation
 - Improper Inducements, Kickbacks and Self-Referrals

Internal Monitoring and Auditing

- OIG Work Plan -
<http://oig.hhs.gov/publications/docs/workplan/2009/WorkPlanFY2009.pdf>
 - Place of service errors
 - E&M during global surgery periods
 - Outpatient PT services
 - Payments for colonoscopy services
 - “Incident to” services
 - Payments for polysomnography
 - High utilization of ultrasound
 - Lab unbundling
 - Billings with GY modifier

Internal Monitoring and Auditing

- CERT Topics
- WPS Seminars
- RAC Approved Issues - <https://racinfo.healthdatainsights.com/Public/NewIssues.aspx>
- OIG / CMS Office of Audit Services Reports - <http://oig.hhs.gov/oas/cms.asp>

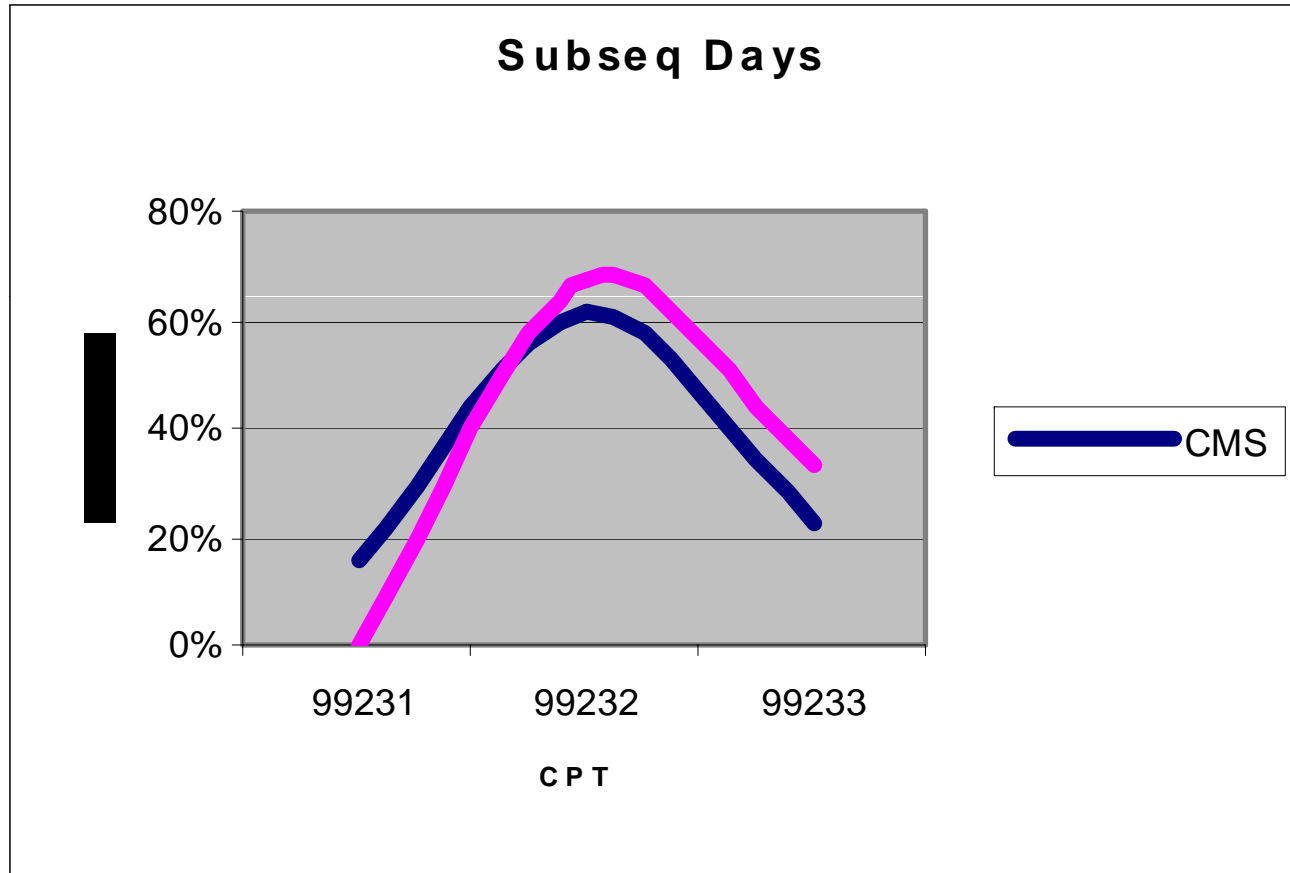
Internal Monitoring and Auditing

- Medicare Utilization Statistics for Part B –
http://www.cms.hhs.gov/MedicarefeeeforSvcPartsAB/04_MedicareUtilizationforPartB.asp
 - E&M Code usage by specialty
 - 2007 data is most recent

Internal Monitoring and Auditing

<u>CPT</u>	<u>CMS</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
99231	16%	0%	0%	0%
99232	62%	71%	71%	67%
99233	22%	29%	29%	33%

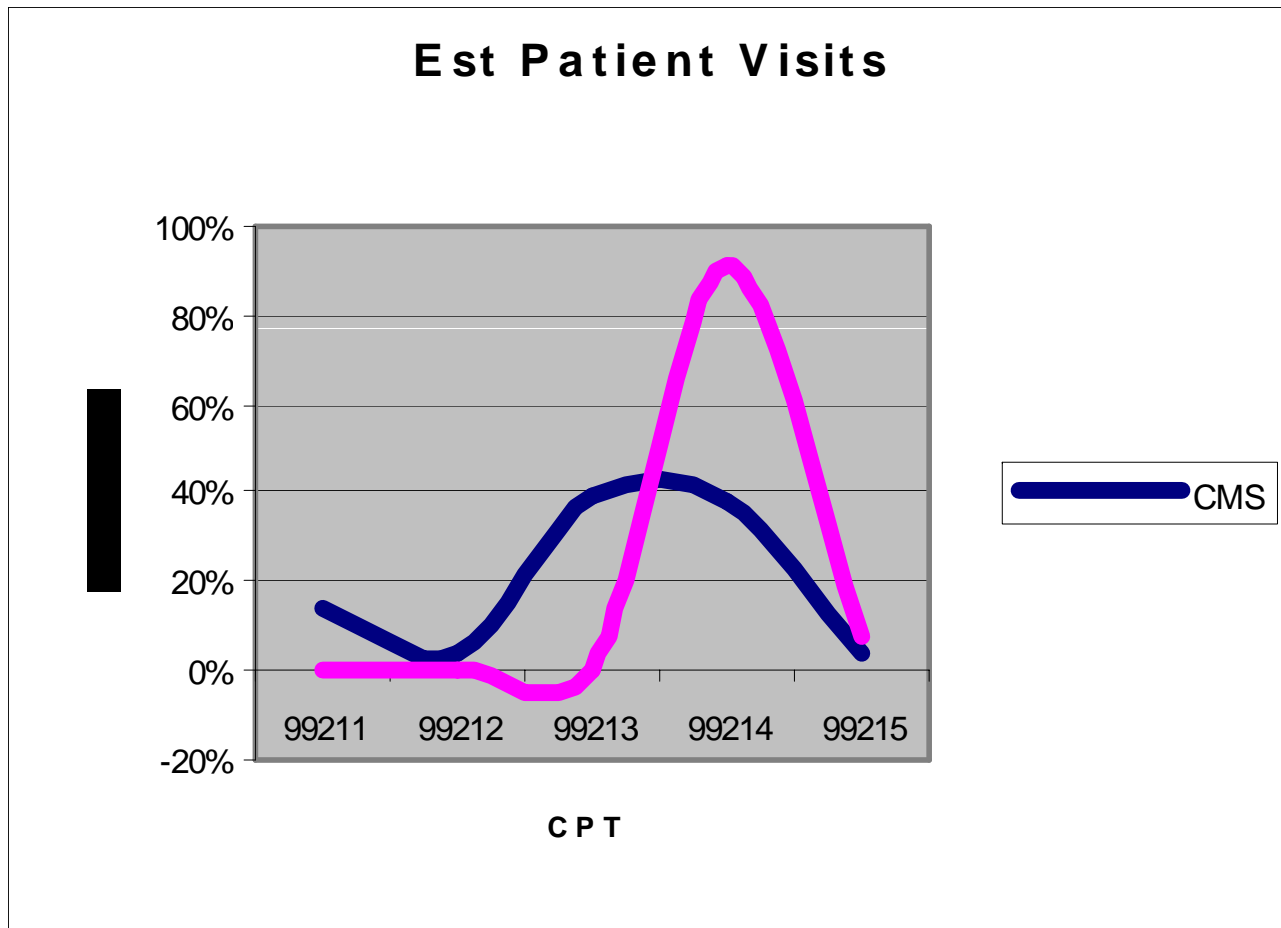
Internal Monitoring and Auditing



Internal Monitoring and Auditing

<u>CPT</u>	<u>CMS</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
99211	15%	0%	0%	1%
99212	4%	0%	0%	0%
99213	39%	0%	3%	2%
99214	38%	92%	91%	98%
99215	4%	8%	6%	9%

Internal Monitoring and Auditing



Internal Monitoring and Auditing

- Utilization of Ancillary Services
 - Physician compensation not based on Designated Health Services orders
 - Over-utilization
 - Billing requirements
 - Proper level of supervision - documented
 - General
 - Direct
 - Personal

Internal Monitoring and Auditing

- Background Checks
 - Criminal Conduct
 - OIG Excluded Provider Check - <http://exclusions.oig.hhs.gov/>
- Collaborative Practice
 - Coordination between office and hospital
 - Review of services
- HIPAA
 - BAAs and NPPs
 - Training provided
 - Data Breach regulations

Responding to Findings

- 3 most important rules
- After the audit
 - Compare performance to benchmark
 - Corrective action plan for identified problems
 - Root cause analysis and process correction
 - Staff education
 - Reports to Board

Responding to Findings

- Repayment Obligations
 - Fraud – Self-disclosure protocol
 - Clear error – Refund to carrier
 - In between a rock and a hard place
- 2009 False Claims Act Amendment



Enforcing Disciplinary Standards

- Link compliance program violations to employee discipline policy
- Design matrix of compliance violations and penalties
- Consistent enforcement
- Account for aggravating and mitigating factors
- Document in compliance files

Benefits of an Effective Compliance Program

Why Do I Care About
Compliance?

Benefits

- Better documentation furthers patient care
- Get paid what you're worth
- Billing errors and recoupments reduced
- Decrease impact of recovery auditors
- Risk of investigations reduced (lower attorneys fees)
- Demonstrate your intent
- Sentencing leniency
- Business best practice

Questions? Comments? Time to throw forks at the speaker?

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