The Medicaid Integrity Program
HCCA
Annual Compliance Institute
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Medicaid Integrity Program ("MIP")

• Created by the Deficit Reduction Act of 2005, which was signed into law 2/8/06.
• First federal program to combat fraud in the Medicaid Program
• Goal: Establish a strong, effective and sustainable program to fight fraud and abuse in the Medicaid Program
Federal v. State = Tension

- Federal Government ↔ State Government
- State Government ↔ Provider
- Federal Government ↔ Provider
- No legal relationship
- Problems

Top Federal Programs with Improper Payments 2008 (Billion Dollars)

- Medicaid: $18.6
- Earned Income Tax Credit: $12.1
- Medicare Advantage: $6.8
- Supplemental Security Income: $4.6
- Unemployment Insurance: $3.9
- Old Age, Survivors, and Disability Insurance: $2.0
- Food Stamps: $1.6

Of all agencies that reported to OMB in 2008, these 8 make up 83% of the improper payments.

Medicare receives over 1.2 billion claims per year.

This equates to:
+4.5 million claims per work day
They are Serious

- Provide significant resources
  - $5 mm in FY 2006
  - $50 mm in each of FY 2007 and 2008
  - $75 mm in 2009 and 2010
  - 2011 and thereafter—2010 amount + CPI
- Return on Investment

Health Reform

- § 6402(j)(2) of Health Reform Act
  - Amended SSA § 1396(c)(2)
  - MICs must provide performance statistics
    - Number of amount overpayments received
    - Number of fraud referrals
    - ROI by MIC
Tasked With a 4 Pronged Approach

- Review actions of providers being reimbursed by Medicaid
  - fee for service
  - risk based
  - other basis including waiver programs
- Audit claims for payment
- Identify overpayments
- Educate all regarding payment integrity and quality of care

Medicaid Integrity Contractors (“MICs”)

- Review of Providers MICs (“Review MIC”)
  - mine claims data to identify potentially fraudulent claims and trends
- Audit of Providers MICs (“Audit MICs”)
  - post-payment claims audits
- Education MICs
  - Educate state Medicaid Program integrity folks, beneficiaries and others regarding payment integrity and quality of care
Overview of the Audit Process

Step 1: Review the Data

• Who Does it?
  – Review MICs

• What do they do?
  – Data mining

• What is Data Mining?
  – review historical claims data
    ➢ High risk areas and potential vulnerability
    ➢ potentially inappropriate payments or fraud
  – Focus on truly aberrant billing practices
Who gets audited?

- Vetting process
- Work with states and other law enforcement
  - OIG, DOJ, MFCU and Medicare contractors
  - Don’t want interfere with civil or criminal investigations
- Avoid duplication
  - MIP is supposed to stand down
- If all checks out, passed on to MICs for audit

Step 2: The Audit

- Audit MICs conduct post-payment reviews
  - Current: Paid claims review
  - Future: cost report audits, managed care audits
- Types of audits
  - Desk audits and field audits
  - Focused and Comprehensive reviews
- No part in the collection of overpayments
What are the Audit MICs looking for?

- Services not provided or properly documented
- Improper billing codes
- Non-covered services
- Payments not in accordance with federal or state law
- Can also make fraud referrals to HHS OIG who then would send to MFCU

Nitty Gritty of the Audit Process

- Letter arrives on Contractor stationary
  - Gives two weeks’ notice of audit beginning
  - List of records required
  - Time period for production varies
  - Desk or field audit
- Entry Conference
  - Gives provider overview of next steps
  - In person or by phone
- Audit performed
Nitty Gritty (con’t)

• Exit Conference
  – In person or by phone
  – Provide
    ➢ Summary of preliminary findings
    ➢ Tentative conclusions
  – Provider may
    ➢ comment
    ➢ Provide other support

• Draft Audit Report
  – Only if MIC believes overpayment

Step 3: The Recovery--Overview

• MIG must issue final audit report
• States must pay federal share back to CMS
• States recover overpayment from provider
• Complex process without much guidance
The Audit Report—Federal State Dance

- MIC completes draft audit report
- CMS reviews draft audit report
  - sends to state
  - sends to provider
- CMS reviews state and provider comments; it may revise report
- CMS submits draft to State for final review
- CMS issues final report to the state
- Recoupment begins

Recoupment Process

- CMS and State
  - State must repay CMS in 1 year
  - Governed by federal law
- State and Provider
  - Only State has legal relationship with provider
  - State notifies provider
  - State demands repayment from provider
  - Governed by each state’s law
- Provider may appeal
Provider Appeal Rights

- Governed by state law
  - Appeal rights vary by state
  - Not same as Medicare
- Appeal deadlines
  - Medicare 120 days
  - States vary
- Appeal process
  - Medicare-4 levels of appeal
  - States vary

Potential MIP Problem Areas

- Identifying records requested by Audit MIC
- Overlap record requests/duplicate audits
- Sampling
- May not be bound by PRO determinations
- No stated criteria for determining medical necessity
- What if State and MIG don’t agree
MIC Staff Requirements (or lack thereof)

- Who makes medical necessity determination?
  - MIC is only required to have one medical director
  - CMS has been vague

- Overall staff requirements
  - IDIQ contracts specify minimum requirements
  - “trust us”

- MIC Oversight?

MIP v. RAC

- Look back period
  - RAC – 3 years
  - MIP – as far as records exit!
    - Will limit to whatever general rule in your state
    - Subject to change

- Number of days to produce records
  - RAC – 45 days + extensions
  - MIP – varies
    - considering using state’s rule or RAC’s 45 days
MIP v. RAC (cont’d)

• Number of records
  – RAC – 200 per 45 days
  – MIP – no specific limit
    ➢ Considering sample probes
    ➢ Informal sampling

• Contractor compensation
  – RAC – contingency/percentage
  – MIP – fee for service with rewards/bonuses

MIP v. RAC (cont’d)

• Underpayments
  – RAC – identifies
  – MIP – no way, no how

• Copying costs
  – RAC – pays
  – MIP – does not pay

• Extrapolation
  – RAC – permitted, but not done to date
  – MIP – depends on state law
Medicaid RACs-- §6411 Health Reform Act

• By 12/31/10 State must have RAC(s) contract
  – Identify overpayments & underpayments
  – Coordinate with all other with contractors
  – Fees
    ➢ Contingency fee only if overpayment
    ➢ Underpayment fee at State discretion

• Appeal Process
  – State must develop

• Secretary must issue regulations

Preparing for a MIC Audit

• Cannot view in a vacuum
• Consider one of many
  – RACs
  – ZPICS
  – Medicaid State agencies
  – MFCUs
  – Medicare Integrity group
• Need overall strategy
Key Steps to Prepare for MIC Audits

• Develop a MIC/Audit Team
  – Identify critical players
  – Assign responsibility/a single contact point
• Manage the audit process
  – Requests in
  – Documents out
• Monitor what is happening in industry
• Plan a systematic appeal process for MICs

What To Do If Receive a MIC Inquiry

• Mobilize your MIC/Audit Team
• All responses must be timely and complete.
• Keep a complete record of
  – Documents requested
  – Who sent what information to whom
  – Actual copies of all records and correspondence.
• Strict adherence to stated timelines and process is critical.
Education MICs

• Purpose:
  – Educate Medicaid providers, beneficiaries and state employees
  – Focus on fraud and abuse and quality of care

• Tasks
  – Evaluate what education is needed
  – Develop training programs
    ➢ Web based
    ➢ Traditional
  – Medicaid Integrity Institute

Medicaid Integrity Institute

• MIG established in 2007-First national Medicaid Program Integrity training institute
• MIG offers substantive training, technical assistance and support to states
• Courses include:
  – Basic investigational skills
  – Data Analysis
  – CPT/HCPCS/ICD-9 coding
  – Emerging trends in fraud
  – Testifying and report writing skills
Medicaid Integrity Program Publications

- Medicaid Director Letters
- Best Practices Guide
- Medicaid Tamper Resistant Prescription Law Guide
- Annual Report to Congress
- Five-Year Plan
- FAQs
- Medicaid Integrity Program A-Z
- www.cms.hhs.gov/medicaidintegrityprogram
- Medicaid-integrity-program@cms.hhs.gov