The Future of Compliance

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Objectives

Identify future trends in quality and outside of quality
Look to the Past

• To predict the future, look at the past
  – New laws in the past two years
  – Lots of money for program integrity & fraud enforcement
  – Growing urgency to cut government spending

So the Future Trends ....

• More regulations  
• More recoupment  
• More prosecutions  
• More ‘quality of care’ focus
Trends:
What Can We Expect

- Increased HEAT activity and enforcement
- ZPICs
- Electronic medical records
- PQRI, etc.
- MICs and Medicaid RACs
- HIPAA and HITECH Privacy violations
- More Qui Tams due to overpayments
- Third party payers increased scrutiny
- Employee screening
- Payment suspensions

Trends

- Quality,
  - Quality,
  - And more quality
Welcome to 2011

- Mandatory compliance programs
- ICD-10 diagnosis and procedure coding
- Executives held responsible for organization’s foolishness
- Healthcare reform becomes home
- Enforcement agencies implementing new weapons

Whistle Blowing - Huge

- Record year for recoveries from whistle blower initiated claims
- Compliance officers frustrated and will blow the whistle
Exclusion and Debarment Lists

• Organizations
  – Check the exclusion lists
• Anyone can check the lists
• In November 2010, OIG asked for ideas on updating the 1999 Advisory Bulletin on the Effect of Exclusion from participation in Federal health Care Programs;
  – Comments due Jan.5
  – Possible guidance on frequency of checks
  – Views on how repayments be calculated

And more....

• Trend
  – Increased use by OIG of its exclusion authority as it relates to corporate executives
  – October guidance describing factors it will weigh when considering permissive exclusions against owners, officers and managing employees if their entity is excluded or convicted of certain offenses
It Doesn’t End

• Compliance Officers
  – Expect proof of effectiveness will be an expectation of the executives in your organization
    • Metrics

Mandatory Compliance Programs Coming

• Due to healthcare reform
  – Compliance and ethics programs for SNF
    • Must be effective in preventing and detecting criminal, civil and administrative violations and promoting quality of care
    • By 12/31/11, HHS must implement a QA & PI program for NF that will address best practices
    • Within a year NF will have to submit a plan to HHS that describes how they will fulfill best practices
    • By March 23, 2012 CMS required to issue compliance program guidance for NF
  – Compliance programs that will be a condition of Medicare and Medicaid enrollment for other providers and suppliers
    • No deadline currently
More Forceful Action

- Healthcare reform
  - Will allow CMS to suspend Medicare payments to providers when there is a credible allegation of fraud unless there is good cause not to suspend
  - Means shutting down all or a portion of a provider’s cash flow

More Audits

- RAC = Recovery Audit Contractors
- MAC = Medicare Administrative Contractors
- ZPIC = Zone Program Integrity Contractors
- MIC = Medicaid Integrity Contractors
- Medicaid RAC
- Medicare Part C and D audits
- Private payers
- Accreditation organizations
The Word for 2011

- Medical necessity

Stress Levels

- For Compliance Officers, will go off the chart
  - Challenges to face
  - Keeping up with the changes in healthcare reform
  - Manage flow of information
  - Remain independent voices in their organization
    - Roy Snell, CEO of HCCA
And Than Back To....

- QUALITY

The long-term picture

- Three to five years hence
Shift from fraud and abuse to waste

• Waste
  – The intentional or unintentional, thoughtless or careless expenditure, consumption mismanagement, use, or squandering resources. Waste also includes incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls.

Why worry about waste?

• Fraud 3-10% of expenditures
• Eliminating fraud and abuse won’t fix our financial fix
US Health Care Spending as % GDP

Health Care Spending as % GDP 2007
Congressional Budget Office

• In itself, higher spending on health care is not necessarily a “problem.” Indeed, there might be less concern about increasing costs if they yielded commensurate gains in health. **But the degree to which the system promotes the population’s health remains unclear.**
What Should Health Care Be?

- Safe
- Timely
- Effective
- Efficient
- Patient-centered
- Increase STEEP, increase value

Concentration of Expenditures

Expenditures and Population by Percentage

$1.17T
Waste in U.S. Health Care Spending: Chronic Conditions

Across these six chronic conditions, potentially avoidable complications (PACs) account for 40¢ of every dollar in health care spending

- Potentially avoidable complications (PACs):
  - Defined as “deficiencies in care that cause harm to the patient, yet might have been prevented through more proactive care.”

- Analyzing national claims data, the PROMETHEUS Payment team found that up to 40¢ of every dollar spent on chronic conditions and 15 to 20¢ of every dollar spent on acute hospitalizations and procedures are attributable to PACs.

Implications for compliance officers

- Fraud
- Stark, anti-kickback
- Opportunities
A new source of fraud

• Payment based upon outcomes
  – Hospital acquired conditions
  – Readmissions

• Payment based upon process measures
  – ACO bonus ineligible without meeting certain quality measures

• Payment will be conditioned on quality!
  – Quality problems can result in false claims
  – Waste reinterpreted as fraud

Integration of entities

• Payment model innovations
  – Strong push for integration of entities
  – But without changes in Stark, anti-kickback, etc.
Opportunities for compliance officers

• Public reporting initiatives often rely on billing data
  – Attention typically focused on errors or documentation problems that affect revenue
  – Now need to pay attention to issues affecting risk adjustment and complication reporting
• Internal scorecards also often reliant on billing data
  – Same opportunity for compliance to help quality

Questions?

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