

Post Acute Compliance – Identifying Risk and Conducting A Gap Analysis

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Hello and Who We Are



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Presentation Goals

- Learn to identify areas of high compliance risk in post-acute care providers
- Understand the requirements of an effective compliance program for a post-acute provider
- Determine the process for conducting a compliance gap analysis within a post-acute provider organization

Sources of Risk Area Identification

- OIG Work Plan
- Hotline Calls (and Analysis of Hotline Calls) *
- Internal Audits *
- Pre or Post-payment audits/disallowances
- Surveys and other regulatory reports
- Customer/Consumer Grievances *
- Internal Company "Dashboards"
- Sentinel or Critical Events Policies
- **New Business Lines and/or Contractual Arrangements**
- Governmental Investigations

Compliance High Risk Areas – SNF

- Skilled nursing facility
- Quality of Care
- Therapy Utilization
- Anti-kickback / vendors
- Medical director and Physician Arrangements
- LEIE , Background Screening and Abuse
- Questionable billing patterns for Part B services during nursing home stays not paid under Part A

SNF Quality of Care – Expectation

Each nursing home should **review each resident's outcomes** to determine whether the resident is receiving an appropriate level of quality of care. Where possible, those outcomes should be improved upon through analysis and modification of care. This process is iterative – once improvements have been implemented, the resident's outcomes should again be analyzed. If modifications did not result in better outcomes, then alternatives should be developed and implemented (and, of course, reanalyzed.)

SNF Quality of Care – Process

Nursing homes are given a number of evaluative tools to use as references when analyzing quality of care. The regulating **state agency's annual survey, the federal validation survey, and all complaint surveys** should serve as a springboard for corrective action. As with the residents' outcome reviews, modifications should be implemented, and additional analyses undertaken to confirm that quality of care is improving.

SNF Quality of Care – QAPI

- Nursing homes should implement **proactive measures** to identify, anticipate, and respond to quality of care risk areas.
- All nursing homes should consider having an ombudsman (an independent, qualified staff member who is charged with challenging the institution on quality of care issues and is shielded from reprisals or retaliations for making such challenges.) That ombudsman is superbly placed to identify nursing homes' proactive measures.

Compliance High Risk Areas – Hospice

- Nursing Home Patients on Hospice Services
- Eligibility for Hospice
- Medical Documentation of Hospice eligibility
- Long length of stay patients
- Hospice in assisted living facilities (new)
- Hospice general inpatient care

Compliance High Risk Areas – HHA

- Home health prospective payment system requirements
- Employment of individuals with criminal convictions
- Medicaid Home health services—provider and beneficiary eligibility
- Medicaid – Home health services—Screenings of health care workers

Gap Analysis

- A determination of the degree of conformance of your organization to the requirements of a specification or standard.
- Mainly a document review or a "show me the evidence" activity, evidence which usually will come in the form of a record or document.
- Evidentiary standard — usually not heavy on auditing. Records assumed to be accurate. Key process owner or project stakeholders provide evidence that they have met the requirements

Gap Analysis *(continued)*

- Often at the beginning of an compliance process to a chosen specification or standard.
- The main reason for gap analysis — Organization wants to know where it stands in regard to meeting the standard, and it wants to know specifically what it must do to close the gaps. WHERE ARE THE HOLES?
- Good gap analysis report usually presents a clear summary of where the major gaps exist between the company's documentation and the chosen requirements.

Gap Analysis *(continued)*

- Should detail each requirement and the degree of compliance, with corresponding actions that should be taken to close these gaps.
- Often accomplished by consultants or experts in the chosen specification or standards.

GAP Analysis Possible Steps

- Reviewing current policies and procedures
- Interviewing staff at all levels of the organization who are involved in the fee generating process
- Flowcharting of current practices from delivery of supplies or services to receipt of third-party reimbursement

GAP Analysis Possible Steps *(continued)*

- Identifying “glitches” or potential problem areas for intensive review
- Auditing sample cost reports, billings and records
- Developing a summary of positions and practices that should be included in the program
- Identifying financial and legal risks

Gap Analysis Work Plan

- An investigative work program should be developed.
- Starting point should be defining the areas of inquiry.
- The work program should then address the issues of timing and assignments.
- Who is responsible for what aspects of the gap analysis What timeline is being followed.

Gap Analysis Work Plan *(continued)*

- Reporting responsibilities and documentation standards
- Verbal report followed by a written report
- *Discussion – Involvement of Counsel and Privilege*

Internal Audit

- Seeks to determine the degree to which your organization conforms to the requirements of a specification or standard or to your own organizational requirements.
- Performed by looking at multiple data sources, including a review of documentation evidence but also by questioning employees or reviewing actions.
- Usually conducted after development of processes and some implementation has occurred.
- Trying to identify if employees are actually using the system and are knowledgeable of their roles in compliance with the standard or requirements.

Internal Audit *(continued)*

- Usually present the auditor's summary on the overall impression of the organization's degree of conformance and a list of findings. Good reports include not just nonconformities, but also observations, noteworthy efforts, and even opportunities for improvement. Should give the organization enough fuel for action and follow up.
- How effective are your audits? Internal auditors should have solid auditing skills, that are verified. Employees perform your audits, make sure you keep them current in auditing techniques by providing continuing education on auditing at least once a year.
- Independent consultant sometimes bring a lot of expertise from other organizations, and may have needed up-to-date auditing skills.

Initial Design / Structure

- Target and identify your Requirements and/or Gaps
 - What is the legal or statutory requirement?
 - What does compliance require you to do or not do?
- **Specifically, where should we look to answer the above**
 - What we are monitoring?
 - Where or Who has the answers to what is happening and/or how we do what we do?

Initial Design / Structure

(continued)

- Design the specific steps that will make up the monitoring process or the particular issue you are auditing.
- Decide how your company or facility will use the information obtained as a result of auditing and monitoring.
 - Collecting but not acting is not enough

Effectiveness: Monitoring and Follow Up

- Not doing anything or not doing enough to get to the bottom of compliance issues can be detrimental
- What is the root cause of the non-compliance and/or non-compliance trends?
- Is your compliance program monitoring and identifying compliance trends or just reacting to problems brought to it (*i.e.*, complaints vs. trend analysis)

Effectiveness: Monitoring and Follow Up *(continued)*

- How Do You Assure Individuals Assigned to Complete Compliance Investigations Are Qualified (and have the skills) to Do So?
- How Do You Assure Individuals Assigned to Complete Compliance Investigations Are Actually Completing Thorough Investigations?
- *Discussion ...*

Questions/Comments?

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