Managed Care Compliance Risks

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Selected List of Managed Care Compliance Risks

- Prompt Claims Payment
- Delegation Oversight
- Administering the Certificate of Coverage
- Agent Appointments and Licensing
- Complaints, Appeals and Grievances
- New Legislation Implementation
- National Practitioner and Healthcare Integrity Data Banks
- On-site Audits by Third Parties
Prompt Claims Payment

▲ Receipt date

- Ensure systems adequately and accurately reflect receipt date to allow for accurate determination of required claims payment date. Necessary for:
  - Calculation of interest
  - Notification of late payment
  - Audit for held claims
  - Post claims processing data
  - Void held checks
Prompt Claims Payment (cont)

▲ “Clean claim” Definition

● Establish MCOs definition of a “clean claim” for those situations in which a definition has not be established by applicable law
  ■ Many states have adopted definitions of “clean claim,” often as a part of the prompt claims payment laws

● Possible Elements:
  ■ Complete, with no defects or impropriety
  ■ Properly supported under applicable guidelines, i.e., substantiation by medical records or other proof of claims
  ■ No need for additional information to determine eligibility
  ■ No need for additional information from the beneficiary, provider, supplier, group sponsor or other source
Prompt Claims Payment (cont)

- Examples of Incomplete Claim Elements
  - Accident information and Coordination of Benefits
  - Billed charges, Date of Service, Legitimate CPT, ICD-9, etc., codes
  - Member ID number, member name and group number
  - Missing anesthesia units
  - Patient date of birth or name name
  - Provider address, tax ID
  - Claim not in English
  - Potential fraud or abuse????
Prompt Claims Payment (cont)

▲ Notification of Late Payment
  ● Applicable law may require notification if the claim will not be paid within the designated time frame
    ■ Payment of interest may not be adequate to achieve compliance
    ■ State regulators focusing on notification non-compliance once interest payment addressed

▲ Interest Payment
  ● Accurate systematic calculation
    ■ Human intervention increases non-compliance risk
  ● Significant fines imposed for non-compliance, i.e., greater than $1M for relatively insignificant non-compliance
Prompt Claims Payment (cont)

▲ Provider Fraud and Abuse Program
  - Need to determine how provider fraud and abuse program interacts with prompt claims payment
    - Pay and pursue vs. payment of interest during investigation
Delegation Oversight

▲ Typical Functions Delegated by MCOs
- Appeals and Grievances
- Billing
- Claims
- Credentialing
- Enrollment
- Quality Improvement/Accreditation
- Utilization Management

▲ Reasons for Delegation
- Delegate’s control of premium dollars and claims float
- Avoid duplication of efforts, i.e., credentialing and privileging
- Coordination and efficiency of similar programs, i.e., quality
Delegation Oversight (cont)

▲ Why Oversight is Necessary

- Regulators consider MCO ultimately responsible for appropriate performance of function, regardless of who performs the function
  - State MCO regulators
  - U.S. Attorneys (i.e., Jim Sheehan)
- Courts and regulators hold MCOs liable for delegates actions/inactions
  - UnitedHealth Group of the Mid-Atlantic required to pay IPA providers $400,000, even though it already paid the IPA
  - Mullikin/MedPartners
    - Health plans contributed millions of $$ to prop-up for 6 months, in part as a result of significant arm twisting by the Department of Managed Healthcare
Delegation Oversight (cont)

Why Oversight is Necessary (cont)

- Reputation
  - Members and other providers attribute delegate conduct to delegator
- State law solvency requirements
- Preserve capacity
  - MCO provider capacity can be adversely affected if delegated entities collapse
Delegation Oversight (cont)

Oversight Activities

- Regular periodic reports
  - Identify key performance indicators for delegated function
  - Require delegate required to submit regular (i.e., monthly, quarterly, etc) reports on the key performance indicators

- Periodic Audits/Assessments
  - Delegator audits/assesses delegate’s performance on key performance indicators
    - If delegate performing similar function for multiple MCOs, consider retaining independent reviewer on behalf of all MCOs
  - Requires corrective action for any deficiencies
    - Monitor complete implementation and effectiveness of corrective action
Delegation Oversight (cont)

▲ Suspension/Revocation of Delegation
  ● Failure to submit timely regular reports
  ● Corrective action failure
  ● Repeated violations
  ● Lack of cooperation

▲ Should the MCO assess oversight costs to the Delegate?
  ● Perhaps only if corrective action implemented?
Administering the Certificate of Coverage

▲ Ensure the coverage offered and processes defined in the COC can be administered
  ● COC is an MCO’s primary operational document

▲ Causes of COC Administration Failures:
  ● COC drafting focused only on regulatory requirements and writing style preferences
  ● Disconnect between staff who draft COCs and operational staff who administer COCs
  ● Delegation
    ■ Multi-tiered compliance problems
    ■ Mid-contract coverage changes
Administering the Certificate of Coverage (cont)

▲ Consequences of Administration Failures:

- Breach of contract/Bad Faith Claims
  - Impact of AAA refusing to provide support for mandatory arbitration in COCs?
- False Claims Act if federal health care programs involved
- Increased complaints to regulators, resulting in poor performance statistics and possible fines
- Increased customer service usage
- Decreased member/provider satisfaction
- Increased administrative expenses
  - Fixing problems is more expensive than doing it right the first time
Administering the Certificate of Coverage (cont)

▲ Strategies:

- Include operational staff in COC preparation
  - Recognize, it’s not just the language, but the administration
  - Forces operations to understand the COC and their related responsibilities
- Test administration of COC provisions
- Trend customer/provider service complaints regarding COC violations
  - Identify common complaints and root causes
  - Implement systemic fixes
Complaints, Appeals and Grievances

▲ Frequent Compliance Issues
  - Maintaining adequate log
  - Response timeliness
  - Correspondence compliance
  - Reviewer documentation
  - Reviewer independence at each appeal level

▲ Multiple State Operations
  - Interpretation of “appeal” and/or “grievance” can vary by state
    ▪ Reflect differences in:
      ◆ Processes
      ◆ Training
      ◆ Testing (monitoring and auditing)
Complaints, Appeals and Grievances (cont)

▲ Compliance Opportunities

- Avoid “defensive” posture
  - Appeals/grievances can be opportunity to identify and fix deficiencies
    - Certificate of Coverage
    - Process
    - Personnel

- Trend nature/type of appeals and grievances
  - Root cause identification
  - Systemic corrections
  - Eliminate entire category(ies) of complaints/issues

- Use independent review agency at certain appeal level
Complaints, Appeals and Grievances (cont)

▲ Compliance Opportunities (cont)

- Consider periodic independent review of appeals/grievances processes and results to eliminate internal bias and conflicts of interest
  - Avoid “siege” mentality by appeals/grievance staff
  - Should appeals/grievance staff be considered member/provider advocates?
Agent Appointments and Licensing

▲ Process to ensure all agents are appointed and licensed

- Implement “credentialing” and “re-credentialing” process
  - Verify licensure prior to appointment
  - Confirm appointments
  - Check appointments for other MCOs/insurers
    - Agent conflicts of interest
      - Especially relevant for employee agents
  - Include process for “de-credentialing”
    - Periodic review to ensure agent is still “selling” for organization

- Require completion of appointment and verification of licensure before any commission payments can be made
  - Include Accounts Payable Department in process
Agent Appointments and Licensing (cont)

▲ Who must have an appointment?
  - External and internal agents
  - Account managers?
    - Some states are requiring account managers to have appointments because of ongoing “sales” activity

▲ Timing of appointment:
  - Some states require appointment at time of discussions, not just receipt of commission
New Legislation Implementation

See:

- Mamie Segall and Michelle Huntley “Compliance Effectiveness in Managed Care” presentation at the HCCA 4th Annual National Congress on Health Care Compliance

Goals -- Achieving and demonstrating compliance with new legislation
New Legislation Implementation (cont)

▲ Multi-Disciplinary Risk Based Approach

- Involve all appropriate departments/staff
  - Ensures complete and holistic review and assessment of new legislation

- Relevant Departments/Staff:
  - Legal
  - Actuarial
  - Medical Policy
  - Contract Administration
  - Operations
  - Claims
  - Communications
  - Information systems
  - Underwriting
  - Physician Relations
  - Utilization Management
  - Product Development
  - Training
New Legislation Implementation (cont)

▲ Implementation Life Cycle
- Intake
- Assessment
- Planning
- Implementation
- Post Implementation Management

▲ Activities within Each Life Cycle
- Identify Tasks
- Detail Deliverables
- Define Exit Criteria
- Recognize Necessary Competencies
New Legislation Implementation (cont)

Benefits of Multi-Disciplinary Implementation Project Management Process

- Identify and minimize legal risk
- Consistency and effectiveness in implementation
- Builds on staff expertise
- Enhanced communications
- Documented and retrievable institutional memory
NPDB and HIPDB

▲ Reporting requirements
  ● Impact of state requirements (i.e., California) for due process in all terminations -- including w/o cause on reporting obligation

▲ Procedural Issues

▲ Failure to report
  ● Recent government reports regarding general non-compliance with data bank reporting
    ■ Continuing confusion regarding when reporting is necessary
    ■ Continuing efforts to structure terminations to avoid reporting requirements, i.e., terminating for cause under agreement w/o going through Credentialing Committee

▲ Requirement to query
On-Site Audits by Third Parties

- Involve senior management
- Designate single contact person
- Hold initial meeting
- Provide separate office space
- Supervisor at all interviews
- Brief all staff -- “The Weakest Link”
- Ensure the right people are interviewed
- Keep to the questions
- Keep copies of everything provided
- Exit interview
- Requests for confidentiality, i.e., UM and QA