Third Party Billing for Physician Groups - What’s Hot and What’s Not

Health Care Compliance Association
Physician Practice Conference
September 8, 2005, San Francisco, CA
October 6, 2005, New York, NY
Third Party Billing for Physician Groups

- Billing arrangements – percentage billing, reassignment, etc.
- Government attitudes and actions
- Contracting for billing services – what’s included?
- Risk areas and hot topics –
  - False claims responsibility
  - Refunds and credit balances, discounts
  - HIPAA, NPI, EMRs, and more
Third Party Billing for Physician Groups

- Billing industry overview
  - Hospital-based physicians use third party billing frequently – emergency, radiology, anesthesia, pathology, etc.
  - Lots of players, mostly small and medium size companies
  - Industry largely unregulated
  - Healthcare Billing and Management Association
  - Joint HCCA/HBMA project possible
Third Party Billing for Physician Groups

- Arrangement structured on a **percentage basis**
  - Usually % of fees collected, not billed
  - Most desired arrangement by physicians
  - Some restrictions, unfavorable perceptions
  - State law prohibitions

- Arrangement structured on a **per-claim or other basis**
  - Not popular with clients, no incentives for performance or follow-through
  - Easy for billing company
  - No fraud fears
Third Party Billing for Physician Groups

- Percentage arrangements are legal and allowed in most cases, but must be structured correctly
- Compliance with MCM 3060 (now found at IOM 100-4 §30.2)
- Reassignment issues – individual bank accounts
- Billing company cannot receive payments directly
- Some states require per-claim billing for Medicaid (e.g., California, Nevada, Florida)
Third Party Billing for Physician Groups

- MMA Section 952 – allowed independent contractor physicians and non-physician providers to reassign Medicare benefits to group
- Group or entity receiving reassignment must have a contract with physician, and must be enrolled with Medicare as an entity that can submit claims for payment
- Joint and several liability; access to claims info
- Still no payment to billing company if % contract
Third Party Billing for Physician Groups

- OIG Work Plan 2005 – Billing Companies

  We will identify and review the relationships among billing companies and the physicians and other Medicare providers who use their services. We will also identify the various types of arrangements physicians and other Medicare providers have with billing services and determine the impact of these arrangements on the physicians’ billings.

  (OAS; W-00-05-35162; various reviews; expected issue date: FY 2005; new start)
Third Party Billing for Physician Groups

  - GAO-03-185
  - Reviewed 2.8 million ED claims
  - Found that contracting and/or billing arrangement did not affect the levels or services billed as compared to other emergency department physicians (employed/independent)
  - Analogous to third party billing
Third Party Billing for Physician Groups

- OIG Work Plan 2003 - Reassignment of Benefits
  - Work Plan item to study use of staffing and billing companies in hospital EDs
  - Draft report circulated within government, no report ever released
  - Congress rendered issue moot, followed GAO’s recommendation in MMA in changing reassignment regulations
Third Party Billing for Physician Groups

- Billing services contracts should be in writing – beware of brother-in-law, physician’s spouse as biller!
- What services are covered? Be very clear in expectations; responsibilities of billing company and physicians/group should be described, e.g., accounts receivables management, collections, account posting, patient statements, phone calls and patient complaints, et cetera.
Third Party Billing for Physician Groups

- Fiduciary and banking responsibilities – lockbox arrangement, group deposit account, or other (be careful with MCM 3060 and reassignment requirements)
- Provider enrollment or credentialing duties, including sanction/exclusion checking
- How patient demographic and medical record information is to be accessed by billing company (accuracy, updates, confidentiality and security)
Third Party Billing for Physician Groups

- Operating standards – metrics or good faith effort
- Monitoring and auditing performance
- Termination procedures (include wind-down/roll-off of A/R)
- Confidentiality (financial and proprietary information, terms of contract, etc. as well as HIPAA)
- Liability and Indemnity – Insurance required?
Third Party Billing for Physician Groups

- Relationship of the parties – independent contractor or other
- Records retention, access and ownership, including retention of copies after contract terminates (billing company will need in case of audit)
- Personnel – background checks, approval rights
- General clauses – term, renewals, venue, etc.

*(this is not a complete list of recommended terms)*
Third Party Billing for Physician Groups

- Contract should cover outsourcing issues
- Require billing company to state up front what is or may be outsourced, and communicate changes in subcontracts
- HIPAA compliance and legal enforcement issues with off-shore outsourcing?
- States and Congress may weigh in on off-shore issues
Third Party Billing for Physician Groups

- Compliance reports that billing service should provide monthly:
  - Credit balance and refund report
  - Denial reporting
  - Provider coding patterns: code utilization for both CPT and ICD codes by doc
- Documentation feedback to improve physicians documentation of services
- Allow corrections/additions to charts?
Third Party Billing for Physician Groups

- Compliance plans for both parties – incorporate?
- Require adherence to OIG Guidance? HBMA affiliation? Other?
- Compliance audits – Who performs them? How frequent? Who pays for them? How are variances settled?
- HIPAA – Business associate agreement (*N.B.* most billing companies are covered entities)
Third Party Billing for Physician Groups

- To code or not to code – all billing service agreements should discuss coding – even if the physicians are doing it themselves or have own coders (or other third party coding company)
- Contracts can include full coding by billing company or limited coding/auditing; payor specific?
- Be explicit in describing coding arrangement, coder credentials, quality assurance, etc.
Third Party Billing for Physician Groups

- What if a party notices issues or errors with other party’s coding/billing (or documentation)?
- When and how are codes and claims to be corrected?
- Billing company must have authority to suspend or stop billing if improprieties are suspected or discovered (without penalty)
- Coding or billing disputes – how they are to be settled and by whom
Third Party Billing for Physician Groups

- Provider has ultimate responsibility for claims that carry his or her name (Medicare participation regulations, False Claims Act, etc.)
- Both billing company and physician/group share potential legal liability – generally, one cannot hide behind the other and play innocent
- Compliance monitoring and auditing is vital – don’t do business with someone who doesn’t believe in compliance responsibilities
Third Party Billing for Physician Groups

- Refunds and Credit Balances – very hot area in billing compliance
- Make sure both parties agree that refunds will be made timely – who is to process from what account, etc.
- Streamline process to avoid delays or confusion
- CMS wants voluntary refunds within 60 days of discovery of issue
Third Party Billing for Physician Groups

- When a refund is requested, appeal if disagree that error is made – don’t ignore request
- Make sure billing company loads current fee schedules and payor allowables in system to accurately track credit balances and overpayments
- Unclaimed payments – suspense accounts, escheat laws ("Finders, keepers" isn’t the law!)
Third Party Billing for Physician Groups

- Communication between physician group and billing company – notice of compliance issues, errors
- Voluntary reporting of compliance issues
- Self-disclosure protocol
- Neither party should be able to try and stop other party from complying with any law or regulation
Third Party Billing for Physician Groups

- Another hot topic – discounts, professional courtesy, and waiving co-pays and deductibles
- Should be included in contract or written communication between parties
- Written policy and procedure for authorizing discounts or waivers of payment
- Prohibit inappropriate balance billing as well
- Acknowledge compliance responsibilities
Third Party Billing for Physician Groups

- Electronic Medical Records
- Scanning, imaging of paper records
- Access to hospital or office system by billing company
- EMR software defaults – are they being monitored to check if defaults are set and used properly?
- Are compliance features and reporting built in?
Third Party Billing for Physician Groups

- HIPAA Compliance – Privacy and Security
- Electronic Transactions Standards
- National Provider Identifiers – if billing company does provider enrollment/credentialing for physician group, may be appropriate to do bulk NPI enumeration for physicians
- Updates to NPI files
- Future changes in Standards, code sets, etc.
Third Party Billing
for Physician Groups

• Comments?
• Questions?
Third Party Billing for Physician Groups

Karen L. Collier, Esq.
Corporate Compliance & Privacy Officer
Medical Consultants, Inc.

Emergency Physicians Billing Services
Emergency Physicians Dictation Services
(800)962-3303  collierk@epbs.com