

1. Current Issues and Trends	



×\$10,957 to \$21,916 (up from \$10,781 to 21,563)

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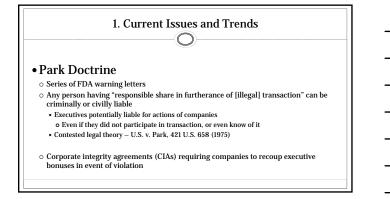
 • Focus on Individual Accountability

 • Yates Memo

 • Park Doctrine

 • Will be reflected at state level, especially in state cases jointly shared with federal government

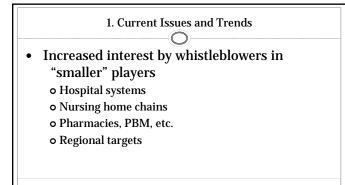


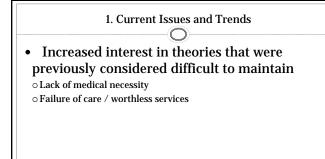


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- Increased interest by whistleblowers in "smaller" players
 - o Nationally, the "big" rebate, marketing cases are declining
 - Whistleblowers & their lawyers are looking towards new players and new theories





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- Increased state activity in federal whistleblower cases
 - \star Concurrent with heightened interest in regional & smaller defendants
 - ×Increased state sophistication in qui tam practice
 - o Interventions, litigation

1. Current Issues and Trends • Predictive analytics • More than data analysis • Examples • Pattern detection • Comparison to other sources of information • Comparison to social media • "Link analysis" – people, claims, locations, associations

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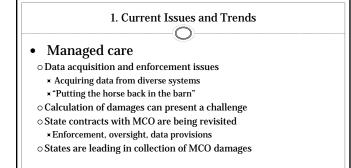
- 60-day overpayment rule
- ACA: Provider must repay overpayment within 60 days of "identifying" the overpayment
 Applies to Medicaid overpayments
- Combined with "reverse false claims" theory, this can provide another avenue for a state to assert liability against the provider
 Reverse False Claims: Knowingly avoiding an obligation to repay

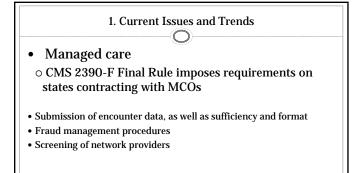
1. Current Issues and Trends

• Managed care

 \circ Losses often shared between MCO and FFS \circ Many Medicaid programs heavily utilize MCO

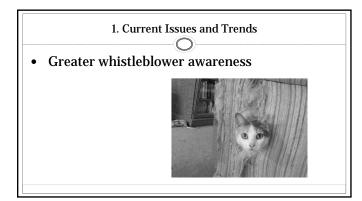
× 73.5% of Medicaid beneficiaries received managed care in 2013
 ○ Claims submitted to MCOs for government programs are clearly within the ambit of claims to the government under federal FCA (2009 FERA amendments to fix "Allison Engine") and state FCAs that are analogous

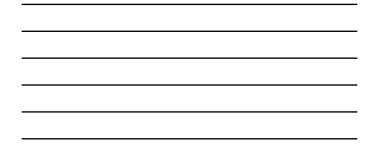


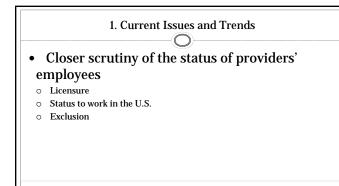


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- Expansion of Medicaid population
- Including numbers of enrollees, types of coverage



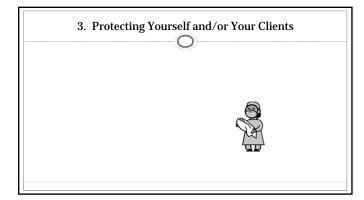


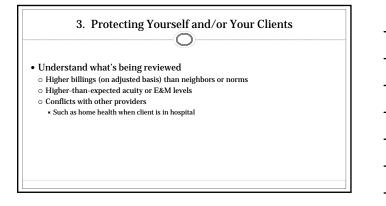


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×Manufacturer behavior, diversion, etc.



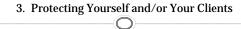




3. Protecting Yourself and/or Your Clients \bigcirc

- Understand what's being reviewed
- High rejection or recoupment rates
- $\circ\,$ Complaints from beneficiaries • Data mining
- $\,\circ\,$ Medically necessary v. routine practice

3. Protecting Yourself and/or Your Clients \bigcirc • Understand what's being reviewed • Kickback evidence * Relationships between entities ★ Payments and how they are characterized ★ Other benefits – staff, grants, etc. \circ Stark evidence



• Provide, require, and document employee training \circ Coding

• Compliance

 \circ Benefits include better output <u>and</u> greater credibility $\circ\,$ Efforts to understand coding do have weight with government

3. Protecting Yourself and/or Your Clients

- Understand specific program rules
- Medicare rules may not translate to other programs
 Obtain and arriver menuals and hullating an argular basis
- $\circ\,$ Obtain and review manuals and bulletins on regular basis

3. Protecting Yourself and/or Your Clients

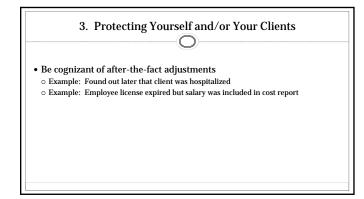
- Call the programs with unresolved questions
- \circ Documents your code choice
- $\circ\,$ Helps document good faith
- Question might be answered!

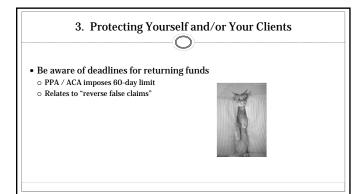
3. Protecting Yourself and/or Your Clients Check status of licensed employees on a regular basis Include within your SOPs Check name variations Include new employees, current employees, contractors, etc. Include federal databases and state licensure agencies Avoid hiring sanctioned persons in any role

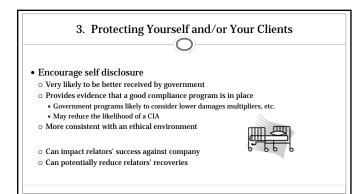
3. Protecting Yourself and/or Your Clients

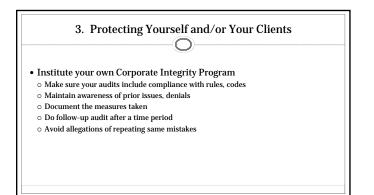
- Document heavily
- \circ Times
- Medical necessity
 Levels of intervention / involvement

3. Protecting Yourself and/or Your Clients Screen your documentation Compare caregiver documentation to other information Watch for excessive care, high codes, etc. Look for forms signed in blank Ensure proper staffing levels and qualifications









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