

Session 801

Compliance in the New Age of Expanded Supplemental Benefits

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Session Information

- ▶ The Centers for Medicare & Medicaid Services (CMS) have finalized a plan to expand the supplemental benefits that chronically ill Medicare Advantage (MA) members can access.
- ▶ The expansion of benefits such as meals beyond a limited basis, non-medical transportation, and home environment services give way to new vendors like community agencies looking to partner with plans.
- ▶ This session will provide you **tips on effectively working with agencies** new to MA to ensure compliance program requirements are considered prior to implementation.

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About Us

Elizabeth Browning is the VP,
National Medicare Compliance
Officer of Magellan Health.

- ▶ 40 years of experience in healthcare, audit and government programs
- ▶ Experience nationally in large and small plans
- ▶ Past HCCA Certified Healthcare Compliance
- ▶ Certified Physician Chart Auditor

Regan Pennypacker is President of
Ancorat Consulting.

- ▶ 20 years of experience with government programs
- ▶ Certified Compliance & Ethics Professional
- ▶ Managed Healthcare Professional
- ▶ Fellow, Health Insurance Advanced Studies

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What brought us here

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Bipartisan Budget Act of 2018

Special Supplemental Benefits for the Chronically Ill (SSBCI)

- ▶ Allows MA plans, beginning CY2020, to offer non-primarily health related supplemental benefits to chronically ill enrollees.
- ▶ The benefit must have a reasonable expectation of improving or maintaining the health or overall function of the chronically ill individual.

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Chronically ill enrollee

Defined

- (I) has one or more comorbid and medically complex chronic conditions that is life threatening or significantly limits the overall health or function of the enrollee;
- (II) has a high risk of hospitalization or other adverse health outcomes; and
- (III) requires intensive care coordination.¹



6 ¹Coleman K. (2019, April 24) Implementing Supplemental Benefits for Chronically Ill Enrollees

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Sponsor considerations

- ▶ 90% of our health care spending is for those with chronic and mental health conditions. The cost for Americans with 5 or more chronic conditions make up more than 41% of total health care spending.²
- ▶ This benefit flexibility allows sponsors to address non-clinical needs such as transportation, food, in-home support and home modifications.
- ▶ Will these benefits improve outcomes, reduce costs? Will the benefits be attractive to MA beneficiaries?

7 ²Buttorff C, Ruder T, Bauman M. (2017). Multiple Chronic Conditions in the United States. RAND Corporation.

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Benefits emerging in the market



- ▶ Groceries
- ▶ Meals beyond limited basis
- ▶ Non-medical transport
- ▶ Air quality equipment
- ▶ Home modifications
- ▶ Pest control
- ▶ General supports for living

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What camp are you in?

☐ Yes, we are in

☐ No SSBCI

☐ Maybe for 2021

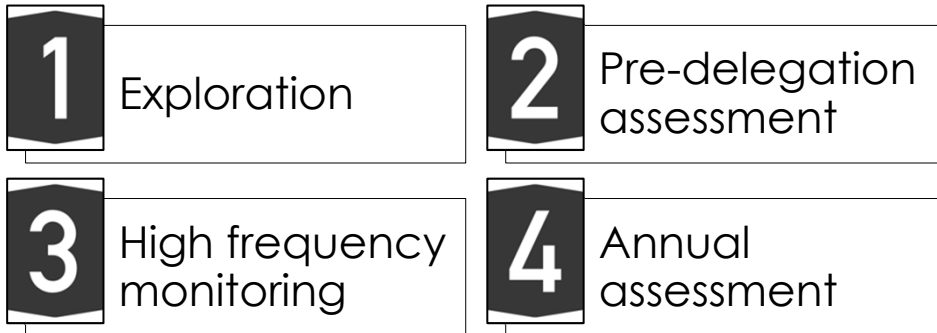


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Effectively working with agencies

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Tips for sponsors in all stages



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Stage 1: Exploration

Exploratory activities

- ▶ Lead time to research
- ▶ Feasibility
- ▶ Meet the criteria for SSBCI?

Roles and responsibilities

- ▶ Benefits or products team
- ▶ Compliance engagement



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Stage 2: Pre-delegation assessment

First Tier, Downstream, or Related Entity (FDR)

To be, or not to be: that is the question

- ▶ Sponsors should have clearly defined processes and criteria to evaluate and categorize all vendors with which they contract. (Compliance Program Guidelines, Section 40)
- ▶ Interaction with members? Data? Filed benefit? Sponsors are taking **conservative** approach.



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Stage 2: Pre-delegation assessment

One size does not fit all

- ▶ Determine desk review or onsite
- ▶ Risk assessment

Contract requirements: who is responsible for evaluation

- ▶ FDR or not?
- ▶ Training requirements?
- ▶ Exclusion screening: what is policy?



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Ride-sharing partner perspective

Drivers are classified as independent contractors... They do not have to undergo HIPAA training... One major provider estimated a data breach could cost approximately \$1.5 million in civil penalties.³



³Surampudi T. (2019). How Uber and Lyft Became Major Players in the Healthcare Space.
15 Retrieved January 2, 2020 from <https://medium.com>

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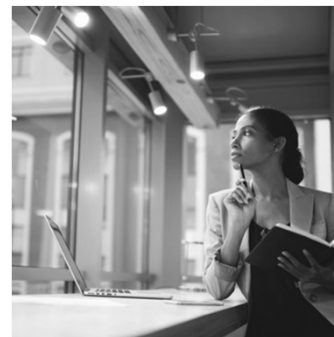
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Scenario 1

Pre-delegation assessment

What is your approach?

- ▶ Performing service for years
- ▶ Small team – no compliance officer or formal program
- ▶ Has never worked with MA
- ▶ Discuss



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Scenario 1

Pre-delegation assessment

- ▶ Get ahead of issues
- ▶ Identify gaps first
- ▶ Establish recommendations
- ▶ Corrective Action Plan (CAP)
- ▶ Monitoring plan
- ▶ Validation



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Scenario 2

Analyze all circumstances during pre-delegation

Determine roles to address:

- ▶ Issues of harm
- ▶ Data breach
- ▶ Member misunderstanding of benefits

Responsibility for organization determinations, appeals, & grievances

- ▶ Benefit limitation/medical necessity



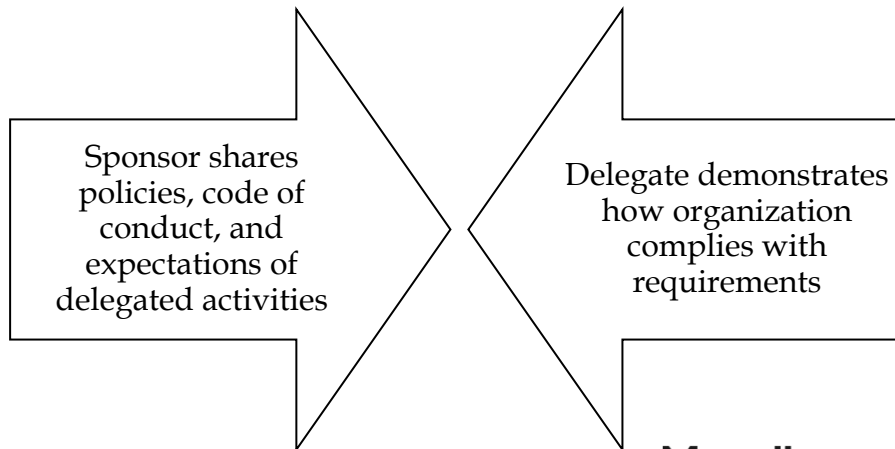
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Partnering with your delegate

Partner is the key word!



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Stage 3: High frequency monitoring

The benefit goes live!

- ▶ Is Utilization Management ready?
- ▶ Grievance and Appeals readiness
 - ▶ SSBCI are subject to the appeals process
 - ▶ Are reconsideration requests being identified?
- ▶ Appeals: delegated or internal?
- ▶ Are criteria in place to make those decisions?



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Stage 3: High frequency monitoring

- ▶ Reports: review and provide feedback timely
- ▶ Listening in on calls: identifying grievances and forwarding properly?
- ▶ Invoice review and validation
- ▶ Tailor monitoring to the benefit provider
 - ▶ Do not apply requirements which are not applicable

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Stage 3: High frequency monitoring

Common misses in the industry

1. Failure to check the correct exclusion lists for applicable employees
2. Protected Health Information (PHI) accessed for reasons other than treatment, payment and healthcare operations activities
3. Leaving PHI or ePHI unsecured
4. Billing for services not rendered
5. Failure to report non-compliance – sponsor provides multiple methods

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Scenario 3

The product is launched, the benefit is live

Non-medical transport vendor

- ▶ Contract: fees prorated if multiple people going to same destination at same time
- ▶ Monthly invoices are coming in with:
 - ▶ Individual/per member charges
 - ▶ Potential double charges for round-trips
- ▶ Is member sign-off required for ride?
- ▶ Consider roles/responsibilities for monitoring



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Stage 4: Annual assessment

Monitoring and Auditing FDRs: First Tier Entities (FTEs)

Sponsors must conduct specific monitoring of first tier entities to ensure they fulfill the compliance program requirements. When a sponsor has a large number of first tier entities, making it impractical and/or cost prohibitive to monitor or audit all first tier entities for all compliance program requirements, the sponsor may perform a risk assessment to identify its highest risk first tier entities, then select a reasonable number of first tier entities to audit from the highest risk groups. Monitoring of first tier entities for compliance program requirements must include an evaluation to confirm that the first tier entities are applying appropriate compliance program requirements to downstream entities with which the first tier contracts.]

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Stage 4: Annual assessment

Monitoring and Auditing FDRs

Revisit pre-delegation assessment

Review adherence to delegated functions and compliance controls

Partner with privacy and security officer

Where do vendors fit in, if not identified as FTEs?

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Summary of tips discussed

1. Seat at the table
2. Benefit meets criteria?
3. Determine FDR status early in the process: assess risk
4. Partner with your delegate early
5. Contract roles
 - Compliance, Legal, Privacy, Security
6. Pre-delegation assessment
 - Onsite or remote
7. Customize approach
8. Consider worst case scenarios
9. CAPs and recommendations
10. Establish frequent monitoring tailored to the benefit provider's activities
11. Plan annual assessment

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Additional References

- ▶ Electronic Code of Federal Regulations
- ▶ Bipartisan Budget Act of 2018
- ▶ Announcement of Calendar Year 2020 Medicare Advantage Capitation Rates and Medicare Advantage and Part D Payment Policies and Final Call Letter
- ▶ Part C and Part D Compliance Program Guidelines

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Thank you!

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