


**Identifying Compliance Problems
Within Your Practice**

Cris Miller, CMPE, CHC, CCS-P
Healthcare Consulting Partner
MCM CPAs & Advisors

Dependable, Trusted, Bold, Attentive, Adapting, Progressive, Resourceful, Passionate, Gated, Dynamic, Leading, Committed, Inspiring, Authentic, Committed, Possessed, Inspiring, Thoughtful, Innovative, Forward Thinking, Bold, Attentive, Adapting



Forewarned is ForeArmed


- Follow the OIG compliance plan outline
- This process will bring potential compliance issues to the attention of the practice and make dealing with them more timely and forthright
- Knowing that all members of the practice are aware of compliance needs and tools will make the practice more compliant and less likely to become a target
- In the case of becoming a target, having an active and involved staff that is aware of and participates in the implementation and ongoing working of the compliance plan could allow some mitigation of damages

A Member of the Overstocked - An Association of Independent Accounting Firms



**The OIG has Specific Recommended Program Guidance
for Individual, Small and Large Group Practices**

- Conduct internal monitoring and auditing
- Implement compliance and practice standards
- Designate a compliance officer or contact
- Conduct appropriate training and education
- Respond appropriately to detected offenses and develop corrective action
- Develop open lines of communication with employees
- Enforce standards through well-publicized guidelines


COMPLIANCE & REGULATION

A Member of the Overstocked - An Association of Independent Accounting Firms

NCA
CRA & ADVISOR

Conduct Internal Monitoring and Auditing

Some potential issues for RAC's as posted on their websites

- CMS Medicare Overpayment Recoveries Related to Recommendations in OIG Audit Reports
- Medicare Part B Drug Payments
- Medicaid Services Provided by Telecommunication Systems
- Medicare Payments for Bariatric Surgeries

If you want to put these on your radar for review, the website is <https://oig.hhs.gov/reports-and-publications/archives/workplan/index.asp>

A Member of the American Association of Independent Consulting Groups

NCA
CRA & ADVISOR

Implement Compliance and Practice Standards

- Prohibit bringing forward EHR information from prior encounters, including:
 - Prior diagnoses
 - Prior history
 - Prior exam
 - Prior test results
 - Prior vitals
- Ensure all documents are signed and dated
- Ensure no written records leave the office
- Ensure electronic communications are secure and private
- Develop and enforce security measures on who and when individuals can access medical records
- Other standards that may apply directly to your practice

A Member of the American Association of Independent Consulting Groups

NCA
CRA & ADVISOR

Implement Compliance and Practice Standards


- Determine who will perform coding functions:
 - Certified Coder
 - Provider
- Determine how those codes will be reviewed and on what basis
- Develop a plan of action when errors are identified
- Action plan must include education of individuals involved in errors
- Develop a corrective action plan to improve outcomes

A Member of the American Association of Independent Consulting Groups

NCM
CRA & ADVISOR

Designate a Compliance Officer

- Select an individual who you trust and would associate with “doing the right thing”
 - Not a physician
 - Not the practice administrator
 - An individual who reports to the practice committee or board on any compliance issues
- A plan must be put in place as to how the compliance officer operates and the duties as to practice compliance




A Member of the American Association of Independent Knowledge Group

NCM
CRA & ADVISOR

Conduct Appropriate Training and Education

- As problems are identified and corrected:
 - Educate the appropriate personnel on the corrective action plan
 - Test after a six month period to determine if plan is addressing the problem appropriately
 - Provide update education in emails or articles that can support your corrective action plan
 - Demonstrate and communicate improvement and how the plan is working



A Member of the American Association of Independent Knowledge Group

NCM
CRA & ADVISOR

Respond Appropriately to Detected Offenses and Provide Corrective Action

- A compliance plan cannot “wait” for offenses to occur and then correct them
- A compliance plan must proactively review potential areas for error, identify and correct them
- A compliance plan must include methods for maintaining knowledge and awareness of changes and adjustments to current rules and methodologies developed by government and commercial entities

A Member of the American Association of Independent Knowledge Group

NCM
CRA & ADVISOR

Locating Potential Problem Areas


- Look at your high volume visits and procedures
- Compare those services to the OIG website and other documents listed earlier
- If there is a high volume of services that fall within a targeted area:
 - Perform a directed review of these types of services
 - A probe audit would be 30 – 50 claims, this would be enough to determine if there is a potential problem
 - If a problem is identified, get an independent review

A Member of the American Association of Independent Consulting Group

NCM
CRA & ADVISOR

Develop Open Lines of Communication with Employees

- Keep an open door policy (within reasonable limits)
- Have regular staff meetings where compliance is always on the agenda
- Develop relationships with employees and providers
- Keep your word
- Confidential means confidential (don't have those who are "in the know")



A Member of the American Association of Independent Consulting Group

NCM
CRA & ADVISOR

Enforce Standards Through Well-Publicized Guidelines

- Put your compliance plan in writing
- Disseminate it to your providers and employees
- Plan an annual meeting to discuss compliance and potential issues with the plan
- Ask for input when writing the plan from all departments, don't operate in a vacuum
- When issues are raised, address them within a reasonable time with a reasoned response

A Member of the American Association of Independent Consulting Group

NCM
CMA & ADVISOR


How do I identify potential compliance problems?

- Subscribe to CMS Medlearn
 - The CMS Medlearn (MLN Matters) tool is an invaluable, constant source of information that comes directly to your inbox as adjustments and changes are made to CMS rules and regulations
- This tool is available for free at <https://list.nih.gov/cgi-bin/wa.exe?AO=mlnmatters>
 - Sign up for what specifically applies to your practice. You will be inundated with information if you sign up for too much
 - Review the information as soon as possible to ensure compliance with new rule changes
 - Many times this information comes out shortly before implementation and even after implementation has started. It is important to be as informed as possible

A Member of DiversiGlobe - An Association of Independent Consulting Groups

NCM
CMA & ADVISOR

What does it look like?




A Member of DiversiGlobe - An Association of Independent Consulting Groups

NCM
CMA & ADVISOR

How do I Identify Potential Compliance Problems?

- Identify multiple reference tools, in addition to Medlearn, that can help keep you updated on ongoing changes and challenges in your industry:
 - HCCA alerts, website newsletters and magazine
 - MGMA alerts, website newsletter and magazine
 - Department of Justice alerts
 - AHIMA coding alerts and magazine
 - Fraternal organizations for Provider Specialty, AAFP, AOP, AAA



A Member of DiversiGlobe - An Association of Independent Consulting Groups

NCM
CRA & ADVISOR

How do I Identify Potential Compliance Problems?

- Look at your Medicare Administrative Contractor webpage to see their areas of concern. Currently, there are ten pages of concerns
- Look at the Work Plan for your Recovery Audit Contractor.
- They are required to post a list of CMS approved issues that they are investigating
- You can find your contractor and a link to their website at this website: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/>

A Member of the American Association of Independent Consulting Firms

NCM
CRA & ADVISOR

OK – I’ve Done All This – How Do I Monitor?

- Run a report on CPT or ICD-10 code.
 - Look specifically at areas of interest of the DOJ or the OIG
 - Primary Care
 - Specialty
 - Opioid addiction treatment
 - Others
 - Look at your Medicare Administrative Contractor Web Page to see their areas of concern. Currently, there are ten pages of concerns
 - Look at the Work Plan for your Recovery Audit Contractor
 - They are required to post a list of CMS-approved issues that they are investigating
 - You can find your contractor and a link to their website at this website: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/>

A Member of the American Association of Independent Consulting Firms

NCM
CRA & ADVISOR

Conduct Internal Monitoring and Auditing


- Develop a compliance plan that includes ongoing targets for monitoring, auditing and corrective action
 - Review Modifier 25 claims at least quarterly – these are among the most targeted areas of review
 - Review E & M levels (although this may be changing) quarterly as well.
 - Identify new targets through the OIG work plan that is changing monthly now
 - Most recent updates that may affect small practices:
 - HRSA’s Oversight of Funds for Access increases in MH/SA Services
 - Review of Post-Operative Services Provided in the Global Surgery Period
 - Medicare Part B Payments for ESRD
 - Denials and Appeals in Medicare Part C
 - Prescription Drug Monitoring Programs

A Member of the American Association of Independent Consulting Firms

NCM
CRA & ADVISOR

Conduct Internal Monitoring and Auditing

- Check opioid prescribing habits and volume
- Check how many patients are being seen per day by any given provider. How much time are they spending with patients?
- Look at ordering volume of ancillary tests, especially ones that are performed within your practice



A Member of the American Association of Independent Consulting Group

NCM
CRA & ADVISOR

Conduct Internal Monitoring and Auditing

- Your physician should be performing all aspects of the history, exam and medical decision-making
 - A scribe is okay, but the scribe needs to detail her activity and sign and date the record as well as the provider
 - A nurse cannot perform the entire history and then the physician come in and perform the exam
 - Templates must be selected, not automatically appear

A Member of the American Association of Independent Consulting Group

NCM
CRA & ADVISOR


Conduct Internal Monitoring and Auditing

- Problems do not just occur in coding of claims
- Anti-kickback accusations and Stark violations can be just as damning and/or more expensive than False Claims
 - Review all contracts with referral sources, including:
 - Operating leases
 - Office space leases
 - Equipment leases
 - Medical director agreements
 - Service agreements
- If it smells bad, it probably is bad
- Make sure that all services required in the agreements are actually performed and that your providers are documenting their time for all service agreements together with service performed

A Member of the American Association of Independent Consulting Group

Ok, I Think I Have A Problem, Now What?

- Inform the compliance officer
- Identify your population
 - What types of patients are involved?
 - Insurance
 - Gender
 - Age
 - Diagnosis
 - Procedure
- Select a probe sample of 30 – 50 claims from the entire population that meets the criteria for your problem
- You can select the probe sample by using the RAT-STATS software, as developed by the OIG. It is the only sampling software the government uses
- Found here:
https://www.oig.hhs.gov/organization/oas/ratstats/UserGuide2010_04js.pdf



A Member of the American Society of Independent Sampling Group

Ok, I Think I Have A Problem, Now What?

- After the probe sample has been selected:
 - Review the sample according to the payer's payment guidelines to determine if there is a potential problem
 - If there are no negative findings, then document the findings and keep it in a safe place
 - If there are negative findings, determine the error rate (add the overpayments and the underpayments, subtract from the original payment and divide by the original payment) and make a determination if you want to continue the investigation (it would be good to get a healthcare lawyer involved at this point)
 - If the decision is made to go forward to back the original rat-stats report and investigate more samples, don't run another RAT-STATS report. You will have discard your original sample and lose that work

A Member of the American Society of Independent Sampling Group


Ok, I Think I Have A Problem, Now What?

- Review the documents in the sample and determine any over or underpayments that were made from this payer
- Work with the compliance officer and the compliance committee continually to keep them informed of the process and outcome
- Work with the healthcare lawyer to maintain attorney client privilege doctrine
- If a compliance problem is researched and identified, work with the healthcare lawyer and the compliance committee to determine next steps

A Member of the American Society of Independent Sampling Group

Ok, I Think I Have A Problem, Now What?



- Check your medical malpractice insurance policy to determine if you have coverage that would pay for outside investigations
 - Usually coverage will be paid for civil investigations but not criminal. However, an investigation can change from criminal to civil and then the payment mechanism would trigger
 - Cover for civil investigations would pay for your lawyer, any experts and other expenses that the practice might incur because of this investigation
 - Check your insurance policy before you need this coverage. If you don't have it, ask your insurance agent about it



A Member of the American Association of Independent Compliance Officers

Ok, I Think I Have A Problem, Now What?

- Don't do this:
 - Ignore the problem
 - Go off on an investigation without informing the compliance officer
 - Move forward without a **healthcare attorney**
 - Perform the investigation independently of your practice




A Member of the American Association of Independent Compliance Officers

Wrap-Up


Remember:

- If you have a strong compliance plan
- Follow OIG guidelines
- Understand the CMS contractor targets and issues related with those targets
- Continue to educate your staff and providers
- Stay vigilant and do regular billing and coding audits
- Repay overpayments as soon as you identify them

You will reduce your risk significantly of being the target of an investigation.



A Member of the American Association of Independent Compliance Officers



Questions?

Cristine Miller, CMPE, CHC, CCS-P
Healthcare Consulting Partner
Director, Strategic Analytics & Compliance
MCM CPAs & Advisors
cris.miller@mcmcpa.com
(502) 882-4341

Member of the American Institute of Certified Public Accountants
