Medicare Risk Adjustment Compliance

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Agenda

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- Recent News and Enforcement Trends
- Medicare Risk Adjustment Overview
- Risk Adjustment Compliance Standards
- Risk Adjustment Compliance Framework
- Analytical Techniques and Tools
- Methods for Conducting an MRA-related Internal Investigation

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RECENT NEWS AND ENFORCEMENT TRENDS

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Enforcement In the News: Government Inquiries

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U.S. probing insurers beyond UnitedHealth over Medicare charges

Nate Raymond
Friday, 17 Mar 2017 | 1:08 PM ET

REUTERS

March 17 (Reuters) - The U.S. Justice Department disclosed it is investigating four health insurers after a lawsuit accused them of defrauding Medicare by claiming patients were treated for conditions they either did not have or received no treatment for.

The Justice Department revealed th... Inc, Cigna Corp's Bravo Health Inc an... Tuesday in federal court in Los Ange... recently joined against UnitedHealth...

The Justice Department last month j... False Claims Act lawsuit brought by... Benjamin Poehling, whose whistlebl... and other insurers was filed under s...

Under the False Claims Act, whistl... government's behalf to recover taxp... fraudulent claims.

THE
NATIONAL LAW REVIEW

Justice Department Joins Whistleblower Suit Accusing UnitedHealth Group of Overcharging Medicare by "Hundreds of Millions"

Scheme Tied to UnitedHealth Overbilled Medicare for Years, Suit Says

By MARY WILLIAMS WALSH FEB. 16, 2017

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Enforcement In the News: Individual Liability

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Tampa Bay Times
WINNER OF 10 PULITZER PRIZES

Judge sentences former WellCare execs to prison in Medicaid fraud

By Jodie Tillman, Times Staff Writer
Monday, May 19, 2014 1:54pm

TAMPA — Three former WellCare exec... to keep Medicaid money for the compa...

All three prison terms were far less tha...

U.S. District Judge James S. Moody Jr.... prison and pay a $50,000 fine. Former... former vice president William Kale a s...

Prosecutors had asked the judge to imp... which, in Farha's case, called for a term...

Addressing a courtroom packed with th... perspective. He noted that prosecutors... of the billions that the state paid the co...

Moody said the men posed no risk of re... dimmed. "No sentences could punish t...

The trio remains out on bail pending ap... appeal but also praised the sentencing...

"We are grateful that Judge Moody, in... recognized the complex circumstances...

The New York Times | http://nyti.ms/1NiRp4i

U.S.

Justice Department Sets Sights on Wall Street Executives

By MATT APUZZO and BEN PROTESS SEPT. 9, 2015

WASHINGTON — Stung by... criminals, the Justice Depar... the prosecution of individua... pressure on corporations to...

The new rules, issued in... major policy announcement... office in April. The memo is... record fines from major cor... Obama has punished few ex... meltdown and corporate scandals.

More Scrutiny Coming For Medicare Advantage, Obamacare

NOVEMBER 04, 2014 12:29 PM ET

NPR.ORG

Fred Schulte

Federal officials are planning a wide range of audits into billing and government spending on managed health care in the new fiscal year, ranging from private Medicare Advantage groups that treat millions of elderly to health plans rapidly expanding under the Affordable Care Act.

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Qui Tam FCA Actions on the Rise

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* Department of Justice, Fraud Statistics – Overview, October 1, 1987 – September 30, 2016
https://www.justice.gov/opa/press-release/file/913361/download [last visited March 15, 2017]

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Overview of MRA Specific Activity

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2010 - 2012	2013 - 2014	2015	2016	2017
• Janke settlement • DOJ intervenes in Swoben (SCAN); SCAN settlement • Graves case filed in Florida • Valdez case filed in California • 4 OIG reports on risk adjustment data validation audits • 1 GAO report on need for CMS to improve accuracy of RAFs	• Graves, Conte, Silingo and Valdez cases unsealed; DOJ declines to intervene • 2 OIG reports on risk adjustment data validation audits • 2 GAO reports on need for CMS to improve accuracy of RAFs and encounter data • Center for Public Integrity creates its "Medicare Advantage Money Grab" page	• Dr. Isaac Thompson criminally charged • Ramsey-Ledesma case unsealed; DOJ declines to intervene • Valdez case moved from CA to Puerto Rico • DaVita Healthcare Partners receives subpoenas • Letters from Senators Grassley and McCaskill to CMS and DOJ re: accuracy of risk scores and payments	• Dr. Isaac Thompson pleads guilty; sentenced to 3.8 years • Conte case dismissed without prejudice • Silingo case settled and dismissed with prejudice (MedXM) and without prejudice (other defendants) • Swoben decision out of 9th Circuit re: two-way chart reviews • 1 GAO report on need for CMS to improve accuracy of RAFs	• Poehling case unsealed; DOJ intervenes (UHG) and announces investigations of other MAOs • DOJ also intervenes in Swoben; complaint dismissed • Graves case settles in December • Ramsey-Ledesma case looks to be settling • Valdez case proceeding in Puerto Rico • 1 GAO report on need for CMS to improve accuracy of encounter data

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MEDICARE RISK ADJUSTMENT OVERVIEW

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Medicare Risk Adjustment Overview

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Diagnosis Submission Process

Provider Documents Member Visit in the Medical Record
↓
Provider's Office Assigns Diagnosis Codes
↓
Provider Submits Encounter to MA Plan

→

MA Plan Processes and Filters Provider Encounter Data
↓
MA Plan Submits Risk Adjustment Data to CMS

→

CMS

CMS Processes Data for Risk Adjustment Calculation and Payment
↓
CMS Returns Data (Accepted or Error Code Status)

MA Plan Data and Payment Accuracy Processes →

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Medicare Risk Adjustment Overview

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Several HCCs		Some HCCs		No HCCs	
82 year-old male	0.597	82 year-old male	0.597	82 year-old male	0.597
Medicaid Eligible	0.166	Medicaid Eligible	0.166	Medicaid Eligible	0.166
Diabetes w/ Renal Disease (HCC 17)	0.508	Diabetes (HCC 19)	0.162	Diabetes - Not Coded	N/A
Rheumatoid Arthritis (HCC 40)	0.346	Rheumatoid Arthritis (HCC 40)	0.346	Rheumatoid Arthritis - Not Coded	N/A
Acute Renal Failure (HCC 134)	0.368	Acute Renal Failure - Not Coded	N/A	Acute Renal Failure - Not Coded	N/A
Hemiplegia (HCC 103)	0.437	Hemiplegia - Not Coded	N/A	Hemiplegia - Not Coded	N/A
Disease Interaction: HCC 17 + HCC 103	0.102	No Disease Interaction	N/A	No Disease Interaction	N/A
Risk Adjustment Factor	**2.524**	**Risk Adjustment Factor**	**1.271**	**Risk Adjustment Factor**	**0.763**
Monthly Premium	**$2,282**	**Monthly Premium**	**$1,149**	**Monthly Premium**	**$690**
Annual Premium	**$27,382**	**Annual Premium**	**$13,789**	**Annual Premium**	**$8,278**

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RISK ADJUSTMENT COMPLIANCE STANDARDS

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Risk Adjustment Compliance Standards

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Submit Accurate Risk Adjustment Data.
- Submit risk adjustment data that is "accurate, complete and truthful" "(based on best knowledge, information and belief)." 42 C.F.R. 422.504(l).
- Be "continuously diligent regarding the accuracy and completeness of payment-related data [submitted] to CMS for a payment year, whether during or after that payment year . . ." 79 F.R. 29844, 29920 (May 23, 2014).

Report and Return Risk Adjustment Data Identified as Inaccurate.
- "If an MA organization has identified that it has received an overpayment, the MA organization must report and return that overpayment . . . no later than 60 days after the date on which it identified it received an overpayment . . . ." 42 C.F.R. 422.326.
- Delete erroneous risk adjustment data "as soon as possible." Medicare Managed Care Manual ch. 7 § 40.

Systematically and Proactively Verify the Accuracy of Risk Adjustment Data.
- Implement "an information collection and reporting system reasonably designed to yield accurate information." This includes ordinary "sample audits and spot checks . . . to verify whether [the system] is yielding accurate information." 64 Fed. Reg. 61893, 61900 (November 15, 1999).
- Exercise "reasonable diligence" in determining risk adjustment data inaccuracies. This includes maintaining "proactive compliance activities." 79 F.R. 29844, 29923 (May 23, 2014).

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Investigate Potentially Inaccurate Risk Adjustment Data.
- Investigate potential Fraud, Waste, and Abuse ("FWA") activity to "make a determination whether potential FWA has occurred. Sponsors must conclude investigations of potential FWA within a reasonable time period after the activity is discovered." Medicare Managed Care Manual ch. 21 § 50.7.3.
- Exercise "reasonable diligence" in determining risk adjustment data inaccuracies. This includes investigating "credible information" indicating inaccuracies/overpayments. 79 F.R. 29844, 29923-29924 (May 23, 2014).

Closely Manage Subcontractors Responsible for Generating Risk Adjustment Data.
- Have systems in place to "monitor . . . FDRs' compliance with Medicare program requirements." "CMS may hold the sponsor accountable for the failure of its FDRs to comply with Medicare program requirements." Medicare Managed Care Manual ch. 21 § 40.

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RISK ADJUSTMENT COMPLIANCE FRAMEWORK & ANALYTICAL TECHNIQUES

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Robust Auditing and Monitoring Program for Plan, Providers and Vendors
- Account for plan processes (e.g., data filtering logic; employed coders)
- Account for provider and vendor financial incentives (e.g., risk-sharing arrangements; ROI evaluations of vendors; Fair Market Value unit payments)
- Account for provider education gaps (e.g., FFS providers with significant errors)
- Assess audit protocols (e.g., target accuracy rates, CAPs) and types (e.g., by risk score, HCC or ICD-10 code)

Robust Training and Education Process for Providers and Vendors
- Establish controls over provider and vendor selection and management
- Communicate clear expectations regarding documentation requirements and diagnosis coding
- Assess EMR systems and capabilities

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Risk Adjustment Compliance Standards

Well-Established and Publicized Mechanism for Reporting Potential Data Inaccuracies and FWA
- Establish documented tone promoting disclosure of issues (applicable to employees, network providers and vendors)
- Establish clear mechanisms promoting disclosure of issues

Dedicate Resources to Identifying and Investigating Potential Inaccuracies and FWA
- Ensure resources exist to recognize and promptly address reported instances of inaccuracies and FWA
- Implement a compliance monitoring platform to systematically benchmark providers along various compliance-oriented metrics
  - Benchmark risk scores & HCC prevalence rates and compare changes in prevalence rates across years to identify potential outliers
  - Identify patterns of PCPs coding acute conditions as part of routine office visits
  - Identify patterns of PCPs coding specialist conditions (e.g. cancer) with no supporting specialist visits, procedures or prescriptions indicating ongoing management or treatment
  - Monitor concentration of diagnosis coding in "unspecified" codes

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Risk Adjustment Compliance Standards

Appropriately Tailored Risk Adjustment Data Collection Efforts
- Pair processes designed to ensure complete data with processes to ensure (a) accurate data and (b) apt member care
- Evaluate RAPS and encounter data submission systems and filters

Well-Established Mechanisms for Using Risk Adjustment Data to Support Clinical Programs
- Establish/emphasize processes to connect members to primary care providers and clinical programs based on diagnoses reflected in risk adjustment data
- Assess clinical outcomes and impact of programs that capture complete and accurate risk adjustment data
- Consider HEDIS & STAR ratings overlap

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INTERNAL INVESTIGATIONS OF MRA-RELATED ISSUES

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**Internal Investigations:
Topics for Discussion**

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- Goals of Investigation
- Knowing When to Investigate
- Opening the Investigation
- Structuring and Planning
- Best Practices for Maintaining Privilege Protections
- Managing Documents and Witnesses
- Managing External Scrutiny
- Remediation
- Reporting the Results

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