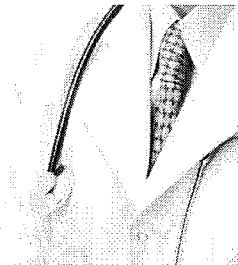



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**WA-AK HFMA  
SPRING  
CONFERENCE**

*Northern Quest Resort & Casino  
Spokane, Washington  
May 7, 2014*



Lori Nomura  
206.447.7895 | [lnomul@foster.com](mailto:lnomul@foster.com)




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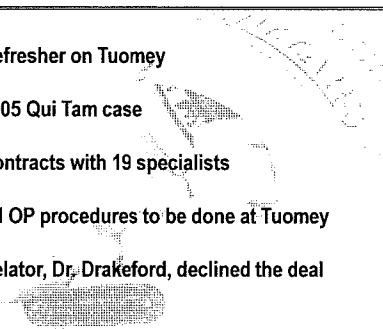
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**FRAUD AND ABUSE UPDATE**

- Refresher on Tuomey
- 2005 Qui Tam case
- Contracts with 19 specialists
- All OP procedures to be done at Tuomey
- Relator, Dr. Drakeford, declined the deal



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**TUOMEY** continued

- Two juries have found Stark and FCA violations
- 21,730 false claim
- \$39,313,065 in improper payments
- \$228 million in penalties and fines



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### HALIFAX HOSPITAL SETTLES

- District Hospital
- Qui tam action brought in 2009
- Stark and FCA violations
- Nov 2013 US District Court granted summary judgment for govt on Stark claims for medical oncologists
- About 25,000 claims
- Approximately \$19 million in improper billings

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### HALIFAX HOSPITAL PAYS \$85 MILLION

- Failed to meet Stark employment exception
- Medical oncologists – bonuses for prescription drugs
- Neurosurgeons – compensation exceeded FMV

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### HALIFAX

- Government expert reviewed UB-92s & UB-04s
- About 25,000 claims = about \$137 million or up
- \$85 million settlement is about 4x damages
- 5 year CIA
- Relator paid \$20.8 million

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**Lessons learned**

- Compliance check physician compensation arrangements regularly (annually).
- Know the technical requirements of the rules
- Evaluate all aspects of a deal collectively
- Favorable valuation won't fix bad facts

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**TWO-MIDNIGHT RULE**

- Long history of short stay denials
- Only stays the physician expects will last two midnights longer
- Finalized in 2014 IPPS Final Rule: acute hospitals, LTCH, CAH, IPF
- Admissions – October 1, 2013

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**EXCEPTIONS**

- Expectation that stay will cross two mid-nights
- “unforeseen circumstances” resulting in shorter stay
- For shorter stays, only “rare and unusual circumstances” qualify

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**RULE**

**Clock starts when hospital services start**

**Physician certification: signed and dated before discharge**

- Services are reasonable and necessary
- Reason for services
- Estimated time for admission

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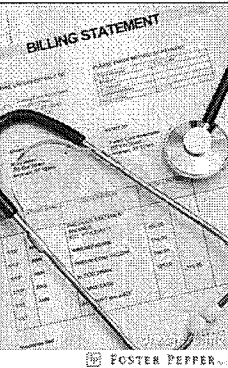
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**REBILLING**

- Short stays are billed under Part B
- Must occur within 1 year of service
- Appeal process may prevent rebilling
- Post-payment reviews delayed to September 30, 2014



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**MODEL TELEMEDICINE POLICY**

- Federation of State Medical Boards
- Physician-patient relationship – personal encounter not required
- Telemedicine typically involves secure videoconferencing or store and forward technology

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## GUIDELINES

- Licensure
- Physician-patient relationship
- Medical evaluation – clinical history
- Informed consent
- Medical records

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## PROVIDER DISCLOSURE REQUIREMENTS

- Services provided
- Physician contact information
- Licensure and qualification
- Fees for services and payment terms
- Information on financial interests/conflicts

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## REQUIREMENTS (continued)

- How to access and amend
- How to file complaints
- Rights regarding patient health information
- Use and response times for email, etc.



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### FQHC PPS

- ACA required new PPS for 1<sup>st</sup> cost reporting period starting or after October 1, 2014
- Part B payments on an encounter based per-diem \$158.85
- Public comment through July 1



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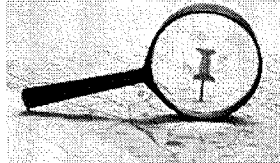
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### FQHC PPS ADJUSTMENTS

- Geographic adjustment factor
- New patient, IPPE, AWW = 35% increase
- RHC change permits contracts with non-physician practitioners when certain conditions are met



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### HEALTH CENTER / FQHCs

- Policy Information Notice 2014 – 01 on Health Center Governance
- FQHCs, look-alikes, CHCs, etc.
- Governance, co-applicant agreement requirements, etc.

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## PATIENT ACCESS TO LAB RESULTS

HIPAA excluded PHI held by CLIA and CLIA-exempt labs

- CLIA regs historically limited patient access to reports
- Labs must verify patient identity
- Labs should update patient access policies and NPP
- Effective April 5, 2014
- Compliance deadline October 2, 2014

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## IRC Section 501(r) GUIDELINES

Notice 2014.2 and 2014.3

ACA added Section 501(r) to maintain exempt status

- CHNA
- FAP and EMTALA
- Limit charges
- Billing and collection procedures

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## Notice 2014.3 Proposed Revenue Procedure

Correcting and disclosing 501(r) failures

- Neither willful nor egregious
- Corrected timely
- Disclosed



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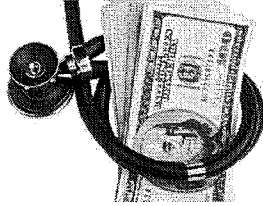
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## EXAMPLES

- Failure to adopt a compliant CHNA
- Failure to adopt a compliant FAP
- Charging more than permitted amount



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## DISCLOSURE



- Made on Schedule H of Form 990 and include a description of:
  - failure and impact
  - how it was discovered
  - corrections made

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## DOH RULES UPDATE

*Rules & Regulations*

- New CN Unit rule effective January 23, 2014
- Policy submission – March 25, 2014
- Expansion of CN review

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**POLICY SUBMISSION**

**WAC 246-320-141**

**Access to care policies**

- Admissions
- Nondiscrimination
- End of life care
- Reproductive health care

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**CN REVIEW**

**WAC 246-310-010**

**"Purchase or sale" now means any change in control transaction**

**WSHA litigation**

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**OPEN GOVERNMENT TRAINING ACT**

- **Effective July 1, 2014**
- **Government officials (including PHD Commissions) and Public Record Officers**
- **Mandatory training on Open Public Meetings Act and Public Records Act**

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## PSYCHIATRIC BOARDING – Single Bed Certs

- Pierce County judge invalidated use of single bed certs for 72 hour detentions and 14 day involuntary holds
- Services require an evaluation and treatment facility
- What service, if any are hospital required to provide?

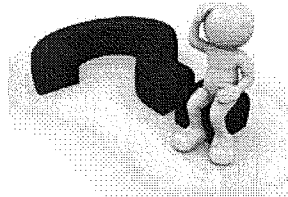
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## QUESTIONS?

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