

TOP COMPLIANCE ISSUES OF 2013



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Private Payer Reviews

➤ Increased Audits

- Increased Availability of Electronic Data
- More Immediate Audits - Determination of “Medically Necessary” Before or During Treatment
- Providers Need to Respond Quickly
- Pre-claim reviews (no more pay and chase)

➤ Self-Denials

- Hospitals Discount Claim Pre-Submission (or No Submission)
- Sometimes False Assumption that Payer Will Deny

➤ Sequester

Private Payer Reviews Continued

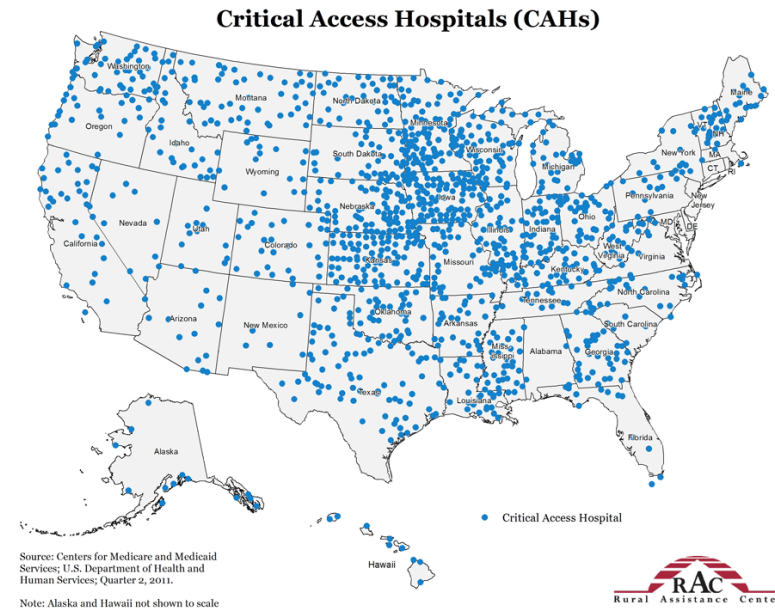
Tips

- Know Your Contracts
- Review Billing Rules for Each Private Payer
- Awareness of Arbitrary Payer Policies
- Understand and Utilize Appeals Process
- Educate Staff



CAH Decertification

- CAHs Not Meeting Location Requirements
 - 35 miles from another hospital
 - 15 miles from another hospital if mountainous terrain
- Pre-2006 - State Designated “Necessary Providers”
 - Necessary Providers ≠ Location Requirements
- Gov’t Savings = \$449 Million in 2011 if CAHs <15 miles from other hospitals were decertified

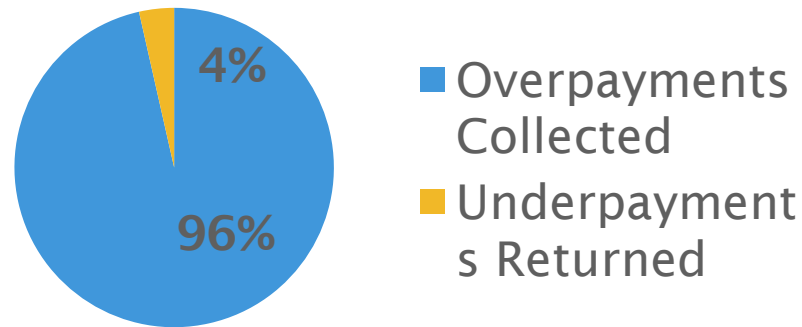


Billing Compliance

- “Ordering Physician Rule”
- WA Reimbursement Issue: Non-Medicaid Providers Treating Medicaid Patients at Hospitals
- Site of Service Compliance
- “Two-Midnight Rule”

Medicare/Medicaid RAC Audits

- Medicare RAC Audits for Region D Q2
 - \$226.2M Total Quarter Corrections
 - \$452.1M FY to Date Corrections



- Medicaid RAC Efforts
 - ACA expanded RACs to Medicaid
 - Desk Audits & Onsite Audits
- Top Issue for Region D: Minor Surgery & Other Treatment Billed as Inpatient (medical necessity)

CMS Programs & Penalties

- EHR Meaningful Use - Professionals & Hospitals 2015
 - Professionals = 1% Reduction to Medicare Part B Reimbursements
 - Hospitals = 25% Reduction to Medicare Part A Reimbursement Increases
- e-Prescribing Penalties - Professionals
 - Reductions in Medicare Part B Reimbursements Began in 2012
 - 2014 = 2% Reduction to Medicare Part B Reimbursements
- PQRS Penalties - Professionals
 - 2015: 1.5% Reduction in Medicare Part B Reimbursement (based on 2013 Reporting)
 - 2016: 2% Reduction in Medicare Part B Reimbursement (based on 2014 Reporting)

EHR, eRx and PQRS also have incentive payment opportunities (which will avoid penalties)

Readmissions Reduction Program

- Applicable Conditions:
 - Acute Myocardial Infarction (heart attack)
 - Heart Failure
 - Pneumonia
- Medicare Payment Adjustments
 - 2013 - up to 1%
 - 2014 - up to 2%
 - 2015 - up to 3%
- CMS projects \$280 million from 2013 penalties

Excluded Providers

- No Federal Payment for Services Ordered/Performed by Excluded Provider
- Employees & Contractors
 - Providers & Entities
 - Administrative & Management functions
- Penalties & Criminal Liability
 - 2013: Between \$3K - \$214K
- Check LEIE Database
 - Before Hire/Contract
 - Monthly/Periodically



HIPAA

- New HITECH Rules Published in January
- Compliance by **September 23, 2013**
- Increased Penalties for Non-Compliance
- Changes to:
 - Business Associate Agreements
 - Breach Notification Rules
 - Notice of Privacy Practices
 - Individual Rights to Access & Restrict Disclosures of PHI
 - Fundraising & Marketing Communications
 - Sale of PHI

False Claims Act

- General Prohibition Against Submitting False Claims
 - Stark Law
 - Anti-Kickback Statute
 - Mandatory Reporting of Overpayments
- Increased Whistleblower Incentives
 - 15-30% of Settlement/Verdict
 - No Retaliation
- 60 Day Overpayment Rule (from ACA)
- WA State Medicaid False Claims Act
 - WA Retains Share of Recovery



Stark Law Enforcement

- Stark Law Enforcement Actions

Tuomey

- \$39M Jury Verdict
- \$277M False Claims Act
- Physician Contracts

Halifax

- \$600M DOJ Demand
- Physician Contracts - FMV

Intermountain Health

- \$25M Settlement
- Leases & Physician Contracts

- Self-Referral Disclosure Protocol

Stark Law Applicability



- Example Areas of Stark Applicability
 - Joint Ventures with Physicians
 - Personal Services Arrangements
 - Facility and Equipment Leases
 - Gifts to Physicians (Only Nominal Amount Permitted)
 - IT Donation Arrangements - Final Rule on Extension Pending
- Review Agreements Between Hospitals and Physicians
 - Expired Agreements?
 - Services Consistent with Terms of Agreement?
 - FMV of Compensation/Commercially Reasonable
 - Tracking Payment of Gifts & Entertainment

IRS 501(c)(3) Obligations

- New ACA Mandated Requirements
 - Conduct a Community Health Needs Assessment Every 3 Years
 - Adopt Implementation Strategy to Comply with the Assessment Requirement
- Needs Assessment Must Include:
 - A Description of the Community Served by the Hospital
 - A Description of the Process & Methods used to Conduct the Assessment
 - A Description of all of the Community Health Needs Identified Through the Assessment,
 - A Description of the Existing Health Care Within the Community Available to Meet the Needs

Physician Classification

- Independent Contractors vs. Employee
- Multi-Factor Test
 - Direction & Control of Hospital
 - Registered Business within WA State
- Verify that Independent Contracts have UBI
- If Employee, Hospital Must:
 - Pay Workers' Compensation Taxes for the Physician
 - Meet Wage & Hour Requirements
 - Pay Unemployment Tax
- Failure of Compliance: Back Taxes and Penalties

Peer Review in Washington

- Peer Review Committee Records Remain Confidential
 - Must be the Peer Review Committee (but non-physicians allowed)
 - Maintain Documentation
- Public Records Act Implications



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