



The Current Compliance Environment What Medical Practices Need to Know

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Maureen West McCarthy, CPA

Maureen is the President and Founder of MBA, LLC, a firm specializing in Healthcare Consulting and Practice Management issues for all types of healthcare providers/entities. Prior to that she was a partner and shareholder with the firm Snyder Cohn, PC and served as the Director of the Healthcare Consulting Division.

Her extensive 25+ years of experience with healthcare organizations has allowed her to be one of the medical community's most valuable assets. She has aided many organizations by consulting on a wide variety of practice management projects for private practice physicians, hospitals, medical trade associations, and medical billing companies. Specific services include managed care contract negotiation, revenue cycle management, sales and mergers, and litigation support for healthcare entities, including federal and state payor audit defense. Maureen is actively involved in the healthcare community and is frequently called on by the local medical societies, hospitals, and practice management associations for presentations and advice. In addition, she has taught at American University, George Washington Medical School, George Mason University's Healthcare Administration Department, as well as the University of Maryland's Robert Smith School of Business Physician Program in conjunction with MedChi.



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The cost of healthcare fraud / non-compliance is staggering....



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The following statistics are taken from the DHHS and DOJ Health Care Fraud and Abuse Control Program Annual Report for FY 2015.

The Dollars

- During FY 2015 the Federal Government negotiated or won ***\$1.9 Billion*** in judgements and settlements

Criminal Investigations

- During FY 2015 the DOJ opened 983 new criminal investigations
 - Charges were filed in 463 cases
 - 888 defendants
 - 613 convictions

Civil Investigations

- During FY 2015 the DOJ opened 808 new civil investigations
- 1,048 matters were pending at the end of the FY



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HHS OIG investigations resulted in 800 criminal actions and 667 civil actions in FY 2015.

Current Environment

- Your Doctors/Practice is being watched on every level



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WHO is watching?

(DOJ, OIG, MDC Intermediaries, Office of Civil Rights (HIPAA))

- Increased Resources for Investigation and Enforcement
- More \$\$ allocated to enforcement in healthcare than any other area
- Use of analytics to identify areas of concern (automation to watch trends, outliers, advanced algorithms)

The CMS Fraud Prevention System was put in place in 2010

- All CMS FFS claims pass through this EDIT system prior to being paid
- Used to identify and prevent inappropriate payments – and to recapture/prevent govt payments

Whistleblower Cases increasing – more areas to report on

- Hostile Environment
- Increasing Pressure and Stress
- Big Rewards Possible



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Medicare Audits

RAC

- Post payment claims review (over and above MAC review process)

Medicare Audits

CERT

- More complex review BUT are precursor to RAC
 - Random samples of FFS claims nationwide
 - Focus on the vulnerabilities in the process and payment accuracy

----- So pay attention and respond seriously and thoroughly!



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Medicare Audits

- ZPIC (Medicare Integrity Program)
 - Focus on potentially fraudulent activity
 - Escalated level of review
 - Take these seriously

Areas of Audit Focus:

- Procedure codes (targeting specific codes and specialties)
 - E & M Codes (Subjective)
 - Multiple Procedures (Bundled/Global)
 - Modifiers

Areas of Audit Focus:

- Time Based Billing
- Overpayments (Credit balances)
- ICD-10 grace period over as of 10/1/16 – Predict denials based on incorrect codes and lack of specificity
 - BEWARE!



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HIPAA Compliance Audits (Phase 2)

- Correspondence sent to covered entities/business associates requesting copies of P&P and Forms
 - Provided with a link to submit info electronically (within 10 days of the date of the letter)



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HIPAA Compliance Audits (Phase 2)

- OCR will review the submitted documentation and respond (looking to verify that a Compliance Program is in place and proper documentation)
- Recommend HIPAA Security Risk analysis ASAP



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Meaningful Use(Stim \$) Audits

- Audit letter stating review has occurred and lists areas of infraction
- Demand letter for refund of HITECH incentive payment in full, demands payment in 30 days
- Burden of proof is on the practice



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Meaningful Use Audits

- Reiterates provider's responsibility for registering and attesting to the eligibility to participate
- Including Software/MU Consultant Vendor's responsibilities

Private Payer Audits

- BEWARE –
 - Usually follow CMS's lead (similar focus on coding including ICD-10)



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Proactive Practice Recommendations:

- Baseline Independent Chart Audit (CPT/ICD)
- HIPAA Security Risk Assessment
- Compliance Plan development and implementation (Req as part of ACO participation)
- P&P Manual
- Employee Handbook i/c Compliance Req

Successful Practices HAVE/NEED

- 1) Buy-in on all RISK AREA INITIATIVES from owners/partners, managers, staff – entire practice from top to bottom

2) Compliance Officer

- Careful selection, training, regular updates, reviews and meetings, reporting process and follow up



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- 3) “Culture of Compliance” -
Incorporate all aspects of
the Plan into day-to-day
operations

- 4) Including Practice Vendors –
update BAA with all vendors
(on Hit List this year)



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- 5) Written Plan - Must have a plan document that covers all – can't just say 'we are in compliance'

- 6) Finally, must include Training/Implementation/Enforcement



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Any Questions?

