

How to Avoid the *Medicare Mousetrap*

Presented by:

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Comprehensive Care For Your Medical Practice[®]

Background

- ✓ Nearly two decades of experience exclusively representing medical practices, physicians, and other licensed healthcare professionals and entities before administrative agencies and licensing bodies
- ✓ Licensure actions; investigations, government and private audits & appeals, fee and reimbursement disputes; fee negotiations; litigation; employment issues & counseling; online reputation services; coding guidance; medical malpractice defense; HIPAA, OSHA & regulatory compliance; policy & compliance manuals; cybersecurity; qui tam litigations; “white collar” criminal defense; DEA, OIFP and OIG investigation defense; and General Counsel services

NO Conflicts of Interests

- ✓ No remuneration from Delaware MGMA for this presentation

The Medicare Audit Process



The Audit Process - Risk Factors

- ✓ Outlier Status
- ✓ Improper Coding / Chronic Miscoding
- ✓ Pharmacy Sweeps
- ✓ Dissatisfied Patients
- ✓ Disgruntled Employees

The Audit Process - What to Expect...

- ✓ Medical Records Requests
- ✓ Medical Records Inspections (Rare for Medicare)
- ✓ Vigorous Follow Up from Medicare
- ✓ Payback

The Initial Determination

- ✓ Summary of findings letter; discussion of audit findings
- ✓ Draw your own conclusions
- ✓ Consider whether claims submitted properly
- ✓ Consider whether documentation supports CPT codes billed and level of CPT codes billed
- ✓ Consider experts for medical necessity challenges

The Overpayment Demand

- ✓ Comes after the Initial Determination
- ✓ Typically includes extrapolation
- ✓ Payment is due promptly - negotiable
- ✓ Consider repayment options
- ✓ Consider challenges

Challenging Unfavorable Audit Results

- ✓ Statistical Challenges
- ✓ Billing & Coding
- ✓ Medical Necessity
- ✓ Documentation Challenges
- ✓ Procedural Challenges

Levels of Medicare Appeal

1. Redetermination
2. Reconsideration
3. ALJ / Third Level Appeal
4. Departmental Appeals Board (DAB) Review
5. Federal Court (Judicial Review)

Appealing Unfavorable Determinations

- ✓ Be timely
- ✓ Keep copies of all documents
- ✓ Be complete - or you may be precluded afterwards
- ✓ Submit via trackable method
- ✓ Submit appropriate forms & requested information
(i.e., PTAN, TIN, Appointment of Representative Form)

More About Appealing Unfavorable Determinations

- ✓ Consider Experts (i.e., Coders; Statisticians)
- ✓ Consider Representation

Third Level (ALJ) Appeals

- ✓ Your best chance
- ✓ A long wait
- ✓ Often worth it
- ✓ Note: Negotiations remain open
- ✓ Sometimes recoupment continues during pendency
- ✓ Very hard to challenge ALJ decisions

What Can YOU Do?

- ✓ Electronic Medical Records
- ✓ Internal Compliance Audits (**Self-Audits**)
- ✓ Proper **Qualifications & Training** for Billing Staff
- ✓ Repeat Audits & Train Regularly
- ✓ Stay Abreast of **Local Coverage Determinations**

Be Prepared & Stay Compliant

- ✓ **Local Coverage Determinations (LCDs)** are a tool to assist providers, physicians & suppliers in submitting correct claims for payment.
 - ✓ Provide correct coding guidance
 - ✓ Indicate medical necessity
 - ✓ List documentation requirements

Compliance

- ✓ OIG has a compliance plan posted on their website
- ✓ Not mandatory, however, it should be considered preventative medicine for a medical practice.
- ✓ Proper & current coding manuals
- ✓ Office Policy & Procedure Manual
 - Proper Medical Documentation
 - Training
 - Audit Policy

Resources

- ✓ <https://www.cms.gov>
- ✓ <https://www.ngsmedicare.com>
- ✓ <https://www.oig.hhs.gov>
- ✓ <https://gchealthlaw.com>

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Questions?

Please feel free to email me

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