The New Landscape of Audits: MICs, MACs, RACs and ZPICs

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THE NEW AUDIT LANDSCAPE

- CMS contractors in the current audit landscape
  - Recovery Audit Contractors (RACs)
  - Medicare Administrative Contactors (MACs)
  - Medicaid Integrity Contractors (MICs)
  - Program Safeguard Contractors (PSCs) & Zone Program Integrity Contractors (ZPICs)
  - Quality Improvement Organizations (QIOs)
EMERGING ISSUES IN AUDITS

RAC to the Future

Emerging Issues:

- Healthcare Reform: Expansion of the RACs to:
  - Medicaid
  - Medicare Parts C & D
    - Anti-fraud plans
    - Examine claims for reinsurance payments
    - Review estimates for enrollment of high cost beneficiaries
    - OIG Work Plan Part II: FY 2011 – Parts C & D planned reviews

Will we see…

- Statistical sampling?

EMERGING ISSUES IN AUDITS

Medicaid RACs

Recent Proposed Rule –
(75 Fed. Reg. 69037, 69045 (Nov. 10, 2010))

- States were required to establish Medicaid RAC programs by December 31, 2010
  - State Plan Amendment process
- State programs must be fully implemented by April 1, 2011 (absent an exception)
- Paid on a contingency fee basis
  - CMS will set maximum contingency fee rate
  - States given flexibility to determine how and when to pay contingency fee

See also: October 1, 2010 letter issued by CMS
EMERGING ISSUES IN AUDITS
Medicaid RACs

Recent Proposed Rule –
(75 Fed. Reg. 69037, 69045 (Nov. 10, 2010))

- States are required to refund federal share regardless of whether state is actually able to recover overpayments from the provider
- States must have an adequate appeals process but are permitted to use an existing administrative appeals process for Medicaid RACs
- RACs are in addition to, not in place of, MICs and state Medicaid integrity initiatives

EMERGING ISSUES IN AUDITS
Use of Data Mining

- Use of data mining by all major Medicare and Medicaid recovery program
  - RACs, MICs, ZPICs
- “Data mining and analysis” – use of techniques and technology (databases, statistics, computer analysis, research) to derive or predict patterns from data
- Moving away from “claim-focused” reviews
- Emerging Issues:
  - Providers: use of data mining internally; incorporating results/techniques used by government auditors
EMERGING ISSUES

Comparative Billing Reports

- Comparative Billing Reports (CBRs) are a snapshot of utilization data for an individual provider.

- Provider’s billing pattern for a code or group of codes is compared to state and national average.

- 2010: CMS began to produce CBRs nationally –
  - Contracted with CBR producer and CBR disseminator
  - Previously, MACs had authority to produce and send CBRs

- Any provider other than physicians and hospitals can receive a CBR from CMS

*Information obtained from CMS presentation

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EMERGING ISSUES

Electronic Submission of Medical Documentation (esMD)

- National Health Information Network (NHIN) is a set of standards, protocols, legal agreements, and specifications that a consortium of health information organizations have agreed are necessary for secure and private exchange of health information over the public internet

  - “Gateways” – on/off ramps
  - Not mandatory

*Information obtained from CMS presentation
EMERGING ISSUES
Electronic Submission of Medical Documentation (esMD)

■ 3 RAC contractors will accept esMD
■ 9 MAC contractors will accept esMD
■ Timeline for esMD
  ■ January 2011:
    ■ Security testing and evaluation
  ■ February 2011:
    ■ Test CMS Gateway with each HIH Gateway
    ■ Test connections between CMS and each MAC/RAC
  ■ April 2011:
    ■ Go live – providers start submitting documentation on real cases

*Information obtained from CMS presentation

EMERGING ISSUES IN AUDITS
Overpayments

■ Patient Protection and Affordable Care Act (PPACA) Section 6402(d)
■ Fraud Enforcement and Recovery Act of 2009 (FERA)
■ Recent ZPIC Review Results letter language
EMERGING ISSUES IN AUDITS

Inpatient hospital “short stay” cases

- Current developments regarding obtaining reimbursement for outpatient services when inpatient services are denied:
  - FAQ 9462 – December 2, 2008
  - Meeting with CMS – July 28, 2009
  - MAC decisions
    - O’Connor Hospital, issued February 1, 2010
    - UMDNJ – University Hospital v. Riverbend GBA, issued March 14, 2005
  - ALJ decisions

SUCCESSFUL APPEAL STRATEGIES

The Medicare Appeals Process

OVERVIEW
- Rebuttal
- Discussion period
- Redetermination
- Reconsideration
- Administrative Law Judge Hearing
- Medicare Appeals Council (MAC)
- Federal District Court
EMERGING ISSUES IN AUDITS
Medicare Part C

Appeals process is nearly identical to Parts “A” and “B”
- Section 1395w-22(g)(1)(A)

Part C Appeal Process
- Medicare Advantage Organization’s internal appeals process
  - 42 CFR 422.568; 422.582
- Independent entity contracted by CMS
  - 42 CFR 422.592
- Administrative Law Judge
  - 42 CFR 422.600
- Medicare Appeals Council
  - 42 CFR 422.608
- Federal District Court
  - 42 CFR 422.612

SUCCESSFUL APPEAL STRATEGIES
The Medicare Appeals Process

Medicare Appeals Council (MAC)
- A provider dissatisfied with the ALJ decision has 60 days to file an appeal to the Medicare Appeals Council (MAC)

- Use of past Medicare Appeals Council cases
  - http://www.hhs.gov/dab/macdecision/

- Emerging Issues:
  - Criteria for review – inpatient medical necessity determination
  - Impact of MAC decisions; federal and state court decisions as providers challenging the process
SUCCESSFUL APPEALS STRATEGIES
Audit Defenses

- Provider Without Fault
- Waiver of Liability
- Treating Physician’s Rule
- Challenges to Statistics
- Regulatory & Constitutional Challenges

AUDIT PREPARATION
&
COMPLIANCE MEASURES
Audit Management Cycle

Five Key Elements for a Compliance Program to Facilitate Audit Success:

1. Designate location to receive all audit communication
2. Track audit requests and timeline
3. Trend and triangulate audit results
4. Communicate with key stakeholders
5. Improve clinical and coding documentation processes
Five Key Elements (cont)

1. Designate location to receive all audit communication
   • Know who receives your MAC audit requests
   • Validate via RAC auditor website the point of contact for RAC communication
   • Establish intake process and make sure everyone is aware of where communication should be directed

Five Key Elements (cont)

2. Track audit requests and timeline
   • Timelines and request limits vary across audits
   • Know when to expect responses/results from the auditor
   • Know appeal timelines/process
Five Key Elements (cont)

3. Trend and triangulate audit results
   - Data is power!
   - Track audit results in a single database (if possible)
   - Trend data by DRG volume, CPT, and financial impact
   - Look for patterns across all audit types
   - Dig deep to identify root cause
   - Use data to validate that identified issues are fixed
   - Use data to assess the performance of vendors
   - Maintain a focus on the “big picture”

Five Key Elements (cont)

4. Communicate with key stakeholders
   - Maintain a forum for key stakeholders to share experiences, lessons learned, and fine tune their audit approach
   - Ensure key stakeholders respond to detected deficiencies
   - Don’t forget your physicians
     - Show them the data (money!)
Five Key Elements (cont)

5. Improve clinical and coding documentation processes
   • Focused education to Coders, Case Managers and Physicians
   • Use electronic health record to develop evidence based workflows
   • Internal/concurrent quality checks on coding of high-risk issues

Lessons Learned

- Consider other lines of business impacted by audits (i.e. Homecare; SNF; Physician Organizations; etc.)
- Implement a centralized repository/tool to track and trend results across all audits
- Centralized vs decentralized approach
- Consider resource requirements/impact
  - Assess ability to meet additional demands of audits
  - Contingency plan for the “unknown” volume
Lessons Learned

- Pay attention to the signs! (i.e. Probe audits; MAC ADR requests; etc.) Look for patterns to prevent future recoupments
- Consider global solutions to identified vulnerabilities (i.e. system edits)
- Vendor Management
  - Standard reporting to track vendor performance

Sample Process Flow

Compliance Audit Response Team Process flow

[Diagram of process flow]
QUESTIONS?

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