

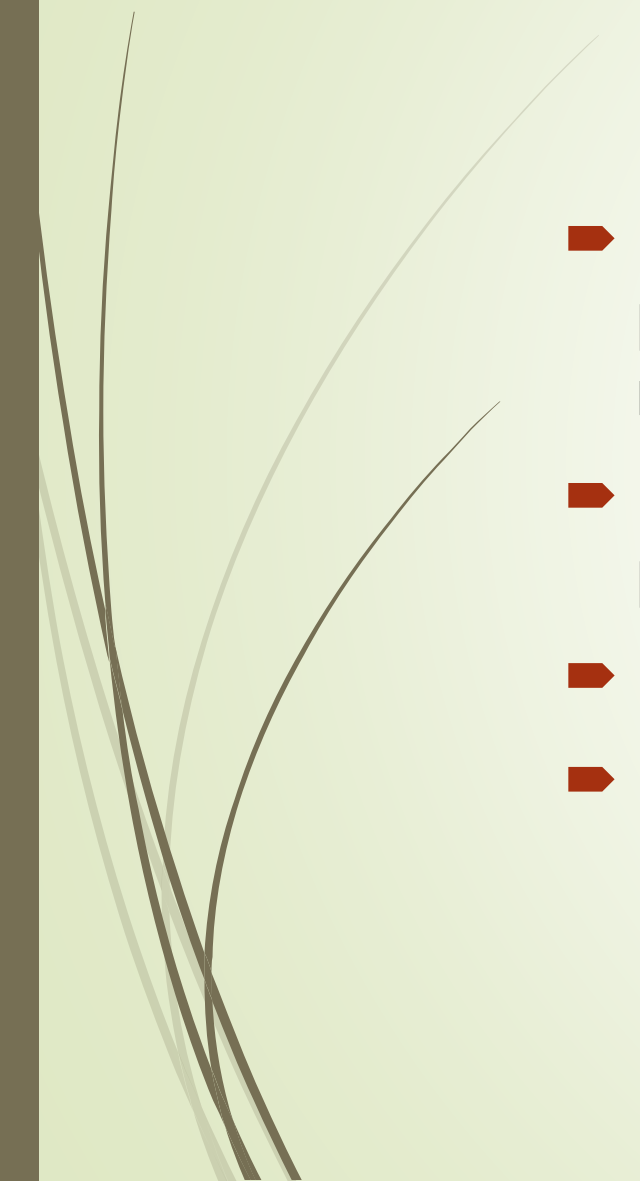


Revenue Cycle Compliance Concerns?

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Goals of Presentation

- Review the revenue cycle team and compliance team partnership to mitigate risk through auditing and monitoring
 - Review the basic seven elements of any compliance program
 - Review the Anti-kickback and Stark laws
 - Highlight current Medicare and Government Focuses
- 



Revenue Cycle & Compliance Partnership

- • Intersection between revenue management and regulatory compliance
- • Regulations governing revenue cycle
- • Common goals to improve processes and establish standards for determining when auditing is necessary to provide high quality revenue integrity supported by excellent documentation and coding, that results in and proper claims



Why are Compliance Programs Important?


- • Raise Awareness
- • Mitigation Factor
- • Communicate Commitment
- • Reduce Threat of Qui-Tams (Whistleblower)
- • Makes Good Business Sense
- • Minimizes impact of CIA

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Revenue Cycle Compliance Concerns?

- ▶ Federal Sentencing Guidelines
 - ▶ Independent commission established by the Sentencing Reform Act of 1984
 - ▶ Chapter 8 of the Sentencing Guidelines -- receive a reduction in fines based on a “culpability score”.
 - ▶ Culpability score includes the organization having an effective compliance program
 - ▶ Compliance is everyone’s job



Seven Elements of an Effective Compliance Program

- Written Policies and Procedures
- Designation of a Compliance Office & Compliance Committee
- Effective Training & Education
- Effective Lines of Communication
- Enforcement Standards
- Auditing and Monitoring
- Responding to compliance issues with corrective action plans
- Risk Assessment and Effectiveness Assessments are not considered part of the elements for FSG but are critical to a program's success www.hcca-info.org



Seven Elements of an Effective Compliance Program

- ▶ Seven Elements of an effective compliance program as it relates to the Revenue Cycle
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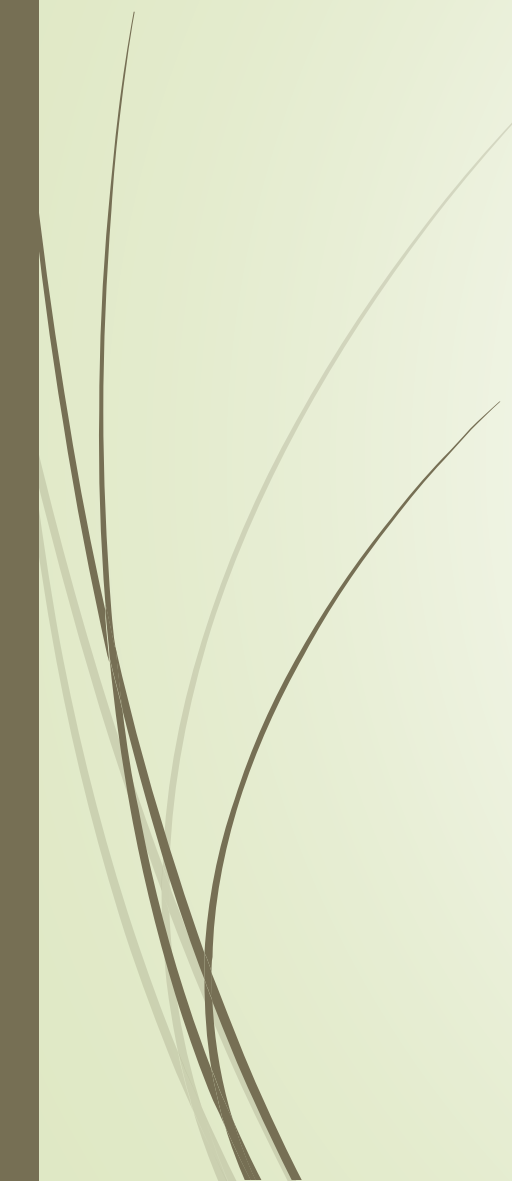


Written Policies & Procedures

- Claim Development & Submission Process – Internal controls
- Cost Reports
- Bad Debt
- Credit Balances
- Retention of Records
- Compliance as an Element of a Performance Evaluations
- ABN Process Internal Controls
- Payback Policy – 60-Day Rule
- Provider Enrollment & Credentialing



Revenue Cycle Compliance Committee

- ▶ Senior Leaders?
 - ▶ Culture for compliance
 - ▶ Revenue Cycle Compliance Plan
- 



Effective Training & Education

- ▶ Revenue Cycle Focused training?
 - ▶ Training on Policies
 - ▶ Training on new regulations
 - ▶ Training on billing new technology?
 - ▶ Integrate compliance training with on-boarding

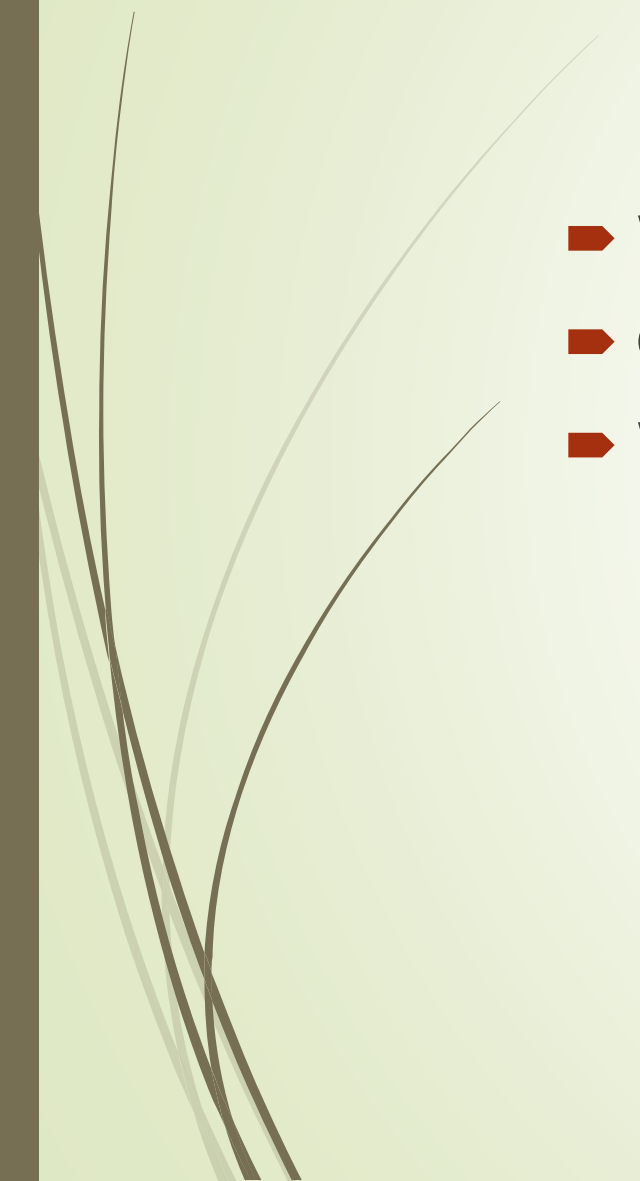


Effective Lines of Communication

- Awareness
- Provider enrollment & credentialing
- Excluded Providers
- Sloppy, inappropriate emails, memos, letters, voicemails, telephone conversations, etc.
Your statements/words/communications will be used against you in enforcement actions!
- Give management/employees clear direction
- Ambiguity paralyzes
- Specificity enables accountability



Enforcing Standards

- ▶ Well publicized Disciplinary Guidelines
 - ▶ Consistent application
 - ▶ Whistleblower Risk
- 



Auditing and Monitoring

- ▶ Claim Development & Submission Process – Internal controls
 - ▶ Billing Edits – monitor for accuracy
- ▶ Cost Reports
- ▶ Bad Debt
- ▶ Credit Balances
- ▶ ABN Process Internal Controls
- ▶ Payback Policy – 60-Day Rule
- ▶ Provider Enrollment & Credentialing
- ▶ Upcoding
 - ▶ 07-23-2018 - After it self-disclosed conduct to OIG, Steuben County EMS (Steuben County), Indiana, agreed to pay \$251,267.19 for allegedly violating the Civil Monetary Penalties Law. OIG alleged that Steuben County submitted claims for inter-hospital transports that were improperly billed at the emergency level instead of the non-emergency level.



Auditing and Monitoring

- ▶ Denials – Compliance risk of knowingly submitting improper claims
- ▶ DATA MINING:
 - ▶ PEPPER Reports
 - ▶ A dentist who logged 50 percent more visits per patient than the median and performed 20 times the average number of miscellaneous procedures.
- ▶ Physician compensation arrangements
- ▶ Time Share space leases with physician - 05-15-2018
- ▶ 5-15-2018 Visionworks of America, Inc., headquartered in Texas, agreed to pay \$3,668,961 for allegedly violating the Civil Monetary Penalties Law provisions applicable to physician self-referrals and kickbacks. The OIG alleged that Visionworks paid excess remuneration to certain optometrists in the form of space and equipment leases that were below fair market value and/or by failing to collect one or more rental amounts under space and equipment leases.



What to audit?

- ▶ The key here is to identify what audits need to be conducted and then match the available resources.
- ▶ Risk Assessment
- ▶ OIG Workplan
- ▶ Feedback from co-workers



Responding to Detected Offenses and Developing Corrective Action Initiatives

- ▶ Self-Disclosure
 - ▶ Credible evidence of misconduct from any source
 - ▶ After a reasonable inquiry,
 - ▶ Has reason to believe that the misconduct may violate criminal, civil or administrative law, then the hospital promptly should report within a reasonable period, but not more than sixty (60) days
 - ▶ Repayment of claims



Anti-Kickback Generally

- ▶ Prohibits:
- ▶ knowingly and willfully;
- ▶ soliciting, receiving, offering or paying (directly or indirectly, overtly or covertly)
- ▶ any remuneration – anything of value, cash or in-kind
- ▶ in exchange for or to induce the referral of any item or service for which payment may be made in whole or in part under Medicare, Medicaid, or other government health care programs.

Intent Based

- “One Purpose Test”
- Intent based – requires a “guilty mind”
- Civil and Criminal Liability



Anti-Kickback Statute Violations

- ▶ Payments or financial assistance provided to physicians to induce referrals (e.g., less than commercially reasonable rent)
- ▶ “Sham” medical directorships intended to induce referrals
- ▶ Free goods provided to patients to induce their selection of the hospital as their health care provider (e.g., perks, gifts, space, equipment, meals, insurance, trips, CME, etc.).
- ▶ Gifts to providers to induce referrals



Anti-Kickback Statute

- Free or discounted items or services Overpayments or underpayments (e.g., not fair market value).
- Payments for items or services that are not provided.
- Professional courtesies.
- Waivers of copays or deductibles (unless for Charity Care)
- Anything else of value...



Anti-Kickback Violation

- ▶ Whistleblower alleged that National Medical Care, Inc., paid unlawful kickbacks to induce physicians and nurses to provide unnecessary intravenous nutrition to dialysis patients covered by Medicare. The Government recovered \$385,000,000 in that case, and the whistleblower client, along with other relators, shared in awards of \$65.8 million.

Exceptions and safe harbors

- Bona fide employment
- Personal services contracts
- Leases for space or equipment
- Investments in group practice
- Investments in ASCs
- Recruitment
- Waiver of beneficiary coinsurance and deductible amounts for charity cases
- (42 CFR 1001.952)

Exceptions and safe harbors (cont.)

- Referral arrangements for specialty services
- Warranties
- Group purchasing organizations
- Price reductions offered to health plans and MCOs
- Ambulance replenishing
- Electronic health record items or services
- (42 CFR 1001.952)

➔ Stark Law



Regulations at 42 CFR 411.350-.389

Stark Law - Generally

In General – If a physician has a “financial relationship” with a hospital, then that physician is prohibited from making Medicare referrals to the hospital and the hospital is prohibited from billing Medicare, unless an appropriate exception is met.

Prohibited Referrals – physician cannot refer

Prohibited Billing – hospital cannot bill Medicare or anyone else

6 Questions

- Is there a “Physician”?
- Is the Physician making a “Referral”?
- Is the Referral for “DHS”?
- Are the DHS being furnished by an “Entity”?
- Does the Physician (or immediate family member) have a “Financial Relationship” with the Entity?
- Are the DHS payable by Medicare?

- If yes to the above, then an exception **MUST** be met.

Physician According to Stark

- Physician includes:
 - M.D.
 - D.O.
 - Dentists and oral surgeons
 - Podiatrists
 - Optometrists
 - Chiropractors`
 - “Immediate Family Members” = husband, wife, natural & adoptive parent, child, sibling, step-relatives, in-laws, grandparent, grandchild, spouse of grandparent or grandchild)

Designated Health Services (DHS)

- DHS include:
 - Clinical lab services
 - PT, OT, speech-language pathology services
 - Radiology and certain imaging
 - Radiation therapy and supplies
 - DME and supplies
 - Parenteral and enteral nutrients, equipment, supplies
 - Home health services
 - Outpatient prescription drugs
 - Inpatient and outpatient services

Stark Law Examples of Violations

- ▶ Physician contracts that vary with or take into account referrals
- ▶ Physician compensation arrangements is above Fair Market Value
- ▶ “Sham” medical director and services arrangements
- ▶ Physician compensation not commercially reasonable

Exceptions

- Common elements of exceptions (e.g., Med Director or space lease) –
 - In writing
 - Signed by the parties
 - Term of 1 year
 - Specify duties
 - Compensation is “set in advance”
 - Compensation is FMV and commercially reasonable
 - Compensation does not “take into account” volume or value of referrals
- Another common exception is the Employment Exception.

Comparison of AKS and Stark

Anti-Kickback Statute	Stark
Intent Based	Strict Liability
Criminal Liability	Civil Liability
Broad application – implicates physicians and others	Applies only to a “financial relationship” with “physicians”
Safe Harbors – “Should”	Exceptions – “Must”



Current Compliance Topics

- TPE – Target Probe Educate
- New “Fraud Risk Indicator”
- CMS Proposes To Drop Some H&Ps
- Medical necessity of inpatient rehabilitation facility (IRF) – new RAC focus
- R817PI Instructions for Home Health regarding Requests for Anticipated Payments (RAPs)
- Ambulatory Surgical Center (ASC) Transfer Agreements With Hospitals
- Payments for outpatient intensity-modulated radiation therapy (IMRT) planning services
- More Bundled payments



Medicare Advantage Compliance Training

- ▶ CMS has eliminated the contractor training requirement, effective June 15, 2018.



OIG Workplan

- ▶ Hospitals' Compliance with Medicare's Transfer Policy With the Resumption of Home Health Services and the Use of Condition Codes
- ▶ Physicians Billing for Critical Care Evaluation and Management Services
- ▶ Hospitals Billing for Severe Malnutrition on Medicare Claims



Questions?

