Teaching Physician
Compliance
ALERT
Published by the Yale Medical Group
May 2010 Issue 71

Health care reform law steps up compliance efforts

The 2010 health care reform law adds $250 million dollars, more audits and enforcement to combat Medicare fraud and errors. The law creates new federal enforcement tools, a new Stark self-disclosure process, mandates compliance and return of overpayments by all providers, and expands the role of Recovery Audit Contractors (RACs) to include pursuit of improper payments in Medicaid claims, for all 50 states. The 250 million dollars is earmarked for use over the next ten years to:

- Create a data repository for CMS to match claims with agencies such as the Social Security Administration and Veterans Affairs to identify fraud and abuse;
- Require that overpayments be reported and returned 60 days after they are identified;
- Require that orders for items or services be prescribed by a Medicare-enrolled physician or other eligible professional (for orders made on or after July 1, 2010);
- Require physicians to have a face-to-face encounter with a patient before prescribing DME or home health services, for those prescribed after Jan. 1, 2010;
- Suspend payments during fraud investigations;
- Mandate participation in the Physician Quality Reporting Initiative or face claim payment reductions;
- Reduce the claims filing time limit to 12 months for Medicare versus the previous 15-26 months;
- Strengthen the provider screening and enrollment process and requirements; and
- Add penalties of $15,000 per day if documentation requested by the OIG is not provided timely

On a more provider friendly note, Medicaid payments to primary care physicians (family medicine, general internal medicine, and pediatrics) cannot be lower than the Medicare fee schedule. In addition, routine care services for patients enrolled in clinical trials will be covered. Insurers may not deny payment for routine care costs for patients in an approved clinical trial.

As more details about these provisions become known, specifics will be provided in future Alert newsletters.

Billing Observation

Medicaid recently published a clarification of guidelines for billing for observation services. The key points are as follows.

- Observation is defined by Medicaid as a patient status determined by medical necessity and provider order. This outpatient service should be used when a diagnosis cannot be readily ascertained during an emergency department visit and appropriate disposition is therefore unclear.
- Documentation in the patient's medical record must support the medical necessity of the observation service. Observation services for reasons other than medical necessity (e.g.: waiting for transportation, waiting for an available inpatient bed) are not reimbursable by Medicaid.
- Observation services must be provided in a licensed hospital space which can be located any place in the hospital.
- Observation for Behavioral Health Partnership patients requires prior authorization.
- Emergency room services provided on the same day as observation or an inpatient admission at the same hospital are not covered

According the Medicaid, observation time begins at the time appearing on the nurse's observation admission note and ends at the time of the physician's discharge order. Observation is reimbursed by Medicaid for up to 23 hours if deemed medically necessary. Beyond 23 hours, the hospital must do one of the following:

1. Request an inpatient admission if medically necessary. Prior authorization is required. If approved, the date of admission will be the beginning of the observation as documented by the nurse. If the inpatient admission is at the same hospital as the observation service, the hospital will not be separately reimbursed for the observation, as it is included as an inpatient charge
2. Continue the observation status with no additional reimbursement from the Department; or
3. Discharge the client according to the attending physician's orders.

Source: DSS provider Bulletin 2010-11, March 2010

Compliance Hotline

As part of the Yale Medical Group's (YMG) commitment to medical billing compliance, a confidential hotline is maintained by an outside entity and available to employees for those situations that are related to compliance with medical billing regulations. The hotline is an avenue of reporting in the event that the employee does not feel comfortable bringing their concerns to their supervisor, or has brought their concerns to his or her supervisor and was not satisfied with the action or possibly lack of action taken.

Continued on page 2

In the News

New Haven pediatrician fined

The Connecticut state medical board has fined a New Haven pediatrician $10,000 and placed his license on probation for four years after determining he ordered tests or diagnosed children with Lyme disease without examining them. Charles Ray Jones' lawyer says the decision will be appealed. A hearing panel concluded Jones violated medical standards by diagnosing, testing or prescribing medication for Lyme disease for three children without examining them. Jones is also appealing a separate 2007 case in which the medical board says he diagnosed two out-of-state patients with Lyme disease and prescribed antibiotics without meeting them. Source: Associated Press

In the News

Facility to pay $28,542 for Excluded Person hire

The Jewish Home for the Elderly of Fairfield County Inc. has entered into a civil settlement agreement with the Government in which it has agreed to pay $28,542 to resolve allegations that it violated the False Claims Act by submitting claims to Medicare and Medicaid for services provided by Stacey Williams, LPN, a Wallingford, CT resident. Ms, Williams had been excluded by the Department of Health and Human Services, which caused the facility to submit claims to Medicare and Medicaid that were not allowable. In her application, Ms. Williams falsely claimed to have no felony convictions however the facility failed to check the OIG's excluded person website to confirm her status.

Pharmacist sentenced for Medicaid fraud

A Connecticut pharmacist was sentenced to probation and also signed a civil agreement which he will pay more than $1 million to settle allegations that he cheated the government by charging bogus fees to fill prescriptions. State authorities say 52-year-old Roy D. Katz of Avon pleaded guilty in Hartford Superior Court Tuesday to two counts of vendor fraud, a misdemeanor. Katz, former president of the Connecticut Pharmaceutical Association, also reached a civil settlement with federal authorities in which he and his former business, RG Pharmacy in Manchester, will pay $1.115 million to resolve allegations they overbilled Medicare and Medicaid. A DSS audit revealed that RG Pharmacy of Manchester had illegally converted prescriptions of 30-day supplies or greater into smaller, multiple prescriptions for seven-day supplies. Over the course of several years, RG Pharmacy used this practice to charge DSS several dispensing fees for each of these smaller prescriptions -- rather than one fee for the single prescription.

The settlement also prohibits RG Pharmacy and Katz -- which have since sold the Manchester store -- from participating in any government health care program for at least seven years going forward. *Source: Associated Press*

$1.37 Million to scientist Pfizer fired for reporting contamination

A Connecticut jury has awarded a research scientist $1.37 million in a lawsuit alleging that she was fired after becoming ill and reporting concerns about contamination from uncontained experiments on infectious, genetically engineered viruses in a Groton Lab. Becky McClain sued Pfizer Inc. in November 2006 claiming the company had fired her in violation of Connecticut's whistleblower law after she filed a complaint with the Labor Department's Occupational Safety and Health Administration, and claiming retaliation for speaking on a matter of public concern under state law. The jury award included $685,000 in lost wages and benefits and an additional $685,000 for emotional distress. *Source: BNA Source: Medical Research Law & Policy Report: News*

Pediatric practice settles government claim

Fairfield County Healthcare Associates P.C. doing business as Pediatric Healthcare Associates (PHA) has entered into a civil settlement with the government and will pay $76,444 to resolve fraudulent billing accusations. The allegation was that the practice improperly billed for after-hours services when the practice was open. The practice has locations in Bridgeport, Fairfield, Shelton, Southport, Stratford and Trumbull.

During part of the time period in question, PHA had hours posted on its Web site indicating that its offices were open in the evening until 9 p.m. on most weekdays and that the practice was open and had regular hours on Saturdays and Sundays. Although PHA was regularly open during these time periods, it routinely billed Medicaid for the add-on code and received additional payments for the services in question. *Source: Stratford Star 4/8/2010*

Ex-UCLA worker sentenced for reading celeb records

A former UCLA School of Medicine researcher has been sentenced to four months in federal prison after reading the confidential medical files of celebrities such as Drew Barrymore, Arnold Schwarzenegger and Tom Hanks. Huping Zhou was also fined $2,000. Prosecutors claimed that before and after his 2003 firing, Zhou accessed private records of celebrities and co-workers more than 300 times. Some of the breaches also involved the records of Sharon Osbourne, Barbara Walters, Elizabeth Banks, Leonardo DiCaprio and Anne Rice. *Copyright 2010 Associated Press*

Hotline Continued

The Hotline is toll-free, available 24 hours a day, every day of the year. The employee may provide his or her name and contact information, or may choose to remain anonymous. To ensure confidentiality, calls to the Hotline are not recorded or traced. For detailed information about the hotline, please visit http://www.yale.edu/resources/

The Hotline Number is 1-877-360-YALE

Teaching Physician Compliance ALERT

Published by the Yale Medical Group

Compliance Programs—Preventative Medicine for Healthcare Providers

P.O. Box 9805

New Haven, CT 06536

1 (877) 360-YALE hotline

http://comply.yale.edu/medicalbilling

Chief Medical Officer: Ronald Vender, MD

Compliance Medical Director Joshua Copel, MD

Director of Medical Billing Compliance: Judy L. Harris

judy.harris@yale.edu | (203) 785-3868