



Beware: Medicare Audits

By Jayme R. Matchinski, Esq.
Partner, Clark Hill PLC

What happens if a physician or a practice is selected for a Medicare audit? What should physicians expect during the audit process? Which documents will be requested by the auditor from the practice? Who is involved during the audit process? All of these questions should be addressed and answered well before an audit request letter arrives. If your practice receives an audit letter, that audit request most likely will trigger a frenzy of activity. Audit letters and the actual audit process can strike fear in the hearts of even the most well-managed and efficiently operated practices. Your best strategy is to be prepared. Following an action plan that includes diligent documentation, communication, educations and training can secure your readiness

Audit Types and Triggers

Given the current climate of increased government scrutiny, the complex regulatory landscape, and increasing Recovery Audit Contractor (RAC) audits, physicians and practice groups must ensure ongoing compliance with all applicable state and federal regulations. Physicians need to be ready for an audit prior to receiving a letter from the Centers for Medicare and Medicaid Services (CMS) or from one of CMS' contractors that conduct audits. Preparedness will also serve you well in the event that a third party payor (commercial insurer) may also periodically conduct an audit to review claims submission, billing practices, and utilization of services by the payor's enrolled members.

Medicare "in-house" and "field audits" are conducted to provide reasonable assurance that Medicare payments are based on CMS' guidelines, regulations and reimbursement principles, and to assist the agency in developing other information it needs to fulfill its responsibilities. An in-house audit is an examination by CMS of the practice's financial transactions, accounts and reports that relate to the Medicare payment made by CMS to the practice to test the practice's compliance with applicable Medicare regulations, manual instructions and directives. A field audit examines the same areas but the audit is conducted on-site.

Audits can take several shapes and forms, and the audit process may



Clark Hill attorney **Jayme R. Matchinski**

include aspects of both an in-house and field inspection of the practice's financials, billing, and documentation. There may be certain factors that trigger a Medicare audit, including the receipt of new provider status, change of ownership, a fraud and abuse investigation directed by the Office of Inspector General (OIG) or the Department of Justice (DOJ), or the fact that your practice has never been audited. The likelihood that your practice will receive an audit request letter in the future also stems from the increasing annual number of services reimbursed by CMS for Medicare patients.

Some of the common elements of these "Be Prepared" steps for an audit is documentation, communication, education, and

continued on page 2

Audit Prep Plan

Physicians should consider the following steps in order to be prepared for an audit to avoid any potential pitfalls:

1. Conduct a periodic review of the practice's policies and procedures, and ensure that all policies and procedures are implemented, updated, and executed. Make sure there is corresponding documentation that provides evidence of compliance with the policies and procedures.
2. Frequently conduct education and training for the practice's staff regarding regulatory compliance issues. It is imperative that all reimbursement procedures conducted by the practice, specifically billing and coding policies and procedures, be fully understood by the practice's staff to ensure compliance.
3. Consistently conduct patient chart reviews. Conducting an internal patient chart review can be a very effective tool for targeting areas that need to be improved and continually monitored. Subsequent patient chart reviews should address any previous concerns or cited deficiencies. Make sure the patient charts are stored and retained in compliance with all applicable state and federal regulations.
4. Periodically walk through your practice and observe how patients are receiving care from the practice's staff. Consider who has access to the patient's records, including financial documentation, and make sure to protect the confidentiality of all patient records pursuant to the federal HIPAA privacy and security regulations and applicable state regulations.
5. If your practice has a compliance plan, make sure that the compliance plan is available for review by the auditor. An effective compliance plan should contain written standards of conduct, an education and training plan and related objectives identification and enforcement procedures for disciplinary procedures, internal auditing, monitoring, and reporting procedures; and provisions for investigations and corrective action.
6. Ensure that copies of all licensure, accreditation, registration and certification for the practice are available and readily accessible to the auditor. It is also imperative that the practice keep copies of all correspondence with state and federal agencies.

training. Your practice should develop, maintain and retain comprehensive documentation that tracks the services provided to the practice's patients and demonstrates compliance with all applicable state and federal regulations. The practice's policies and procedures and corresponding compliance plan also should be utilized to demonstrate regulatory compliance. Educating and training the practice's staff, including independent contractors, regarding regulatory compliance issues is a key step in being prepared for an audit.

An auditor who conducts an in-house or field audit of your practice most likely will not have any previous knowledge of the administration and operations of the facility. The documentation provided by the practice to an auditor will be the auditor's first impression of how the practice operates and provides medical services to its patients. Keep in mind the any verbal or written communication that you have with the auditor during the audit process will be utilized by the auditor and will be factored into their findings and report.

Make sure that you are not caught off guard if your practice receives an audit request letter. Be prepared for an audit prior to receiving a letter to avoid undue anxiety and stress-induced insomnia. Careful and meticulous preparation by the practice's administrator and staff should enable the practice to avoid potential pitfalls and be prepared if an audit request letter is received.

Jayne R. Matchinski, Esq., is a partner with Clark Hill PLC in Chicago. She concentrates her practice on health care and corporate law. She handles regulatory compliance, reimbursement, licensure and certification issues affecting health care providers, health care transactions, and the purchase, sale and formation of health care entities. She has also successfully represented health care providers in reimbursement claims against insurance carriers and the Centers for Medicare and Medicaid Services. **Contact her at: (312) 985-5940 or jmatchinski@clarkhill.com.**

CLARK HILL

www.clarkhill.com