CODING & COMPLIANCE INITIATIVES, INC.

Compliance & Operational Excellence

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My Connection to You

- My background
- Coding & Compliance Initiatives, Inc.
- Health Care Compliance Association

Agenda

- Compliance is Operational
- Assessing Risk
- Physician Compensation Arrangements
- Value-Based Considerations

Compliance Excellence

Compliance Plan Guidance

Issued by Office of Inspector General (OIG)

- Good models for health centers to consider
  - Small group practices
  - Third party billing companies

- https://www.oig.hhs.gov/compliance/compliance-guidance/index.asp

The Seven Elements

- Conducting internal monitoring and auditing
- Implementing compliance and practice standards
- Designating a compliance officer
- Conducting appropriate training and education

The Seven Elements

- Responding appropriately to detected offenses and developing a corrective action plan
- Developing open lines of communication
- Enforcing disciplinary standards through well publicized guidelines

Compliance Committee

- Coding and billing
- Clinicians
- Ancillary
- Providers
- Finance
- IT

- Not necessarily all managers

Risk Assessment

Value to Your Organization

- Helps you prioritize the scarce resources
  - Money
  - Time

- All Risk  Equal

Process for Success

1. Assess Risk
2. Prioritize areas for focus
3. Develop work plan
4. Audit and monitor
5. Educate

Areas of Focus

- The OIG expects us to consider:
  - Coding & billing accuracy
  - Reasonable and necessary
  - Documentation quality
  - Quality and patient safety
- Office for Civil Rights
  - HIPAA Privacy & Security

Revenue Cycle Reports

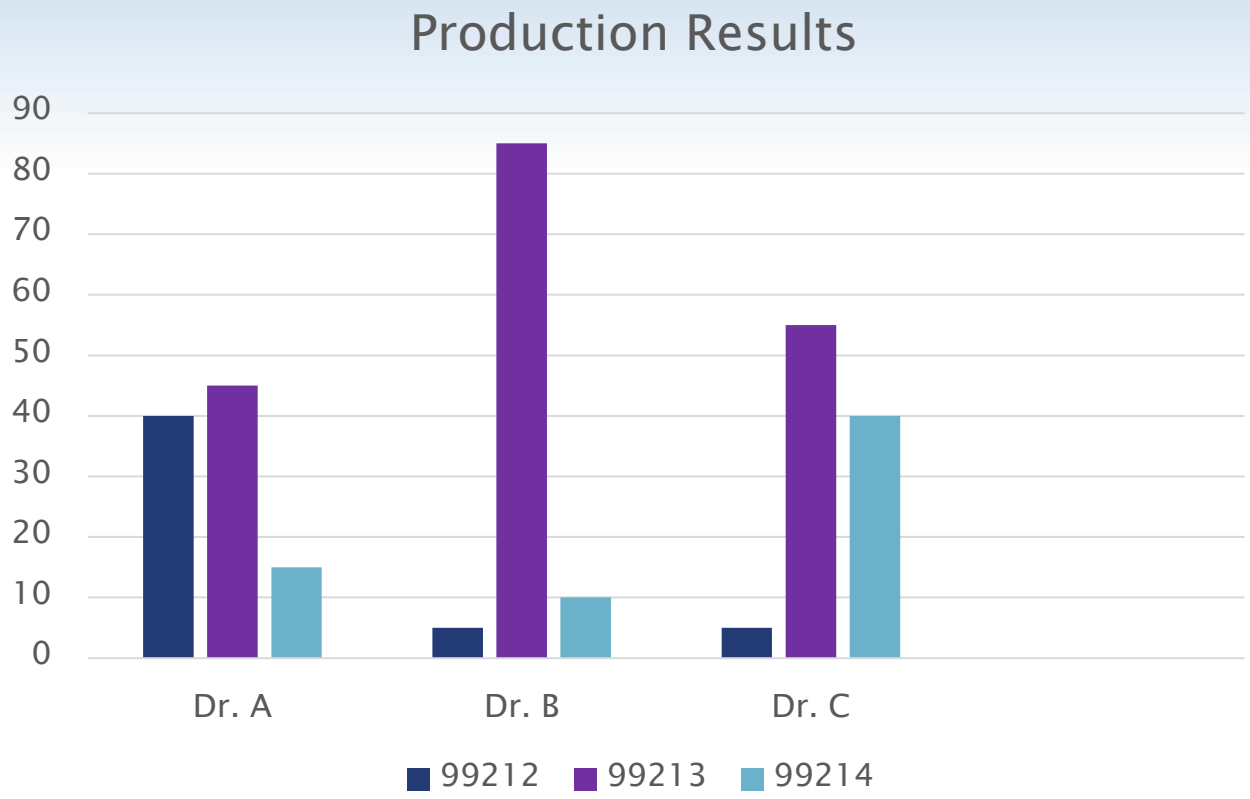
- Rejection reports
- Denial reports
- A/R Aging by Insurance plan
- Production reports by provider
  - Volumes by CPT code
  - Cash collected

Other Reports

- Write-off / bad debt
- Clinical quality scores
- Cybersecurity
- Review trends across 1 – 2 years

Data Drives Questions (DDQ)

Coding Example



Documentation & Coding

- Service is documented and coded timely
- Documentation complete – “tells the story”
- Diagnoses coded to the highest level of specificity
- CPT accurately coded
- Payer specific guidelines

Common Billing Risks

- Not billing the point of service labs and technical component of diagnostic services on the 1500 under the provider NPI
- Billing office visit when a preventive service was performed or vice versa
- Billing for a manual urinalysis but performing an automated (81002 vs. 81003)

Common Billing Risks

- Unspecified diagnosis or inappropriate use of "Z" diagnosis codes
  - Linking diagnosis code Z59.0 (homelessness) on the claim form to a CPT code like 96127 (behavioral health assessment)
  - Reporting Z76.0 (encounter for issue of repeat prescription) with an office visit for a patient being seen for a chronic condition (which is managed by the medications). This code would be reported when the patient was not evaluated for the condition and only needs a prescription for refill.

Rapid Change

- Always consider “change”
  - New regulations
  - New providers
  - New services
  - New technology
  - Employee turnover in key positions

Lost Revenue Risk

- LARC supplies
- In our Pilot Project in 2017, approximately $20,000 in supply charges not billed in one quarter by a facility
- What is your reconciliation process between physician orders and charge capture?

A Few Considerations for You

- Does the organization regularly perform documentation and coding audits?
- Do the providers receive individual education from the audits?
- Does the organization facilitate education annually for coding / billing staff?

A Few Considerations for You

- What type of billing and production related reports do you give to your providers?
- Do you give comparative reports across your provider group?
- Do you analyze trend reporting across years?

Transparency

False Claims Act

- A Federal Statute prohibiting:
  - Knowingly and willingly submitting (or causing to be submitted) a false claim for payment to the Government

- Qui Tam (whistleblower) provision
  - Whistleblower may receive 15% – 25% of money recovered by the Government

60 Day Rule

- Must repay within 60 of quantifying error
- Act without delay once you suspect, not usually longer than 6 months to quantify
- 6 Year lookback maximum
- False Claims Act liability, Civil Monetary Penalties liability

HIPAA Risk Assessment Considerations

Patient Access Rights

- Right of Access Initiative (2019)
  - Access vs. authorization
  - CE may require the request to be in writing
    - Be consistent

Access Rights Con't

- Cannot create barriers / unreasonable delays
  - May not require use of the web portal
  - May not require the individual to physically come to the office

Access Rights Con't

- Expected CE can provide via email
  - Must send encrypted if requested by the individual
  - Can send unencrypted if requested by individual

Must warn them there is "some level of risk" while in transit

Business Associate Agreements

- Verify:
  - In place and signed for relevant partners
  - Contain all necessary language

Security Risk Analysis

Enterprise-wide risk analysis and risk management plan

- Administrative Safeguards
- Technical Safeguards
- Physical Safeguards

ePHI that you create, maintain, transmit and receive

HIPAA Settlement

- Metro Community Provider Network – an FQHC in Denver CO
- Email phishing compromised PHI of 3200 patients
- When MCPN did finally conduct a security risk analysis it was insufficient to meet the Security Rule standards
- Fined $400,000 for failure to properly conduct a risk analysis and implement a risk management plan timely

Education Considerations

Compliance Education

- Do all employees receive compliance education?
- How frequently?
- Is education documented?
- Any subsequent assessment given?

Physician Compensation

Physician –Self Referral Law aka "Stark Law"

- Employed physicians must be paid only for services personally performed
  - Cannot be paid for volume or value of "DHS" referrals
  - Fair market value and commercially reasonable
- Primary concern – incentivizing physicians to overutilize / order

DHS List

- Clinical laboratory services
- Physical therapy services
- Occupational therapy services
- Outpatient speech-language pathology services
- Radiology and certain other imaging services
- Radiation therapy services and supplies
- Durable medical equipment and supplies
- Parenteral and enteral nutrients, equipment, and supplies
- Prosthetics, orthotics, and prosthetic devices and supplies
- Home health services
- Outpatient prescription drugs
- Inpatient and outpatient hospital services

Compensation Arrangements

- Volume-based system (like the current PPS rate)
  - Pay physicians for work they personally perform

- Value-based payment arrangement
  - You can share value-based profits with physicians that contribute

Expectations

- Productivity
- Documentation – timeliness and complete
- CPT Coding accuracy
- Clinical outcomes

- Behavioral incentives

Incentive Considerations

- Behavior is within their control
- Aligned with the Health Center
- If bonus is based on productivity
  - Have a documentation and CPT accuracy component

Incentive Considerations

- I recommend patient visits for productivity
- Fair market value & commercially reasonable
- Easy to track and implement
  - For example, $25 – $30 per encounter once volumes exceed your target level

New Stark Exceptions

- New Stark law exceptions for “value-based arrangements”
- Intended to:
  - Facilitate the transition to value-based care
  - Foster care coordination
- Very specific criteria laid out
  - Final rule published “Federal Register” Vol. 85, No. 232 dated 12/2/2020

Impact on Physician Compensation

- Physician compensation can be based on more than personally performed services (if we meet value-based definitions)
- For example, “shared savings” from an Accountable Care Organization (ACO) or similar value-based initiatives

ACO Example

- 20,000 patient lives attributed to specific physicians
- Avg. cost to care for them $10,000 per person per year over last 5 years
- 2021 cost is $9,000 per person
  - $2,000,000 total savings

Outcome based incentive

Documentation and DX Coding

- Diagnosis coding specificity key

Tells the story of patient risk

Physician Engagement

- Stakeholders versus employees

Summary

- Compliance risk is operational by nature
- Annual risk assessment with the compliance committee
  - Open dialogue of perspectives
  - Review key data trends
- Audit, monitor, educate
- Engage providers as stakeholders

Contact Information

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