

Part B Insider (Multispecialty) Coding Alert

Compliance: Get These 7 Compliance Plan Tips Straight From the OIG's Medical Director

The Affordable Care Act requires a firm compliance plan, so use these tips as a guideline when building yours.

Ready to get your compliance program off the ground? Now you've got a little help from some very knowledgeable sources, thanks to a new webinar from CMS and the OIG.

Background: As many practices are aware, the Affordable Care Act requires that providers must establish a compliance program as a condition of enrollment in Medicare or Medicaid, said **Lauren Gillooly Robbins**, manager for provider education support services with Palmetto GBA during CMS's recent webinar, "Affordable Care Act Provider Compliance Programs: Getting Started."

Of course, the ACA was finalized in 2010 and you may be wondering whether CMS has set an enforcement date for the provider compliance plan. "Let me answer the million dollar question," Robbins said. "There is no date yet. We don't know when there might be a date, and we're very sorry, we don't have that information for you today."

However, it's certainly in your best interest to get started ahead of time. First, this is important so you aren't scrambling to comply when the government finally does set a date, but it's also helpful so you can ensure that you're reporting your services ethically and that you have fewer billing mistakes. This will ultimately lead to faster claims payment and less scrutiny from auditors, Robbins said.

Although CMS and the OIG don't offer a template to create your compliance plan, there are some guidelines you can follow to ensure that you are within the guidelines, said **Julie Taitsman, MD, JD**, chief medical officer with the OIG, during the webinar. She recommends seven elements that can help you craft an effective compliance program, which she outlined as follows:

1. Written Policies and Procedures

The best way to clarify and share your practice's compliance plan is to put it in writing. "These written policies, procedures and standards should be composed with guidance from the compliance officer and compliance committee," Taitsman said. All employees should review the standards within 90 days of being hired and then annually thereafter, she advised.

The written compliance plan should include your practice's code of conduct, commitment to compliance, and treatment of patients and employees, she said. In addition, the plan should outline the compliance responsibilities for all of your staff members, as well as the following items, Taitsman said:

- How and when employees will be trained
- Operation of the compliance program, including the compliance reporting structure
- Reporting mechanisms
- How investigations will be conducted
- How you will resolve any issues uncovered
- Monitoring of the compliance plan
- Auditing to ensure that the plan is being followed

2. Compliance Program Oversight

Once the compliance plan has been completed, your work is not done—in fact, it's just beginning. "Your office or practice needs to establish who will oversee the compliance program as the organization's watchdog," Taitsman said. "A compliance officer and/or compliance committee needs to be put in place," and they should report directly to senior management.

These employees should create policies and procedures, attend staff meetings, monitor compliance performance, enforce standards and evaluate whether corrective actions are handled appropriately.

3. Training and Education.

"Training your staff is one of the most important elements of your compliance plan to ensure that staff is aware of the expectations and standards," Taitsman said. You may know how to train new staff members, but some practices are flummoxed about how to handle the annual updates.

"The refresher training should re-emphasize the organization's code of conduct," Taitsman said. "Training should, when appropriate, use actual compliance scenarios and/or investigations of non-compliance as examples of risks that employees and managers may encounter." Using interactive real-life scenarios allow the employees to take away the lessons in a more valuable way, she says.

4. Open Lines of Communication.

Encouraging your staff members to speak up if they see a compliance issue is essential for any effective program, Taitsman says. Some bigger clinics will have a toll-free number that staffers can call to report infractions, while smaller practices have to work harder at fostering open-door policies to encourage employees to report issues they see. "If you don't receive many reports, don't assume that there are no problems," Taitsman warns.

You can create reporting mechanisms like an email or internet-based form, an anonymous drop-box, or an in-person appointment. No matter what you choose, you should make sure that every staff member knows the reporting method so they can quickly access it when necessary.

5. Auditing and Monitoring.

Although you might interchange these two terms, there is a big difference between auditing and monitoring, Taitsman says. Monitoring refers to regular reviews on a day-to-day basis to confirm that the practice's operations are continuing to include ongoing compliance. Auditing, on the other hand, "includes formal reviews of compliance with a particular set of standards as base measures," Taitsman says. During audits, your compliance staff will periodically evaluate the compliance program via desk audits, on-site visits and internal and external examinations, with a report afterward that includes the findings. You should perform this at least once a year, or more often as appropriate, she advises.

Common problematic compliance areas include coding and billing errors, as well as hiring people who are statutorily excluded from participating in federal programs like Medicare and Medicaid, Taitsman says.

6. Consistent Discipline.

If you find anything amiss during your monitoring and auditing activities, you'll need to have a plan in place that enforces discipline, Taitsman advises. "Discipline must be dealt with timely and enforced consistently," she says. "Disciplinary policies must be clearly written and describe expectations and consequences for non-compliant behaviors. They should be widely publicized and reviewed at least annually for the staff."

7. Corrective Action.

At some point during your tenure under a compliance plan, you're sure to find an issue, and you must have a plan in place to correct it. For instance, you may need to refund an overpayment you've identified, or create a disciplinary action against non-compliant employees. Ensuring that you follow through with the corrective action is the final step to confirm that your compliance plan is solid.

