

Part B Insider (Multispecialty) Coding Alert

Compliance: Know When Your Financial Arrangements Could Cause Compliance Nightmares

Writing off coinsurance could get you into sticky situations.

Following the government's announcement that its latest takedown put over 100 health care professionals out of business, it's clear that you need to ensure that your compliance plan is airtight. Check out these quick tips that can keep you out of hot water.

Helping With Copays Could Hurt You

With insurance restrictions on many Part B procedures, your office might be tempted to assist patients by offering discounts or even waiving copayments or deductibles. But protecting your patient's pocket could seriously jeopardize the health of your practice.

Perhaps the best advice when it comes to discounting or waiving fees is that you should avoid it if you can, but if you insist on treading into this area, you need to do so extremely carefully.

Reason: Financial arrangements that differ from the billing obligations laid out in your contract with government or third-party payers can result in fraud charges, penalties, and loss of carrier contracts.

Example: A new patient is left with a balance following a comprehensive exam. The total charge for the service was \$125, with insurance covering 80 percent (\$100). The patient fails to pay the remaining 20 percent. To assist the patient, you waive the remaining \$25 balance.

This scenario illustrates how quickly you can get into hot water. By discounting the service, you are effectively saying that your office's charge for the comprehensive exam is not \$125 but actually \$100. The waiver could put the claim in violation of the Federal False Claims Act because the practice misrepresented the charge to the payer.

Learn the Law to Steer Clear of Violations

According to the OIG, "the routine waiver of Medicare coinsurance and deductibles can violate the Federal anti-kickback statute if one purpose of the waiver is to generate business payable by a Federal health care program." (<http://oig.hhs.gov/fraud/docs/alertsandbulletins/2004/fa021904hospitaldiscounts.pdf>).

In addition, offering inducements such as cost-sharing waivers to Medicare patients that you know might be likely to influence that patient's selection of provider can violate separate statutes, the OIG says.

You also want to be careful of the volume and dollar amount of discounts you offer to patients. The OIG will keep an eye out for patterns of routine waivers, and with the exception of hardship cases, you don't want to discount services below the allowable Medicare rate.

Don't do it: The age-old practice of "professional courtesy," or extending free or discounted services to other physicians or their families, may be a violation under the Federal False Claims Act. You could also put yourself in jeopardy under the Stark statute if Medicare perceives that your office received referrals by extending the courtesy.

Consider What's at Stake

Best bet: If you ever encounter a situation in which you think a waiver or discount of fees is legally and ethically appropriate, contact your payer or a health care attorney to ensure that the arrangement would be in compliance with



the payer's contracts and policies.