Part B Insider (Multispecialty) Coding Alert

Electronic Health Records: 'Audit-Proof' EHRs Don't Exist, Experts Say

The responsibility is on your practice--and not the software or software vendor--to ensure that you're reporting the right codes.

Your electronic health record (EHR) may make your job easier, but it won't make your claims entirely "audit-proof."

Case in point: A practice recently noted that one of its new physicians has been billing almost all 99215s for his E/M visits, which the EHR calculates based on the information that the physician enters into it. The practice manager pointed out that the vendor who sold her the EHR told her that its E/M calculator was auditproof, so she had been submitting the 99215s without checking the documentation. But she recently reviewed a claim and realized that the physician was sometimes examining body systems that weren't medically necessary for the condition, making his codes automatically register for higher levels than the patients' diagnoses warranted--and this habit could become problematic for this medical practice.

"In addition to needing to fulfill the 'bullets,' you very much need to demonstrate medical necessity," says **Chip Hart** with Physician's Computer Company. "A 99215 is not justifiable for an otitis recheck except in the most exceptional cases. It's not even justifiable in most visits, even complex ones, for a reason."

In black and white: "Medical necessity of a service is the overarching criterion for payment in addition to the individual requirements of a CPT code," CMS says in Section 30.6.1 of the Medicare Claims Processing Manual. Therefore, any documentation of a comprehensive history and exam in an EHR may cause the system to automatically assign 99215, but that doesn't mean your documentation will back up that code selection.

Keep this in mind: "The number one suggestion I have," Hart says, "is don't use your EHR to do your E/M coding. It can't judge the medical decision-making aspect. The fact is, when you get audited, the EHR won't be on the stand in your defense. The EHR won't pay your $50,000 take-back. It's YOUR name on the claim, not theirs. Just because the EHR says you have enough bullets to bill a 99215 doesn't mean it's a valid 99215."

Additional consideration: "If you report only level four and five E/M codes, your practice will end up being an outlier," says **Patrick J. Hurd, Esq.,** with LeClair Ryan in Norfolk, Va. "The Medicare and Medicaid contractors can run a very simple computer program and they'll see that you differ from the norms. They'll ask for you to send them certain randomly-selected charts."

Does such a request from your MAC mean you'll be in trouble at the outset? "No," Hurd says. "I have successfully defended physicians where the nature of the practice is that they see complex and very sick patients, typically with comorbidities, but the documentation has to support the nature of the highlevel visit."

Self-Audit Your Physician's Records

You can help ensure that your physicians are selecting appropriate codes by occasionally pulling a sample of their charts. Look at the patient's chief complaint (meaning the nature of the patient's presenting problem) and the encounter's outcome or final diagnosis. If the primary ICD-9 code and any relevant secondary diagnoses (those representing comorbid conditions) do not support a billed level of service, you should read the chart notes.

Example: A patient presents with a chief complaint (CC) of sinusitis, which is also the only ICD-9 code that the physician reported: 461.1 (Acute sinusitis; frontal). Although the physician technically could have performed and documented the elements necessary for a comprehensive history and comprehensive examination, the CC of sinusitis probably wouldn't warrant 99215, without any additional comorbidities or complicating factors.

Your Practice--And Not the EHR Vendor--Is Responsible for Your Submitted Charges

Submitting all high-level E/M codes and telling an auditor that your "auditproof" EHR selected the code will not absolve you from having to repay Medicare for any overpayments that your MAC sends to you, says **Michael F. Schaff, Esq.,** with Wilentz, Goldman and Spitzer in Woodbridge, N.J. "Nothing is audit-proof, because the information going into the system has to be accurate or the system can't generate an appropriate code," he says.

Recommendation: "When you enter into a contract with an EHR vendor, ensure that the contract includes appropriate representations and guarantees," Schaff says. "Make sure there is no limit of liability provision in the contract, and make sure the vendor has the appropriate insurance to cover the potential liability should any issues come up."