

MDS Alert

COMPLIANCE: Don't Let the Newest Payment Auditors on the Block Pack a Knock-Out Punch for Your Facility

5 strategies will prepare you for the MICs (Medicaid Integrity Contractors).

If you think the RACs sound bad, you may not yet have heard about the MICs (Medicaid Integrity Contractors). These payment watchdogs are already auditing nursing homes and other providers in some states. And CMS expects to have the MICs operational nationwide by the end of 2009, according to a CMS-sponsored special Open Door Forum (ODF) on the new audit program.

Beware: "Long-term care facilities will be much more likely to get medical record requests from MICs than from the Recovery Audit Contractors (RACs)," says **Steve Lokensgard**, special counsel with the Minneapolis office of the law firm of Faegre & Benson LLP. Forty-four percent of MIC audits are occurring in hospitals, 29 percent in long-term care facilities, 21 percent in pharmacies, and the remaining 6 percent in other settings, according to the ODF.

5 Ways to Prepare Now

To stay a step ahead of the MICs, consider these key strategies.

1. Nail down the basics. In a nutshell, the MICs include three types of contractors: review, audit, and education. "The review contractors will do data mining to find issues indicative of an erroneous claim," explains Lokensgard. The audit contractors will then conduct the audits either onsite or as a desk audit, according to **Barbara Rufo**, director of the Medicaid Integrity Contracting Division, who spoke during the special ODF on the MICs. Education MICs will pick up on concerns uncovered by the other two MICs to educate providers and others about Medicaid payment integrity and quality of care, according to CMS.

2. Appoint someone to focus on Medicaid compliance, if you haven't already. "Nursing facilities don't tend to have Medicaid compliance officers," observes **Paula Sanders**, partner with Post & Schell in Harrisburg, Pa. And that could be a problem once the MICs get rolling. The way the MICs are working in CMS Region 3, the facility gets a letter from the MIC auditors stating they want to set up an entrance interview and for the facility to "present the contact person and its Medicaid compliance officer," Sanders says.

Digging deep into Medicaid payment requirements in your state can also put you more on par with the MICs, which will be doing the same. "In order for MICs to be effective, they have to learn and understand the intricacies of every Medicaid program," Sanders points out.

3. Know what MICs may target. While the RACs primarily go after overpayments, the MICs may be more heavily focused on "program integrity," which involves fraud and abuse issues. For example, "a lot of states have UMR [utilization management review] teams that take a small sample of a facility's charts and identify errors resulting in overpayments, which are corrected," Sanders says. A MIC could possibly pull a facility's UMR records, which the MIC can access while working with the state Medicaid units. "Once the MIC knows the facility had errors in the past, it can try to convert that into a false claim," if the facility has repeated that error and failed to correct it, Sanders cautions.

Facilities will also "be very vulnerable" to MICs pursuing documentation errors, including lack of signed physician orders and certs/recerts for services, Sanders predicts.

Inside scoop: MICs will be looking to see if services are being provided that you would expect to see as part of the nursing facility rate, said **Jim Gorman**, director of the Medicaid Integrity Program's (MIP's) Division of Fraud Research & Detection, during the ODF.

Another question to expect: "Are there pharmaceuticals being provided and in what fashion?" Gorman noted that the MIP has often seen situations involving "a double provision of pharmaceuticals" due to the number that the facility or patients received "and sometimes the way [the pharmaceuticals] are audited from the pharmacy."

4. Focus on MDS support documentation for case-mix payment. Facilities in states with MDS-driven Medicaid case-mix systems should "absolutely know the [MDS] qualifiers and keep an eye on the support documentation for those qualifiers," urges **Gail Robison, RN, RAC-C**, a consultant with Boyer and Associates in Brookfield, Wis.

Hot tip: Like the RACs, MICs could look for an actual validated MDS in the state repository that matches up exactly with the claims data, warns **Betsy Anderson**, VP at FR&R Healthcare Consulting Inc. in Deerfield, Ill.

5. Look to state law for audit parameters. The audits will be conducted on a state-by-state basis, notes Lokensgard. Thus, unlike the RACs, the program provides no national standards for how far back the MIC auditors can go, how many records the MICs can request from providers to produce in a certain time frame, "or what the appeal process will be." According to CMS, "the standards will be based on state law standards," he says.

But don't expect MICs to always follow established state requirements, according to the CMS ODF. "If you're in state X and the state Medicaid agency typically looks back three years," said Rufo, "then we typically would look back three years. That's subject to change and if there's ... reason to extend that or ... to reduce that look back period, then that's certainly very possible."