EDUCATIONAL RESOURCES

DMEPOS

The Question Is Not If Your Company Will Be Audited But When: Be Proactive Instead of Reactive

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DMEPOS

Current Audit Climate

Current Status

- Audits are back with volumes increasing from all audit contractors.
- Most contractors seem to be staying away from pandemic related claims so seeing increased volume on things like surgical dressings, urologicals, ostomy, hospital beds, manual wheelchairs, etc.
- Many suppliers are seeing multiple audits occurring at the same time from different entities.

DME MAC – Targeted Probe and Educate (“TPE”)

- On August 12, 2021, CMS announced the restart of the TPE program:
  - TPE started fresh, so suppliers that were in a TPE before may not get one right away and vice versa.
  - Providers previously referred to CMS after failing round 3 and were in a round 4 have been picked up right away again.
  - The 10-claim review that was being done prior to initiating a TPE has reconvened.
- For the 19 Counties Affected by Hurricane Ian TPE audits have temporarily been suspended and closed.

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Current TPE Audits

Product Category/HCPCS
Ankle-Foot/Knee-Ankle-Foot Orthosis (L1902,L1906,L1971,L4361,L4396,L4397)
Enteral (B4035)
Glucose Monitors (A4253)
Immunosuppressive Drugs (J7503,J7507,J7518,J7520,J7527)
Knee Orthosis (L1832,L1833,L1844,L1851,L1852,L2397)
Manual Wheelchairs (K0000-K0009)
Spinal Orthoses (L0450-L0651)
Surgical Dressings (A6010,A6021,A6196-A6199,A6203,A6209-6212,A6231-A6233,A6234-A6241,A6242-A6248,A6251-A6256)
Therapeutic Shoes (A5500,A5512,A5513)

Supplemental Medical Review Contractor

- Conducts nationwide medical reviews, as directed by CMS
- Reviews are assigned through CMS and focus on analysis of national claims data issues identified by:
  - Federal agencies - Office of Inspector General (OIG), Government Accountability Office (GAO)
  - CMS internal data analysis
  - Comprehensive Error Rate Testing (CERT) program
- Three types of SMRC Reviews
  - Provider Compliance Group
  - Program Integrity Group
  - Healthcare Fraud Prevention Partnership

SMRC Audit Process

- SMRC reviews claims on a post payment basis
- Affected providers receive an additional documentation request ("ADR") letter
- Providers have 45 days to respond but can request extensions
- Supplier will receive Review Results Letters with detailed findings
  - Agree: Refund upon receipt of overpayment demand
  - Disagree:
    - Request a re-review - opportunity to submit additional documentation for review
    - Appeal upon receipt of overpayment demand

SMRC

- A small number of very large SMRC audits involving thousands of claims also occurred during PHE
- Three types of SMRC Reviews
  - Provider Compliance Group
  - Program Integrity Group
  - Healthcare Fraud Prevention Partnership
- PCG audit volumes are on the rise

SMRC

Project Details	Dates for Review	Date Added
Ostomy Supplies	1/1/2019 – 12/3/2019	12/10/2021
Surgical Dressings	1/1/2019 – 12/31/2019	11/23/2021

Recovery Audit Contractor (“RAC”)

- Performant Recovery – National HH&H and DMEPOS Recovery Audit Contractor (RAC) Region 5
- Goal: To recoup overpayments and pay underpayments
- As required by Section 1893(h) of the Act, RACs are paid on a contingency fee basis
  - The amount of the contingency fee is a percentage of the improper payment recovered from, or reimbursed to, providers.
  - The contingency fees range from 14.0 - 17.5 percent. The RAC must return the contingency fee if an improper payment determination is overturned at any level of appeal.

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RAC Audit Process

- The RAC reviews claims on a post payment basis
- Audit issues must be approved by CMS
- Two types of reviews:
  - Automated (no medical record needed)
  - Complex (medical record required)
- Providers have 45 days to respond, but can request extensions

RAC - Complex

DMEPOS Under Complex Reviews	Date Posted
Enteral Nutrition Therapy	12/6/2021
Parenteral Nutrition Therapy	12/6/2021
Immunosuppressive Drugs	12/1/2020
Continuous Glucose Monitor	9/8/2020
Hospital Beds	3/1/2020
Manual Wheelchairs	3/1/2020
Surgical Dressings	1/1/2020

RAC - Automated

DMEPOS Under Automated Reviews	Date Posted
CGM Supplies	9/8/2020
Cervical Orthoses	1/1/2020
Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses	10/1/2019
Upper Limb Orthoses	5/17/2019
Knee Orthoses	5/1/2019
Spinal Orthosis (TLSO/LSO)	1/1/2019

Uniform Program Integrity Contractors (“UPICs”)

- Perform program integrity functions
- Primary goal is to investigate suspected fraud, waste, and abuse
- UPICs may, as appropriate:
  - Conduct interviews with beneficiaries, complainants, or providers
  - Conduct an onsite visit
  - Identify the need for a prepayment or auto-denial edit, payment suspension, revocations, post pay overpayment determination
  - Refer cases to law enforcement to consider civil or criminal prosecution
- Share information (leads, vulnerabilities, concepts, approaches) with other UPICs
- Are often very aggressive although CMS oversight has increased in recent years.

UPIC Audit Response Strategy

- UPICs should be treated very differently and carefully
- Requests from UPIC should be escalated to upper management/ compliance officer immediately
- Review request and respond with required documentation to support services were provided and medically necessary
- Conduct a risk assessment to determine potential financial risk so you can prepare, if necessary
- Prepare “cover letter” that summarizes the medical record and pertinent policy requirements when necessary
- Consider engaging counsel and/or audit experts

OIG Audit – Hospice claims

- OIG Report, “Medicare Improperly Paid Suppliers an Estimated $117 Million Over 4 Years for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Provided to Hospice Beneficiaries”
- Audited two samples of claims (with/without GW modifier) – 200 claims total
- OIG found 121/200 claims were improperly paid
  - Suppliers were unaware that they had provided items to hospice patients
  - System edits were not effective or did not exist
  - Suppliers inappropriately used the GW modifier
- Expect audit activity of hospice claims to increase

OIG Audit – PMD Repairs

- "Medicare Improperly Paid DME Suppliers an Estimated $8 Million of the $40 Million Paid for PMD Repairs"
- 100 sampled beneficiaries, 922 PMD repairs: 637 complied, 261 did not
  - Documentation did not support the charges for repairs, labor time was not documented, or charges were not reasonable and necessary
  - $41,137 in improper Medicare payments and $10,494 in associated beneficiary coinsurance payments.
- OIG also questioned charges for 183 repairs associated with 19 sampled beneficiaries citing documentation and services not being medically necessary.
  - $20,692 in questionable Medicare payments and $5,278 in associated beneficiary coinsurance payments.

OIG Audits

- Another PAP audit is currently underway
- Likely a follow up to the 2018 report that identified $631.3 million in overpayments after auditing just 100 claims
  - Resulted in significant issues for suppliers throughout the US
  - Led to 6-year lookback audit
- This time, OIG has indicated that they are only reviewing to determine that a valid sleep study occurred.

OIG Work Plan

Project Description	Date Posted
Medicare Payments for Intermittent Urinary Catheters	July 2022
Medicare Payments outside of the hospice benefit (revised)	February 2022
Prevention of fraud, waste and abuse related to orthotic braces (revised)	January 2021
Review of Medicare Payments for Power Mobility Device Repairs (partial)	October 2019
Supplier Compliance with Medicare Requirements for Replacement of Positive Airway Pressure Device Supplies	October 2019
Medicare Payments of PAP Devices for OSA Without Conducting a Prior Sleep Study	August 2019

General Audit Response Strategies

- Prepare intake staff for incoming ADR requests and establish response process: Non-response adds to error rate
- Review ADR request and corresponding coverage policies to ensure documentation meets criteria
- Consider drafting a “cover letter” that summarizes the records and pertinent policy requirements when the opportunity allows
- If documentation is lacking and an addendum would be sufficient, work to obtain this for submission during the appeals process
  - Addendums are sometimes accepted upon appeal, but not during audit
- Request extensions when needed – only on post-payment reviews

Audit Response Strategies

- Review audit results and utilize discussion periods if possible
  - Allows providers to provide additional information to support the original payment of a claim
  - 30 days to submit request
- Review records for valid signatures and obtain attestations where applicable

Proactive Audit Strategies

- A provider without a compliance program is considered negligent and uncovered compliance issues could result in more severe penalties for providers without a compliance program
- Most important elements:
  - Education and Training
  - Internal Auditing
  - Risk Analysis
  - Policies and Procedures
- Have staff regularly review audit contractor websites

Audits – Looking Ahead

- FY 2022 Budget calls for significant budget increase for CMS Program Integrity Activities – $65.8 million increase
- Administrative Law Judge backlog is clearing
- Audit volumes will likely continue to increase as PHE winds down
- CMS will likely develop an audit plan for DME MACs and other contractors to audit CR modifier claims
  - Entities using CR modifiers on large volumes of claims will likely be targeted
- Industry stakeholders are still calling for transparency in CMS audit plans and clarity on unresolved issues
- There is a potential for a significant uptick in RAC audit volume after Q2 2022

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Questions?

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Thank you

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