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Announcement of a New CMS Demonstration Program

by Jill S. Garabedian

Are you prepared for the latest CMS Demonstration Program? In an effort to reduce improper Medicare and Medicaid payments, Medicare Recovery Auditors will have the ability to conduct prepayment reviews of Medicare claims. On November 15, 2011, the Centers for Medicare & Medicaid Services (CMS) announced the Recovery Audit Program Prepayment Review demonstration in response to President Obama's 2010 goals to reduce payment errors, cut the Original Medicare error rate, and recover improper payments by 2012. While the Prepayment Review demonstration was scheduled to start on January 1, 2012, due to the amount of comments and questions it received following the announcement of the demonstration, CMS recently decided that the demonstration would now begin on or after July 1, 2012.

Currently, Recovery Audit Contractors (RACs) work under the "pay and chase" model to recover improper payments to recipients of Federal dollars; targeted reviews are performed after a claim has already been paid. To expand on these efforts and the efforts of Medicare Administrative Contractors, from January 1, 2012 until December 31, 2014, the Prepayment Review demonstration will allow Recovery Auditors in 11 states: Florida, California, Michigan, Texas, New York, Louisiana, Illinois, Pennsylvania, Ohio, North Carolina, and Missouri to review the medical records and other documents related to any claims before payment is authorized. The listed states were chosen by CMS based on, for the first seven states, the amount of fraudulent claims and providers and, for the last four states, the amount of claims for short inpatient hospital stays. Initially, the demonstration will focus on inpatient hospital claims, in particular those claims for short hospital stays. Typically, RACs do focus on hospital claims; however, the focus could shift at any time and therefore it is important for physician practices to be aware of the potential for prepayment review of their Medicare claims.

Practices, especially small practices, could be impacted a great deal by this demonstration. Prepayment review not only puts an administrative burden on small practices, particularly those that do not have electronic records, but it also has the effect of delaying payment of claims and therefore money into the practice. If your practice is located in any one of the 11 states, preparing for review is very similar to preparing for any other RAC audit. Here are just a few ideas of how to get ready:

- If you have not already done so, make sure you have a compliance program in place;
- Pay attention to RAC findings and improper payment reports;
- Conduct your own internal audits and assessments;
- Use the information you gather to develop and update policies and procedures;

- Educate staff on common payment issues;
- Look at denied claims and identify patterns; and
- Improve documentation.

Given the still lingering concerns over the administrative burden this demonstration will place on hospitals and providers, you should continue to stay up to date on any new developments. Check back to our website any new updates.

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Ms. Garabedian concentrates her practice in physician transactional matters, including employment negotiations, regulatory issues, as well as assisting physicians with employment matters. She also is involved in estate planning and trust and estate administration.

In addition to her work as an associate at Wade, Goldstein, Landau & Abruzzo, Ms. Garabedian serves as a teaching fellow at Earle Mack School of Law at Drexel University assisting with various bar exam preparation programs.

Ms. Garabedian is co-author of *Dealing with Problem Employees*. She has been a featured lecturer for the American Academy of Ophthalmology.

Ms. Garabedian graduated cum laude from the Earle Mack School of Law at Drexel University and received her Bachelor of Arts cum laude from the University of Delaware. While attending law school, Ms. Garabedian gained experience working as a law clerk at Wade, Goldstein, Landau, & Abruzzo, P.C.

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Pennsylvania Bar Association

Philadelphia Bar Association

Volunteerism and Interests:

Committee Member, Girls on the Run of Montgomery County, PA 5k