Practice Management

Corporate Compliance Program

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If you have been reading *Pain Physician* over the last year you will recognize the importance of developing a compliance program for your pain practice. This is not as difficult or daunting as it first appears.

First and foremost it is important to understand why compliance programs are so important. HCFA and Medicare have decided that in order to try and save money they must control expenses. In so doing, they have targeted fraud and abusive billing practices as a means of recouping and controlling expenses. So that the pain physicians does not feel that they are being picked upon, this search for fraud and abuse extends not only across specialties, but also into hospitals, nursing homes, extended care facilities, and anyone and everyone who bills Medicare for services.

HCFA claims that 10% of claims/payments were "fraudulent" in 1998. One billion dollars was collected in fines last year, with a 400% increase in the number of criminal convictions for fraud and abuse. These numbers should help impress upon even the most naïve practitioner, why it is so important to implement a compliance program.

This search for fraud and abuse does not always follow logical grounds. They have enlisted the services of OIG (Office of Inspector General) and the FBI to assist in uncovering fraud and abuse. Needless to say these organizations do not completely understand our practices, although they certainly have the power and resources to make our live difficult. The most common reason for denial of downgrading is poor documentation. If it's not written into the record, you didn't do it.

In most medical practices, the search for fraud and abuse is focused on E&M coding (Evaluation and Management). This is not to suggest that billing of procedures and other services are not also under close scrutiny. However if a practice can ensure the E&M coding is performed prop-

erly, I believe their exposure to other areas of scrutiny will be significantly reduced. In fact, it is not hard to ensure compliance with E&M coding as the guidelines for Evaluation and Management coding are so carefully laid out in a number of different formats. The best place to start is in the CPT Manual, but a number of more detailed guidelines have been released by HCFA, the AMA, and other organizations carefully describing what is expected with each level of E&M coding. Before selecting an E&M code to bill to Medicare (or even a private insurance carrier), it is important not only to consider the work performed, but the level of documentation that you have provided; then, and only then, can a proper code be selected. Remember that if it is not documented, it was not performed.

Some of the more onerous tasks involved with E&M coding involve such things as Review of Systems. This however can be easily handled in a questionnaire format that is filled out by the patient. If this is then referred to specifically in the dictation, and most importantly the questionnaire then signed by the evaluating physician, this is considered as an acceptable portion of the E&M evaluation. Remember to sign this portion of your pain questionnaire or else there is no proof that you have reviewed this component of your E&M service.

It is clearly pointed out in previous articles in *Pain Physician* that it is important to differentiate between consultation and initial evaluations as a patient that receives any service that is not specifically prescribed (in writing) by the referring physician places you in the role of treating physician and in an "initial evaluation" E&M (99201-205) must be selected. Given that we are so highly specialized in pain management this does not make intuitive sense, but the same can be said for many things in HCFA's current guidelines.

Once one understands the importance of a Corporate Compliance Program, it is relatively easy to institute such a policy. There are a number of places that one can obtain a

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pre-written policy (i.e. – see advertisement in this journal), although these are not hard to write on one's own. They basically must describe a code of ethics both in practice and in corporate billing and then describe how one implements these policies, with emphasis being placed on implementation. This means that a certain percentage of charts must be, at random, reviewed as part of your compliance program. I would urge you to assign certain members of the practice as compliance officers. This team should probably be led by a physician, but include a nurse and at least one to two members of your billing staff. Deficiency in billing practices must be corrected and physicians found to be making frequent mistakes must be educated to correct these deficiencies. If mistakes continue to occur, disciplinary action must take place and should be outlined in the compliance program. If no actions are taken, it will undermine the entire compliance program.

Once you have set up and instituted an appropriate compliance program, I would strongly recommend that you consider an audit from an outside agency to review your practices and ensure that you are conducting these audits properly. There are a number of attorneys who specialize in this area, several of which are available through the AOPMA. If you prefer, these firms can set up an entire compliance program for your practice (more costly), but you must still implement this program for it to be successful.

Unfortunately it is not enough today to be a good physician and help people, we are obligated because of fiscal concerns to demonstrate cost-effective treatment programs. Often it is hard enough just to obtain approval to see a patient if the office (let alone for actual treatment), add to this the need to comply with E&M coding guidelines and other Government regulations, and it leads many physicians to question their choice of profession.

In the end, we have entered Pain Management to help people and perhaps in no other field is this as evident as it is in our specialty. You will face many battles during your career. By properly preparing for these confrontations, you can and will be successful in the long-term. A properly constructed and implemented corporate compliance plan will help prevent a Medicare audit and limit your monetary exposure. A compliance program demonstrates that you are trying to follow HCFA guidelines, and therefore it is difficult to prove that you are committing fraud and/or abuse. Therefore, audits should be limited to refunds of overpayment rather than including substantial monetary fines (maximum fine is \$10,000/offense).

I urge all pain practitioners to carefully examine their practice and to implement a Compliance Program as soon as possible. Assistance can be obtained if you still find this process too daunting, but the necessity of this program should not be ignored.