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Effective auditing and monitoring for small group physician practices

- » Implement proactive auditing and monitoring measures to decrease vulnerability to fraud and abuse.
- » Assign responsibility for auditing and monitoring functions to one or more employees.
- » Integrate monitoring activities into daily operations of management and staff.
- » Develop a consistent and ongoing method for auditing and monitoring.
- » Conduct periodic internal or external compliance program audits.

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Gravely ill patients seeking urgent medical attention have often missed repeated opportunities to engage in preventative care—care that could have put them on a path towards health instead of illness. Likewise, in today's regulatory climate, implementing a compliance program can be like practicing preventative medicine for small group physician practices. Proactively ensuring compliance program effectiveness by employing auditing and monitoring mechanisms will lead to a much healthier small group physician practice in comparison to one that functions only reactively to detected compliance violations after the fact.

Small group physician practices must engage in preventative compliance measures especially since they, like many other healthcare providers, may eventually have to demonstrate their compliance activities to the Centers for Medicare & Medicaid Services (CMS) as a condition of participation in federally funded programs. The Patient Protection and Affordable Care

Act (PPACA) was signed into law on March 23, 2010. Section 6410 of the PPACA mandates compliance programs for all healthcare providers that participate in federal healthcare programs. Section 6401 of PPACA also mandates that CMS define the core elements of this required compliance program.¹ However, to date, CMS has not issued the pertinent regulations. In the absence of regulatory requirements, small group physician practices may look to the U.S. Department of Health & Human Services (HHS) Office of Inspector General (OIG) Compliance Program for Individual and Small Group Physician Practices.² This voluntary OIG compliance guidance is the current framework by which small group physician practices can comply with Section 6401 of PPACA to institute and enforce an effective compliance program.

Benefits of auditing and monitoring

Internal auditing and monitoring is an essential component of a compliance program. Physician practices of all sizes may gain various benefits by



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implementing auditing and monitoring compliance measures. The OIG guidance states that all healthcare providers have a “duty to reasonably ensure” that claims submitted to Medicare and other federal healthcare programs are truthful and accurate. Employing auditing and monitoring measures ensures proper payment of claims and guards against violations of federal laws that govern physician self-referrals and impermissible kickbacks. Auditing and monitoring can also increase documentation accuracy by encouraging a culture of compliance within the practice. This commitment to accurate documentation and to compliance, generally, will enhance patient care, minimize billing mistakes, help streamline business operations, reduce audit risk by the OIG or CMS, and help the practice avoid entering into a corporate integrity agreement (CIA) with the OIG. Furthermore, implementing consistent auditing and monitoring practices can evidence good faith efforts toward implementation of an effective compliance program, if an investigation occurs. Proactive auditing and monitoring can help lower fines, penalties, and additional expenses in case of a settlement and/or CIA.

Many small group physician practices have not yet implemented auditing and monitoring compliance measures, despite the many benefits. This tends to be due to the various difficulties small group physician practices face in developing and maintaining an effective compliance program. For example, small physician practices often have limited financial and personnel resources, and this is coupled with demanding time constraints, or even limited compliance knowledge and experience. These factors can and should be taken into consideration when developing the compliance program, including a practice’s auditing and monitoring measures. The OIG voluntary guidance states that there is no “one size fits all” compliance program for all small group practices, and that each practice should develop an individualized program based on the practice’s needs and resources.

Small physician practices should ask themselves various questions when developing an effective auditing and monitoring program:

1. How can the practice assess its risk areas for non-compliance?
2. Does the practice have a tight budget that does not allow for yearly independent auditing by experts to assess risk areas and ongoing monitoring efforts?
3. Is there an accountable individual within the practice structure who is tasked with effectively managing auditing and monitoring efforts?
4. Can the practice afford to hire staff or compensate existing employees to oversee compliance program implementation and/or ongoing internal monitoring tasks?
5. Are there mechanisms to document potential compliance violations and to take corrective action in response to auditing and monitoring findings?

The OIG guidance notes that an audit is an excellent method by which a physician practice can identify problem areas and focus on the specific risks related to those issues. The guidance notes two types of audit reviews to evaluate problem areas: (1) a standards and procedures review; and (2) a claims submissions review. First, practices should review standards and procedures to ensure they are effective and align with current government regulations. Second, practices should review bills and medical records for compliance with applicable coding, billing, and documentation requirements. The physician practice can decide whether to review claims retrospectively as an audit or concurrently with the claims submission as a monitoring effort. A claims submission review will identify areas within the claims development and submission process that may fall out of compliance, or necessitate further education and training (see Table 1).

Table 1: Monitoring High Risk Areas

Claims Development and Submissions	Assessment Questions
<p style="text-align: center;">Coding and Billing</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Employ or have access to a certified coder who is responsible for reviewing claims? ▶ Maintain written and current policies and procedures for conducting claims reviews?
<p style="text-align: center;">Medical Necessity/ Documentation</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Have adequate processes to review medical records for medical necessity and proper documentation? ▶ Ensure physician orders are completed correctly? (e.g., signed and dated within the appropriate timeframe)
<p style="text-align: center;">Denials</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Maintain current standards and procedures for handling denials? ▶ Maintain a log of all current and past denials? ▶ Have a process to analyze denials to determine common patterns?
<p style="text-align: center;">Credit Balances/ Refunds</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Maintain current standards and procedures for handling credit balances? ▶ Assign an individual(s) the responsibility of tracking and handling credit balances? ▶ Maintain a refund and/or disclosure procedure to correct overpayments to ensure identified overpayments are repaid within 60 days?
<p style="text-align: center;">Record Retention</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Maintain current standards and procedures regarding the creation, distribution, retention, and destruction of documents? ▶ Retain key compliance documents? (e.g., educational activities, internal investigations and intern audit results) ▶ Secure medical records against loss, destruction, unauthorized access or reproduction, corruption, or damage?

Baseline audits

Initially, practices can conduct a baseline audit to outline the operational standards of the practice and identify risk areas for non-compliance. As part of the baseline audit, the practice may interview employees about their daily processes and procedures in order to determine internal risks. Practices may also consider the OIG Work Plan and OIG Fraud Alerts to determine potential risk. In conducting a baseline audit, physician groups must determine the scope of the audit. The OIG recommends that physician practices review claims submitted and paid during the 3-month period following training and education. The OIG guidance

notes that there is not a set formula as to how many medical records the practice should review, but states that a basic guide is five or more records per federal payer, or five to ten medical records per physician. In addition to serving as a starting point for compliance program efforts, a baseline audit can also serve as a benchmark for future audits, allowing the practice to evidence compliance efforts by showing increases or decreases in denial rates, error rates, overpayments, etc.

The compliance officer or compliance professional should be involved in conducting the baseline audit. Small physician practices may face resource constraints that make it unfeasible to

Table 2: Internal Auditing of the Compliance Program

Compliance Element	Assessment Questions
<p>Auditing and Monitoring</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Have procedures for auditing and monitoring? ▶ Assign responsibility for auditing and monitoring? ▶ Monitor high-risk areas? ▶ Conduct periodic (at least yearly) claims review audits and compliance program audits?
<p>Policies and Procedures</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Maintain a Code of Conduct? ▶ Disseminate the Code of Conduct to all employees? ▶ Require employees to sign an attestation that they have received, read, and understand the Code of Conduct? ▶ Maintain a core set of policies and procedures? (e.g., non-retaliation, sanction screening, education and training, etc.) ▶ Have a process to monitor that all policies and procedures are current and complete, approved by the appropriate compliance personnel/committee, consistently formatted, and contain correct effective and revision dates?
<p>Compliance officer/ Compliance professional</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Assign a compliance officer or compliance professional(s) with written job description to oversee the compliance program.
<p>Training and Education</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Conduct one hour of general compliance training on the operation and importance of the compliance program, the repercussions for violating standards and procedures, and other key risk areas upon hire, and annually thereafter? ▶ Conduct specialized training? (e.g., billing, marketing, etc.) ▶ Maintain a record of employees who have completed the trainings?
<p>Responding to detected offenses</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Have a process to investigate detected violations? ▶ Track investigations to completion? ▶ Have a process for developing corrective action plans? ▶ Have a process for refunding overpayments that is in compliance with current federal regulations?
<p>Open lines of communication</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Have an open door policy? ▶ Have a method to report compliance concerns anonymously? (e.g., hotline or drop box) ▶ Have a process for following through on all complaints to resolution? ▶ Maintain a tracking log of all compliance complaints received and the investigation?
<p>Enforcement/ Sanction screening</p>	<p>Does the practice:</p> <ul style="list-style-type: none"> ▶ Screen all employees and contractors prior to hire, on a periodic basis, and at least quarterly thereafter against the OIG List of Excluded Individuals/Entities, the General Services Administration’s System for Award Management sanction list, and state exclusion lists?

task a single individual with the management of all compliance functions. In this situation, the practice may designate more than one employee with auditing and monitoring responsibility. Operational managers or a practice administrator (depending on practice size) should be responsible for ongoing monitoring activities in their department or job function. For example, the billing manager can be responsible for monitoring claims development and submissions.

Ongoing monitoring

Table 1 provides a basic framework by which small group physician practices may begin to assess and monitor high-risk areas pertinent to their practice. It serves as a template that can be expanded.

Additional high-risk areas that can be included in this table are the Anti-Kickback Statute, Stark Law, conflict of interest, marketing, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In addition to monitoring high-risk areas, practices should monitor elements of the compliance program, such as compliance-related complaints, hotline calls, monthly or quarterly sanction screening, and policies and procedures. Managers are responsible for ongoing monitoring, and the compliance officer or compliance professional is responsible for overseeing monitoring activities. Auditing and monitoring reports should also be communicated to the compliance officer, the executive compliance committee, and/or the board, if applicable to the practice.

Auditing

In addition to a baseline audit and ongoing monitoring efforts, small group physician practices would be wise to consider a yearly claims review audit. Although internal monitoring of high-risk areas serves as an important step towards maintaining a compliant practice, it is vital that the practice's claims development and submission processes are independently audited for accuracy and effectiveness.

Further, practices can also consider periodic (at least yearly) compliance program audits. Periodic external audits serve as an independent evaluation of the practice's compliance program structure, effectiveness, and risk areas and can provide a fresh perspective. The practice may also conduct a yearly internal audit to assess compliance program efforts by reviewing all elements of the compliance program (see Table 2). From conducting internal or external audits, small physician practices can hope to gain insight into program shortcomings, vulnerabilities, and practice-specific risk areas. Small group physician practices can use this insight to develop a tailored corrective action plan aimed at remedying cited violations and program vulnerabilities.

Furthermore, audit insight will allow further fine-tuning of the compliance program by refocusing its ongoing internal monitoring tasks and goals going forward. These steps will not only strengthen the compliance program substantially but will also demonstrate a good faith effort towards implementing an *effective* compliance program. Documentary evidence of such efforts is critical if an external investigation by the OIG or CMS ever occurs.

Conclusion

Auditing and monitoring is an essential part of a compliance program for all physician practices. A baseline audit, ongoing monitoring efforts, a yearly external claims review audit, and a yearly internal or external compliance program audit will improve the efficiency and quality of services and decrease vulnerability to fraud and abuse. By starting with the systematic and preventative action steps outlined above, small group physician practices can develop a healthy and strong compliance culture that will defend against potential legal pitfalls. 📌

1. The Patient Protection and Affordable Care Act, Public Law 111-148, 124 Stat. 127 (2010). Available at <http://bit.ly/1MFijiw>
2. Department of Health and Human Services Office of Inspector General: Compliance Program for Individual and Small Group Physician Practices: Notice. 65 Fed. Reg. 194, 59434-59452 (Oct. 5, 2000). Available at <http://1.usa.gov/1np3hDY>