

Dental Practice Compliance Programs

Key Points:

- **Federal and State crackdown on dental fraud is increasing**
- **If submitting Medicaid/Medicare claims, dental practices can't afford to not have a Compliance Program**
- **Compliance Programs can reduce error rates and mitigate risk of enforcement**
- **Implementing an effective Compliance Program can be affordable**

Dental fraud, as with other types of health care fraud, results in millions of dollars in fraudulent reimbursements from Medicare and Medicaid. Fraudulent dental practices involve billing for unnecessary procedures, procedures that were never performed, intentionally substandard work, improper prescribing of opioids, substandard or abusive patient care, etc.

For many years dental fraud and abuse were generally below the government's radar screen. However, all that changed when the Affordable Care Act made it possible for Medicaid programs to greatly increase their eligibility criteria and the scope of services offered to program beneficiaries. While eligible child enrollees were already receiving dental benefits, in many states, the number of adults qualifying for Medicaid dental benefits doubled. As a result, Medicaid dental services have greatly expanded along with the costs associated with these benefits. In response, Federal and State authorities have steadily devoted ever-increasing resources to the audit and investigation of improper dental services, coding, and billing practices.

The Centers for Medicare and Medicaid Services (CMS) has engaged third-party contractors to perform program integrity audits of Medicaid dental claims around the country. The Department of Health and Human Services Office of Inspector General (OIG) has also increased its focus on this sector. Along with the increased oversight have been improved data analysis and data mining capabilities to identify questionable and patterned billing errors. State Medicaid Fraud Control Units, with most operating out of Attorney General offices, have also been increasing their capabilities of identifying and prosecuting fraudulent dental practices. In addition to activities at

the federal level, many states have moved to engage a third-party contractor to administer their Medicaid dental programs to help the policing effort.

As of 2021, enforcement agencies at the State and Federal levels continue to expand efforts to pursue both civil and criminal cases against dental practices and practitioners for various offenses. One recent example of a dental fraud initiative has been in North Carolina where a task force created a project entitled “Operation Root Canal” as an ongoing review of billing practices for a wide variety of dental services, including dental cleanings, use of nitrous oxide, repetitive restorations on the same tooth, palliative care, and upcoding of patient examinations. Through this effort, the task force investigated and recently settled 16 Medicaid fraud cases among dental providers. Other states have moved to adopt similar programs.

The following are common examples of matters that have resulted in administrative, civil, and criminal enforcement actions:

- Providing prescription opioids without a legitimate medical purpose;
- Submitting fraudulent claims for unprovided provisional crowns;
- Failure to sign progress notes;
- Billing for dental services not rendered or completed;
- Claims submitted by unlicensed or excluded dentists;
- Misrepresentation of a non-covered service as a covered service;
- Misrepresentation of the provider of the dental service;
- Waiver of the patient’s co-pay potentially implicates the Anti-Kickback Statute;
- Misreporting dates to circumvent calendar year maximums or time limitations;
- Failure to properly document support for medical necessity;
- Missing dental treatment plans/consent forms patient dental records.

Effective Dental Practice Compliance Programs can go a long way to avoiding problems with regulatory and enforcement agencies. Dental practices submitting claims for payment to

Medicaid or Medicare cannot afford to not have developed and implemented an effective Compliance Program. This would include an aggressive plan to conduct periodic internal audits of dental claims to ensure that the services have been provided, fully documented, were medically necessary and were coded and billed properly.

Developing and implementing an effective Compliance Program can be accomplished without “breaking the bank.” In fact, an effective Compliance Program may help lower costs by reducing error rates. CMS created a page on its website titled “[Medicaid Compliance for the Dental Professional](#)” to assist dental practitioners in navigating compliance for their practices. Many practices find the most cost-effective method for accomplishing this is using part-time experts as their [Designated Compliance Officers](#). This concept is specifically recognized by the OIG in its “[Compliance Program Guidance for Individual and Small Group Physician Practices](#).”

For more information on developing Dental Practice Compliance Programs, contact Richard Kusserow at rkusserow@strategicm.com.