Medicaid Integrity Program provider audits

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Background

The Deficit Reduction Act of 2005 (DRA) directed the U.S. Department of Health and Human Services to establish a Medicaid Integrity Program (MIP) and directed the Centers for Medicare and Medicaid Services (CMS) to enter into new contracts to review Medicaid provider actions, audit claims, identify overpayments, and educate providers and others on Medicaid program integrity issues. The MIP is designed to provide CMS the resources necessary to combat Medicaid fraud, waste, and abuse. A new unit within CMS, the Medicaid Integrity Group (MIG), is responsible for the audit and review of providers, coordinating activities of field staff, and preparing an annual report to Congress regarding the status of Medicaid fraud, abuse, and waste. The MIP is designed to conduct audits and support state integrity efforts at avoiding fraud, waste, and abuse.

What are Audit MICs?

Audit Medicaid Integrity Contractors (MICs) are entities that CMS contracts with to perform audits on Medicaid providers. Their goal is to identify overpayments and decrease inappropriate Medicaid claims. At the direction of CMS, the Audit MICs audit Medicaid providers throughout the country. Their audits strive to ensure that Medicaid payments are for covered services that were actually provided and properly billed and documented. Audit MICs are performing field and desk audits. Audits are conducted under Generally Accepted Government Auditing Standards.

Which providers are subject to audit?

Any Medicaid provider may be audited, including, but not limited to, fee-for-service providers, institutional and non-institutional, a well as managed care entities.

How are providers selected?

Providers usually will be selected for audits based on data analysis by other CMS contractors. They also will be referred by state agencies. CMS will ensure that its audits neither duplicate state audits of the same providers nor interfere with potential law enforcement investigations.

What should a provider do if it receives a notification letter that it has been selected for audit?

Gather the requested documents as instructed in the letter. CMS contractors have the authority to request and review copies of provider records, interview providers and office personnel, and have access to provider facilities. Requested records must be made available to the Audit MICs within the requested timeframes. Generally, providers will have at least two weeks before the start of an audit to make their initial production of documents to the Audit MICs. In obtaining documents, Audit MICs will be mindful of state-imposed requirements concerning record production. Moreover, Audit MICs may accommodate reasonable requests for extensions on document production so long as neither the integrity nor the timeliness of the audit is compromised. The Audit MICs also will contact the provider to schedule an entrance conference. Notification letters will identify a primary point of contact at the Audit MIC if there are specific questions about the notification letter or the audit process.

What process will follow the completion of the audit?

Once a field or desk audit of a provider is complete, the Audit MIC will prepare a draft report, which is first shared with the state and thereafter with the provider. The state and the provider each have an opportunity to review and comment on the draft report's findings. CMS will consider the comments and prepare a revised report. CMS will allow the state to review the draft report and make additional comments. After, CMS will finalize the report, specify any overpayment, and send the final report to the state. The state is responsible for pursuing collection of any overpayment in accordance with state law. Providers have full appeal rights under state law. The Audit MIC will be available to provide support and assistance to the state throughout the state's collection of overpayment / adjudication of the audit.

Who are the Audit MICs?

Umbrella contracts have been awarded to: Booz Allen Hamilton, Fox & Associates, IPRO, Health Management Solutions and Health Integrity LLC.

What is the time frame that the audit can go back?
CMS (and those entities that it contracts with to conduct audits of CMS providers) may audit pharmacist providers for up to 10 years. CMS requires record retention for 10 years. A provider must maintain service, prescription, claim, and billing records for 10 years, and those records are subject to audit by CMS (or its contractor). This federal CMS standard is the most burdensome of the requirements on pharmacists regarding record retention and related audits. State law (as codified in the Texas Administrative Code, and a result of Senator Leticia Van de Putte's 2007 bill) limits audits of Medicaid providers conducted by the Texas Health and Human Services Commission (and its contractors) to three years; however, the state law does *not* apply to an audit or investigation conducted at the federal level and by a federal entity or its contractor (such as this one by CMS). Additionally, the Texas Insurance Code limits audits of providers conducted by HMOs, PPOs (and the entities they contract with to process and pay claims, namely PBMs) to 180 days. Again, this federal standard in regard to the CMS record retention / audit is the most stringent. CMS is supposed to be mindful of and take into account state auditing / record retention requirements when CMS (or its contractor) is auditing the pharmacy, and therefore allow extensions on document production so long as neither the integrity nor the timeliness of the audit is compromised.

Who can I contact for legal assistance in regard to preparation for an audit or to oppose / appeal negative audit findings?
If you require legal assistance in regard to an audit (if you feel at risk that there will be negative findings, or if after the audit you wish to oppose the findings or appeal the audit report), then American Pharmacies recommends a capable attorney, Robert Seibert, in Austin who can represent pharmacists in this regard, and has represented American Pharmacies' members very well. Robert's e-mail is rseibert@rrsfirm.com, and Robert's phone number is 512-476-0005. Learn more about Robert at: http://www.rrsfirm.com/OurAttorneys/robert-seibert.asp

Questions? Please contact Ms. Fields at afields@aprx.org