RAC MONITOR: Comparative Billing Reports: What Providers Should Know

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Providers who have recently received a Comparative Billing Report (CBR) or have heard about the release of these reports may be asking how CBRs fit into the current audit landscape. According to the Centers for Medicare and Medicaid Services (CMS), the CBR is a tool to educate providers about their individual billing practices. CBRs show individual providers how their billing patterns for various codes and procedures compare to the state average and the national average for providers within the same field (e.g. physical therapists and chiropractors). These comparative studies are designed to help providers review their coding and billing practices and utilization patterns, and take proactive compliance measures. CMS has stated that "the CBR is not intended to be punitive or sent as an indication of fraud. Rather it is intended to be a proactive statement that will help the provider identify potential errors in their billing practice." But CBRs may also reveal issues that leave providers vulnerable to future audit activity (or put them on notice of overpayments).

In the past, CMS has issued similar billing reports, such as the Program for Evaluating Payment Patterns Electronic Report (PEPPER) targeting inpatient hospitals. PEPPER focuses on several inpatient risk areas, which are used by hospitals to compare their billing practices with other hospitals across the state and nation. Although not currently available to hospitals, CBRs are much like PEPPER in that they provide comparative data to assist providers in visualizing underpayments and overpayments in an effort to show billing outliers.

CMS awarded Safeguard Services, LLC the contract for producing CBRs, and Livanta LLC the contract for distributing CBRs. CMS has recommended that CBRs be sent out to select provider types that bill for certain services identified as vulnerabilities in the Medicare Program. The first CBRs were sent out in August of 2010 to physical therapists, who were chosen due to an identified vulnerability in their billing practices. The vulnerability identified was the use of the "KX" HCPCS modifier, which is a billing requirement used to show that the beneficiary has exceeded the therapy cap, but requires additional medically necessary physical therapy services. Since then, CMS has expanded the number of provider types to receive CBRs. To date, the provider types that have been identified to receive CBRs are chiropractors, ambulance, hospice, podiatry, sleep studies and spinal orthotics, each with its own vulnerabilities identified by CMS. A maximum of 5,000 providers in each provider class will be selected to receive CBRs. Medicare updates the data twice a year, so the reports cover one of two dates of service timeframes: January through June or July through December. Due to CBRs being based on dates of service, the reports are typically not available for at least three months in order for the claims to be finalized.

CBRs are not available to anyone but the provider who receives them. The reports do not include patient or case-specific data, but rather only contain summary billing information as a method of ensuring privacy. The providers receiving the report are directed to use the summary billing information as a tool to help them comply with Medicare billing rules and correct any current billing errors that could lead to a future audit.

Providers receiving CBRs may wonder what these data reports mean in the context of future audits. CBR data analysis involves the same data-mining tools used by Medicare audit contractors to identify candidates for audit. Also, in our experience, the vulnerabilities identified in the CBR tend to be

the same as those identified by CMS contractors who select providers for audit. Thus providers who are identified as outliers in CBRs will likely be subject to audits. Providers can determine whether they have been identified as an outlier compared to their peers by reviewing the graphical illustrations included in the CBR. Providers whose specialty has been identified but have not yet received a CBR may want to view a sample CBR, which can be found on Safeguard's website, so that they will understand the information in the CBR should it arrive.

Upon receiving a CBR, it is vital that providers evaluate the information included and consider conducting an attorney client privileged internal compliance audit to determine whether any differences in billing patterns are attributable to billing errors or can be explained in other manners, e.g., a difference in patient population. Providers should also develop compliance policies to address any identified risk areas. Recipients of a CBR and provider types that have been identified to receive CBRs (i.e. physical therapists, chiropractors, ambulance, hospice, podiatry, sleep studies, and spinal orthotics), should consider contacting a health law attorney to discuss evaluating the CBR analysis and development of an appropriate compliance plan that will reduce audit risks going forward.