Get ready for increased nationwide Medicare anti-activity

The financial pressure on hospitals, physicians and other healthcare providers, as a result of increased scrutiny of claims and audit activity, third-party payors, will not end anytime soon. To the contrary, as part of the True Relief and Health Care Act of 2003, the HHS has invested $6.9 million in the Medicare Recovery Audit Contractor (RAC) demonstration program expand to all 50 states by 2010. CMS plans to aggressively move forward in the development of new RACs and has already announced the expansion of its program from three states to an additional nine states by the fall of 2009. In addition, RAC auditing to take place by spring 2009 — the full scope of services. Providers are well advised to prepare now for the expansion of the RACs and increased audit activity.

The original three-year RAC pilot demonstration program, as a result of Section 306 of the Medicare Modernization Act, which directed CMS to investigate Medicare claims payments using RACs to identify overpayments and underpayments. The pilot demonstration project, which began in March 2005, targeted the three states with the highest Medicare expenditures: New York, Florida, and California — and has proven highly successful from both an administrative and financial perspective of CMS and the RACs.

The CMS RAC Status Document for FY 2008 shows a 34% increase in RAC claims paid (RACStatusDocument—FY2006.pdf) reflecting a $4.1 billion increase in payments identified by the RACs for FY 2008, with a high percentage being linked to increased RAC expenditures.

The RAC process is designed to identify and correct inappropriate payments (overpayments and underpayments) made by Medicare to providers. This process has ramifications that may significantly impact the financial performance of providers. The current RAC experiences of many providers and their suppliers show a significant impact the RACs will have on Medicare providers as the project goes national across the country. Now is the time for providers to respond to the RAC process before significant losses are incurred. This article will address an important aspect of the CMS RACs: documentation of medical necessity, and the role of provider identification.

The RACs are responsible for detecting medical underpayments as well as overpayments, it is the process of reviewing and auditing overpayments that is of particular importance to hospitalists, physicians and other provider types. The overpayments for which the RAC auditors will be searching include inappropriate coding errors, documentation issues, gang fraud (Spanish for group) and coding errors, non-covered services, medically unnecessary services, duplicate payments, incorrect claims, and medically unlikely edits and technical denials.

Notably, CMS compensates RACs on a contingency fee basis, and RACs are entitled to keep their fee if a denial is upheld at the first level of Medicare appeal (i.e., reconsideration). For this reason, the RACs have an incentive to identify overpayments and support their conclusions with documentation. Until recently, the RACs and Medicare providers were working together to identify overpayments. However, CMS recently announced that it will no longer accept appeals from Medicare providers. The new CMS policy is in response to increased scrutiny of Medicare claims payments. The new policy is expected to increase the number of overpayments identified by the RACs and the number of denials that will be upheld by the RACs.

While the RACs cannot review claims that have already been denied, they can be authorized to review data collected from claims that have already been denied to identify patterns that might indicate overpayments. These patterns may include claims that are more likely to be inaccurately coded, claims that are more likely to be denied at the first level of appeal, and claims that are more likely to be medically unnecessary.

Given what New York, Florida, and California are experiencing, the CMS should be prepared for the potential impact of the RACs on healthcare providers. CMS has already announced that the RACs will be expanded to other states. The RACs will focus on identifying overpayments and underpayments, and it is important for providers to be aware of the potential impact of the RACs on their practice.

Business of Medicine

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