


HEALTHCARE

Challenges to Providers from Medicaid Healthcare Regulatory Enforcement Initiatives


KPMG LLP

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Congress taking notice...

“CMS’ first national strategy to combat fraud & abuse in the 41 year history of the Medicaid program...”


pg. 4 of the CMIP plan

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CMS Medicaid Integrity Program Initiative

“It is my expectation that by this time next year, our audit contractors will be doing approximately a couple hundred provider audits a month...The reason MIG is doing this two regions at a time ...is we didn’t want to unleash the MIGs all at once...” said MIG Director David Frank.

(MIG Director David Frank, HCCA, *AIS Medicaid Compliance News*, Vol. 2, Number 5, May 2008)

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CMS Medicaid Integrity Program Initiative

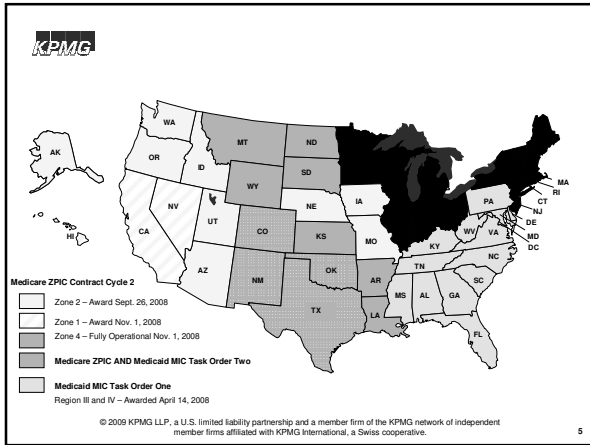
CMS Awards Medicaid Integrity Program Contract to HMS

- ◆ Last update: 8:52 a.m. EDT Sept. 19, 2008
- ◆ NEW YORK, Sept. 19, 2008/PRNewswire-FirstCall via COMTEX/ -- HMS (HMSY: **HMSY 26.15 +0.02 +0.1%**) today announced that it has been awarded a Medicaid Integrity Program (MIP) Task Order by the Centers for Medicare and Medicaid Services (CMS). Under the Task Order, HMS will examine payments to providers made under Title XIX of the Social Security Act, with the objective of identifying potential overpayments made as a result of fraud, waste, or abuse. HMS will perform these services in the Dallas Jurisdiction, which includes Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming. The contract, expected to be completed over the next 12 months, is valued at \$5.7 million and may be renewed on an annual basis upon a successful performance determination by CMS.
- ◆ About HMS
- ◆ HMS is the leader in coordination of benefits and program integrity services for government healthcare programs. The company's clients include health and human services programs in more than 40 states, 80 Medicaid managed care plans, the Centers for Medicare and Medicaid Services (CMS), and Veterans Administration facilities. HMS helps ensure that healthcare claims are paid correctly and by the responsible party. As a result of the company's services, government healthcare programs recover over \$1 billion annually, and avoid billions of dollars more in erroneous payments. HMS is a wholly owned subsidiary of HMS Holdings Corp., which is headquartered in New York and operates offices nationwide.
- ◆ SOURCE HMS
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Medicare ZPIC Contract Cycle 2

- Zone 2 -- Award Sept. 26, 2008
- Zone 1 -- Award Nov. 1, 2008
- Zone 4 -- Fully Operational Nov. 1, 2008
- Medicare ZPIC AND Medicaid MIC Task Order Two
- Medicaid MIC Task Order One Region III and IV -- Awarded April 14, 2008

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What If...you were asked to...

- ◆ Provide a brief overview of your organization (e.g., how long in business, volume of business, areas of emphasis, etc.)
- ◆ Provide any and all policies and procedures related to the Medicaid claims submission process.
- ◆ Provide an overview of your claims submission and completion process.
- ◆ Provide a review of your documentation and program papers.
- ◆ Provide organization chart or list of employees to contact for Medicaid audit issues (e.g., missing documents) during a review including FAR compliance.



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What If...you were asked to...

- ◆ Provide an accurate listing of all Medicaid claims with the following information:
 - Medicaid recipient ID
 - Date of birth
 - Dates of service
 - Patient name
 - Show compliance with HIPAA confidentiality
 - Are you capable of submitting documentation to support medical necessity on all claims



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What If...you were asked to...

- ◆ Provide organization chart or list of employees to contact for related audit issues (e.g., missing documents) during the review.
- ◆ Prove procedures exist to handle administrative issues, such as location of work space for auditors, hours during which auditors will have access to the space, use of copiers, and phones, fax machines and files.
- ◆ Demonstrate that you maintain a copy of the Provider handbook from the State.



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What If...you were asked to...

- ◆ Demonstrate that you maintain a copy of the State Medicaid Provider fee schedule to determine if claims billed are consistent with that of the fee schedule.
- ◆ Can you demonstrate, using State agency policy, that you can perform an internal review that can determine the inappropriate payment amount applicable to any exceptions found when reviewing claims?
- ◆ Can you show that for each claim there is a policy and procedure and you can determine if there is any documentation to support the claim that is being reviewed?



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What If...you were asked to...

- ◆ Show your policy and procedures to determine if there are any or other reasons for the paid amounts on each service line to be different than what was reimbursed.
- ◆ Show your policy and procedures to determine if any adjustments have been made to claims. If so, determine if the claim(s) amount paid includes these adjustments and were documented.



What If...you were asked to...

- ◆ Demonstrate so an auditor may determine if your provider Medicaid charges are compliant with usual and customary provider charges.
- ◆ Demonstrate so an auditor may determine if third party liability coverage and payments are in compliance with Medicaid policy.
- ◆ Discuss and review patient financial ledgers for any credit balances to determine if the credits are being returned to the appropriate party. If credit balances exist, determine if they should be returned or if non-compliance occurs.



What If...you were asked...

Facility:

- ◆ Does the owner(s) work at the facility?
- ◆ If so, what are their job titles?
- ◆ List of Medical Providers who work at this location (doctors, nurse-practitioners, specialists, etc.)
- ◆ Are any related to the owner(s)?
- ◆ Are any of the health care professional staff (doctors, social workers, DME providers, etc.) a part of the ownership of this facility?
- ◆ If so, whom?
- ◆ Do you own this facility?
- ◆ If you own, what was purchase price?



What If...you were asked...

- ◆ Do you lease this facility?
- ◆ Is there any blood relationship between you and the owner(s)?
- ◆ If so, whom?
- ◆ If you pay rent to a relative, what is the monthly rental amount?
- ◆ Name of Individual:
- ◆ Address: City, State, and Zip Code



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What If...you were asked...

- ◆ Are there any lenders or lending organizations related through control, ownership, or any other relationship to the owner?
- ◆ Name and explain them.
- ◆ Does anyone where you bank have a family relationship with the owner(s) of this facility?
- ◆ If so, whom?



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What If...you were asked...

- ◆ Is there a pharmacy located at these premises?
 - Name: Owner:
- ◆ Is the pharmacy owner related to the owner(s) of this facility?
- ◆ If so, whom?
- ◆ If so, is there a contract between the two relatives?
- ◆ What % of prescriptions written daily is for Medicaid patients?



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... NEW FAR effective 12-12-2008...

- (B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.
- (C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including—
 - (1) Monitoring and auditing to detect criminal conduct;
 - (2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and
 - (3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.



... NEW FAR effective 12-12-2008...

- (D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.
- (E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.
- (F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733). (1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation. (2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

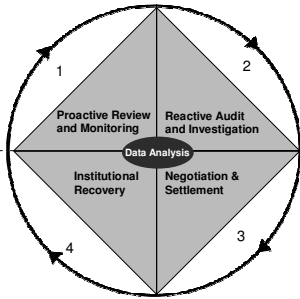


... NEW FAR effective 12-12-2008...

- (3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract. (4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause. (G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions. (d) Subcontracts. (1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days. (2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.



Healthcare Regulatory Compliance Services Cycle of Compliance



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Data Mining

Providers should conduct an analysis in order to identify anomalies and outliers. Search for indicators in billing data that are frequently associated with errors that raise the risk of MIC recoupment. Consider and analyze relevant transactions before selecting bills and medical records for review. Once an analysis has been completed select records based on historical risks as seen in the CMS demonstration PERM programs. This will supply you with:

- A more in-depth understanding of your risks through a review of documentation and coding;
- More objectivity in selecting inpatient and/or outpatient claim samples for further review; and
- A baseline for comparing future billing and coding patterns, which will highlight changes that indicate risk.



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Surviving FY 2008

Potential To-Do-List

- ◆ **Infrastructure Review**
 - Review certain program components for materiality
 - Perform the above mentioned review steps on a more focused program component
- ◆ **Specific Risk Review**
 - Perform compliance audit of agreed upon risk area



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Surviving FY 2008

Potential To-Do-List

- ◆ **Compliance Program Review**
 - Review to what extent the 7 elements are present (plus risk assessment and integrity/culture assessments).
- ◆ **Compliance Effectiveness Assessment**
 - Review to what extent the compliance program can be shown as “effective”
 - Validate certain program components
- ◆ **Compliance Risk Assessment**
 - Identify risk
 - Assist with prioritizing tactical versus strategic risks



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Detail Actions to Consider

- ◆ **Process reviews**
 - Understanding causes of issues or findings by examining the underlying processes and control flows
- ◆ **Continuous monitoring policy and tools**
 - Standardized reviews to identify payment or documentation issues on a recurring basis
- ◆ **Physician documentation**
 - Documentation sampling with follow up correction or education as necessary



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Detail Actions to Consider, Continued

- ◆ **Develop situation solution models**
 - Negotiations and settlement
 - Market Message
 - Corporate Communications and ...

Do you have a plan for when it rains or do you scramble and get wet?



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Detail Actions to Consider, Continued

Corporate Compliance Readiness in the current regulatory and enforcement environment:

◆ Evaluate the corporate compliance program:

- Effectiveness
- Readiness

◆ Risks: Knowing what you do or don't know:



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Regulatory Risks to Providers

- ◆ Challenging to provider stability and viability
- ◆ Increased risks of unexpected losses caused by regulatory actions
- ◆ Increased expenses to comply
- ◆ Failure to mitigate has more drastic consequences in the new regulatory scheme
- ◆ Providers have to understand and catch up with new theories



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