Guidelines Offer Compliance Steps for Group Practices

by Cheryl A. Gregg, RHIA, CCS-P

The long-awaited Draft Model Compliance Guidance for Small and Individual Physician Practices was published by the Office of Inspector General (OIG) in early June.[1] The OIG received 83 comments from outside sources, including AHIMA, after publishing a request for information and recommendations for developing compliance guidelines for physician offices in late 1999.[2] These recommendations, along with previous OIG compliance guidance publications and Special Fraud Alerts, were used to develop the draft. Structured like other model compliance guidance documents, the draft contains the seven basic program elements of all compliance guidance programs. These are:

- implementation of written policies, procedures, and standards of conduct
- designation of a compliance officer or contact
- development of training and education programs
- creation of accessible lines of communication to keep practice employees updated about compliance activities
- performance of internal audits to monitor compliance
- enforcement of standards through well-publicized disciplinary directives
- prompt corrective action to detected offenses

The draft, available at www.hhs.gov/progorg/oig/modcomp/, is written in a straightforward and user-friendly format. Many comments received from the physician community stressed the need for flexibility. Although small and individual physician practices have limited resources, they are not exempt from compliance efforts. In response, the OIG has offered many suggestions that are less formal than in previous compliance guidance publications, including outsourcing all or part of the compliance functions to consultants or billing companies. For larger physician practices, compliance efforts may require a more formal approach. Previously released compliance guidance programs, such as those for third-party billing companies or clinical laboratories, should be reviewed.

Steps to Compliance

Step 1: Implement written policies, procedures, and standards of conduct. This can be completed with the assistance of professional organizations or other physician practices. Many professional organizations publish documents on their Web sites or offer books that detail sample standards of conduct as well as policies and procedures. The OIG stresses that these are simply resources to be used when a physician practice develops its own standards of conduct and compliance policies and procedures. Each individual physician practice has a specific style and medical specialty that warrants unique elements in each policy. Identifying risk areas for a physician practice is a good place to start when establishing written policies and procedures. The risk areas the OIG has identified for physician practices are:

- coding and billing
- the provision of reasonable and necessary services
- documentation
- improper inducements, kickbacks, and self-referrals
- advanced beneficiary notices
- certifications for durable medical equipment and home health services
- billing noncovered services as covered services
- professional courtesy
- teaching physicians

These risk areas are detailed in the draft and should be reviewed prior to identifying the risk areas of a single physician practice. Expectations for coding, billing, documentation, patient care, marketing, form usage, employee hiring and retention, and payer relations are some of the areas to cover in the written policies and procedures of a physician practice. Physician

practices that contract with a physician practice management company (PPMC) or management services organization (MSO) may modify the vendor's compliance policies for their own practice.

Step 2: Designate a compliance officer or contact. This will extend enormous flexibility to physician practices. The OIG states that it is acceptable to have one or more employees responsible for compliance activities. For example, the practice administrator, in addition to other responsibilities, may act as the compliance contact. Another alternative is to divide the compliance functions among those individuals in the physician practice who would serve as compliance contacts. For example, the practice administrator may be responsible for developing the written policies and procedures, a primary biller may be responsible for answering coding questions, and another employee may be responsible for auditing and training. It is not always possible for current staff to take on additional responsibilities, especially those of such importance. Smaller offices with limited financial resources can share a compliance officer (a consultant, PPMC, or MSO) with multiple small and individual physician practices. The OIG suggests that communications and interactions with physicians must not be limited when outsourcing this function.

Step 3: Develop training and education programs. The physician practice must identify which employees need training, what type of training, and when and how often the training will occur. It is acceptable to complete training with sessions held at the office or by an outside educator at a different location. Complementing this training through newsletters or accessible bulletin boards is also acceptable. Training must be completed within 60 days of hiring a new employee, on an annual basis for current staff, and more frequently if risk areas are identified or practice patterns change. All training sessions should integrate compliance issues and be properly documented using attendance sheets and content descriptions. Physician practices that contract with a third-party billing company should follow the compliance guidance of that model guidance program.[3] Because these companies use the physician's name and provider number for submitting claims, the physician is ultimately responsible.

Step 4: Create accessible lines of communication to keep practice employees updated about compliance activities. The OIG acknowledges that hot lines may not be feasible in small physician practices, so an "open door" policy for physicians and employees is acceptable. Communications may take place on compliance bulletin boards, in staff lounges, or common employee areas. Effective communication within a physician practice requires that employees report conduct that a reasonable person would, in good faith, believe to be fraudulent or erroneous. Additionally, conditions should be user friendly for reporting such conduct, such as using a drop box. Procedure and policy provisions stating that failure to report fraudulent or erroneous conduct is a violation of the compliance program must also be included in an effective compliance program. Every effort must be made to protect the confidentiality of the individuals involved in the reporting process, but the OIG recognizes the difficulty in small practices.

Step 5: Perform internal audits to monitor compliance. The OIG recommends that individuals in charge of the compliance program also be responsible for these audits. Revisions of outdated policies and procedures may be identified during this step. From an auditing perspective, each physician practice needs to decide whether audits will be completed on a retrospective or concurrent basis. Self-audits may be completed by the practice, but should be performed by individuals trained in HIM or billing. The self-audit function may be rotated from one physician to another. After a baseline audit is completed, then periodic audits must be conducted. Baseline audits should establish that:

- bills are accurately coded
- claims reflect services performed
- medical necessity guidelines are met
- services are not performed where incentives exist
- documentation exists to support the services billed

Periodic audits should be conducted on an annual basis to include at least two to five medical records per payer or five to 10 medical records per physician. If potential compliance issues are discovered during any audit, then the sample size should increase and the audits should be conducted more frequently. Any potential compliance issue identified during an audit should be addressed within 60 days of the audit findings and incorporated into the educational process at the physician practice.

Step 6: Enforce standards through well-publicized disciplinary directives to ensure violations are addressed and are consistent with the potential sanctions associated with the offense. Disciplinary actions may include:

- oral warning

- written reprimands
- probation
- demotion
- temporary suspension
- termination
- restitution of damages
- referral for criminal prosecution

Step 7: Take prompt corrective action on detected offenses. The compliance officer or appropriate compliance contact must act on identified offenses. Fraudulent or erroneous behavior that has been identified but not addressed endangers the physician practice's legal status. Compliance allegations must be investigated and corrective measures must be made according to a corrective action plan. The offense may require a refund to a third-party payer or report to a government agency or law enforcement authority. A knowing failure to refund overpayments within a reasonable period of time could be interpreted as concealment, establishing a basis for criminal violations. Provider self-disclosure protocol may be necessary once a violation is discovered and confirmed, but the self-reporting should be completed within 90 days.[4]

According to the OIG, this model compliance guidance is intended to assist physician practices in developing and implementing customized compliance programs that encourage adherence to federal healthcare programs and private insurance program requirements. The comment period for this draft ended in late July, and the final guidance is expected to be released later this year.

AHIMA submitted a formal comment that included details on the risk areas, education and training requirements, and documentation guidelines. The comment can be viewed at AHIMA's Web site at www.ahima.org/media/releases/index. html as a press release dated July 29, 2000.

Notes

1. Department of Health and Human Services. Draft Model Compliance Guidance for Small and Individual Group Practices. Available at www.hhs.gov/progorg/oig/ modcomp/.

2. AHIMA's formal comment can be viewed in the July 29, 2000 press release, "AHIMA Submits Comments on Draft Guidance for Individual and Small Group Physician Practices," available at www.ahima.org/media/index.html.

3. Department of Health and Human Services. Compliance Program Guidance for Third-Party Billing Companies. Available at www.hhs.gov/progorg/oig/modcomp/.

4. The Voluntary Disclosure Form can be found at www.hcfa.gov/pubforms/transmit/AB993360.htm.

References

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American Health Information Management Association Compliance Task Force. "Practice Brief: Seven Steps to Corporate Compliance: The HIM Role." *Journal of AHIMA 70*, no. 9 (1999): insert.

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