Restrictions in Action: Three Case Studies

Save to myBoK

By Barb Beckett, RHIT, CHPS; Kathy Downing, MA, RHIA, CHPS, PMP; Joe D. Gillespie, MHS, RHIA, CHPS, CAP, CHP, CHSS; and Traci Waugh, RHIA, CHPS, CHC

Since its initial adoption the HIPAA Privacy Rule has granted individuals the right to request restrictions on the use or disclosure of their protected health information (PHI) for treatment, payment, and healthcare operations (TPO), as well as for disclosures to family members and certain other individuals. Although covered entities are not required to agree to such requests for restrictions, any accepted restriction agreement binds the covered entity to future disclosures, excluding emergency situations. If the information is disclosed to another entity or person for any reason (i.e., for emergency treatment or as required by law), the covered entity is required to request that the person or entity receiving the information not re-disclose this PHI in any manner that would violate the agreed-upon restriction.

The recent HITECH-HIPAA Omnibus Final Rule added complexity to patient restrictions, requiring healthcare providers to restrict disclosures of records if the associated treatment is paid for out-of-pocket by the patient. Because of this, healthcare organizations have had to implement changes in their restrictions policies and procedures.

The Final Rule: Right to Request Privacy Protection for PHI

The HITECH-HIPAA Omnibus Rule, which became effective September 23, 2013, requires that:

> A covered entity must agree to the request of an individual to restrict disclosure of protected health information about the individual to a health plan or business associate of a health plan if the disclosure is for the purposes of carrying out payment or health care operations and not otherwise required by law; and the protected health information pertains solely to a health care item or service for which the individual, or person other than the health plan on behalf of the individual, has paid the covered entity in full.

This added requirement to the HIPAA Privacy Rule also requires that a statement be included in the healthcare provider's Notice of Privacy Practices summarizing the individual's right to a restriction unless the disclosure is required by law. The rule suggests that the covered entity create a method to flag PHI that has been restricted to ensure the information is not inadvertently sent or made accessible to a health plan for payment or other healthcare operations, such as audits by the health plan, though this is not required. The HIPAA Privacy Rule also does not require that healthcare providers create separate medical records or otherwise segregate PHI that is subject to a restricted item or service.

At AHIMA's 2014 Privacy and Security Institute, a panel was assembled to discuss how facilities are handling restrictions. The following are some of the processes and highlights shared and discussed at the meeting through three case studies:

Case Study #1: Watkins Health Services

Watkins Health Services is a large clinic serving the University of Kansas (KU) in Lawrence, KS. While healthcare services are provided to staff and faculty, the vast majority of more than 110,000 annual visits involve KU students. Watkins has nine board-certified physicians, three nurse practitioners, a nursing staff of 15, plus its own pharmacy, physical therapy services, lab, and radiology departments. KU boasts three RHIA-credentialed staff members, a luxury in college health.

The HITECH-HIPAA Final Omnibus Rule's provision giving patients the right to request restrictions on the disclosure of information to a health plan merely codified a practice that had been in place for decades. This is probably true for many college health services that performs third-party billing—and yes, some still do not bill insurance.

At least a couple of times a week, a student will have certain health procedures or lab tests performed, or pick-up medications in the pharmacy that he or she prefers not be billed to insurance. KU providers, nurses, lab, and pharmacy personnel are well-versed in advising the student about the "private billing" option. The patient merely has to complete the "Restrictions on Use & Disclosure" form in the business office. While KU encourages these patients to pay that same day if possible, this is certainly not mandatory. However, it is essential that KU has the correct address for billing these charges so that they can honor a patient's request.

The specific charges are flagged in the system with a private billing transaction code. The restrictions form is sent to the health information management (HIM) department where it is scanned into the electronic health record (EHR) system. The HIM staff will enter an administrative alert in that patient's EHR and registration file indicating this form has been completed and signed.

HIM employees who process requests for disclosure will first look for any administrative alerts. If a restriction alert is there, the employee will review the scanned form and follow it accordingly.

To help spread the word of the private billing option, KU has information about the process on Watkins' business office website. Furthermore, there is an FAQ link on their website that provides students with answers to their frequent questions, such as "Can I pay for certain services without billing my insurance?" Some students also know about the private billing option via word of mouth.

This process works well because all Watkins personnel are well-informed about it and promote it while only business office and HIM staff are actually involved in carrying out the patient's request.

Case Study #2: Saint Luke's Health System

Saint Luke's Health System (SLHS) consists of facilities in western Missouri and eastern Kansas including 10 hospitals, 48 clinics, home care/hospice facilities, an inpatient hospice house, multiple physician practices, and approximately 10,000 employees. Currently the health system is in the process of standardizing its health IT by implementing one EHR for the entire system.

The process to prepare for this new restrictions change in the HITECH-HIPAA rule was swift and extensive. Key individuals from a variety of areas across the system were invited to be part of the preparation committee. Since a policy was already in place regarding restrictions, it was decided to revise that policy to include what is now called "general restriction requests" and then the new "health plan restriction requests." The previous request form was revised to include "general" in the title and a new form was developed to manage the health plan restriction requests.

The committee then began discussing the process that could take place, where the request may occur, and how work flow could be adjusted to be more efficient. Due to having varied systems in place, one of the first items agreed upon was the need to identify these restriction encounters. A "Restricted – Self Pay" billing code was the first item to be implemented. This was essential in identifying the accounts and protecting the PHI from being released to unauthorized individuals. Where possible, a "restriction" flag was to be placed in the EHR for that patient encounter providing information as to the nature of the restriction and where to find the signed form.

The next step was to make decisions on how the system could best manage these situations. What if the visit had multiple issues, could HIM unbundle them in such a way to make a restriction on one or more parts? How would an inpatient visit be managed if a request for restriction was made the second or third day after admission? How will prescriptions and possible unknown balances be managed? Committee members took extensive notes to prepare for educating staff when all the decisions were deemed final.

One goal prevailed: the patients needed to be well-informed and provided with an explanation of all aspects of the request they are making. A patient flier was developed that clearly outlined details, what SLHS's process will be and what the patient must be aware of. For example, it explained that:

1. An estimated balance must be paid in full at the time of service. Any account balance that occurs afterward, the balance must be paid within 30 days of the billing date. Failure to pay may result in an insurance company being

contacted for payment.
2. The restriction pertains to that particular facility and encounter. It does not include other fees such as anesthesiology, radiology, or pathology.
3. Caution should be taken with regard to prescriptions and providing hard copies to a pharmacy, eliminating the need for pharmacies to contact insurance companies for authorization.

Registration staff in any setting must be involved in this process. It would be their responsibility to make sure the correct pay code was selected, the patient was given the information, a request form was signed, and someone witnessed the approval of the request. They would also send a copy to the privacy site coordinator for that facility, and include the form in the medical record.

The privacy office at SLHS prepared written education that was provided to each privacy site coordinator, as well as department and clinic managers. Detailed education was provided to admitting staff as well as clinic registration staff, patient accounting, and HIM.

An information cheat sheet was developed very similar to the patient information flier for staff to reference, which turned out to be a great aid. SLHS staff said they now feel prepared should they ever have to follow through with a request for restriction. As of press time, SLHS has had zero requests.

Case Study #3: North Valley Hospital

North Valley Hospital, a 25-bed critical access hospital in Whitefish, MT, sees:

- 2,500 admissions per year
- 8,000 emergency room visits per year
- 555 births per year
- 2,026 surgeries per year

The hospital group also has two primary care clinics, three specialty clinics including a geriatric and behavior health clinic, and one nurse midwife clinic.

The facility is only 15 miles away from a 100-bed hospital that shares patients and practitioners with North Valley Hospital. Implementing new policies and procedures to meet regulations is not a new experience for Traci Waugh, RHIA, CHPS, CHC, senior director of compliance at North Valley Hospital. Waugh took on project management responsibilities during the hospital's efforts to implement its request for restrictions process.

North Valley Hospital has two primary EHR systems, but neither program provided a mechanism to easily facilitate the flagging or notification of a restriction. After discussion with registration, business office, and HIM personnel, and after conducting a review of software capabilities, staff decided to develop an insurance and payer type of "red flag" for handling requests for restrictions.

The red flag insurance type would be utilized for a patient account when a request for restriction was made by a patient. Once the mechanics of developing the insurance and payer type red flag were complete, a formal policy was developed followed by staff education.

The red flag insurance and payer type is unique only to the visit for which a restriction was requested. Its use is the responsibility of registration staff. The insurance and payer type red flag remains with the pertinent account. At a patient's next visit, the red flag insurance type will not automatically pre-populate in the insurance field during registration. Registration staff must request insurance and enter fields accordingly and assure no override occurs that takes the red flag off the prior account.

In conjunction, for any requests for disclosures the HIM department must routinely review insurance and payer type prior to disclosure. If the insurance type is a red flag, this would indicate no disclosure may occur for an insurance company's request. One item that came to light after a few months of monitoring and education was the need to differentiate between a request

for restriction and advanced beneficiary notices (ABN). Some staff confused the two because there was a focus on payment of services rather than the reason for the payment.

Despite receiving no request for restrictions to date, North Valley Hospital staff feels they are ready.

Barb Beckett (bbecket@saint-lukes.org) is the system privacy officer at Saint Luke's Health System. Kathy Downing (kathy.downing@ahima.org) is a director of HIM practice excellence at AHIMA. Joe D. Gillespie (jgilles@ku.edu) is the associate director at Watkins Health Services. Traci Waugh (twaugh@nvhosp.org) is the senior director for compliance at North Valley Hospital.

Article citation:
Beckett, Barb; Downing, Kathy; Gillespie, Joe D; Waugh, Traci. "Restrictions in Action: Three Case Studies" *Journal of AHIMA* 86, no.3 (March 2015): 32-35.