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## AUDITS

Aside from the legal mandates, proper documentation and record keeping is critical for many reasons, including but not limited to, in case of an audit by a health insurance provider or by the Office of Medicaid Inspector General, or the Office of the Attorney General.

### WHAT IS AN AUDIT?

Both private health plans and government sponsored health plans (Medicare and Medicaid) have the ability to audit a provider's records for compliance purposes, if fraud is suspected, or if a **POST-PAYMENT** review reveals a potential overpayment.

Put another way, health plans, **AFTER** paying a claim for services rendered, can go back (how far depends on reason and type of health plan) and request to be reimbursed for the same payment. Reimbursement can be in the form of an offset (claims for services rendered are not paid until the overpayment amount is covered), or as a direct repayment from the provider to the health insurer.

### PROCESS OF AN AUDIT

Generally, an audit will follow the following steps, though in some situations, the process may vary:

- 1) Letter sent to provider with a request for records and/or findings identifying the amount of overpayment, the reason for the overpayment, and providing instructions on appealing the overpayment;
- 2) Provider can appeal the determination by submitting documentation that shows the initial payment was appropriate and as such the insurer is not entitled to receive a repayment;
- 3) The insurer, through the appeal process, will review the documentation submitted and determine whether it will proceed with the demand, or rescind the same;
- 4) If the demand is rescinded, the provider does not need to provide any payment. However, most determinations will uphold the initial demand and as such, the provider will be required to reimburse the insurer.

### TYPES OF AUDITS AND ABILITY TO NEGOTIATE

#### ***Government Audit by CMS and/or its Federal Contractors***

- 1) Little room for negotiation;
- 2) Data-driven and medical record dependent outcomes.

#### ***Private HMO Audit***

- 1) Diminishing negotiability.
- 2) Data-driven and medical record dependent outcomes.



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### WHAT YOU CAN DO TO PREPARE FOR AUDITS

Properly document, properly document and properly document. This refers to documenting all aspects of all patient encounters and making sure that all your billing codes match the treatment provided to the patient.

To properly document, it is strongly recommended that you have specific and adequate practices and procedures emphasizing proper documentation and most importantly, emphasizing the concept of “not documented, not done.” Otherwise, you are opening yourself to audits and your profitability will decrease significantly. Remember, these are post-payment audits, meaning that paying them will involve either direct payment (of funds you may have already spent) or through offsets, meaning you will be seeing that insurer’s patients for “free” until the full overpayment is covered.

### WHAT ATTORNEYS CAN DO IN AUDITS

Attorneys involved in defending health care audits can help clients in many different ways. First, attorneys will be able to provide guidance to prevent audits by recommending and helping to implement billing and record keeping practices and procedures that will lower the number of audits, and will, in the case of an initiated audit, put the provider in a better position to challenge same.

Attorneys can also help through the appeal process by fighting the audit, negotiating a resolution to the audit, or by preparing supporting documentation, including Local Coverage Determinations in conjunction with the client. Further and more importantly, attorneys will work to ensure that your rights are protected and that the health insurer is not taking advantage of the provider.

### CONCLUSION

Document, document, document. The first defense against an audit is you. Obtain the required knowledge for proper billing procedures, and implement the same in your daily routine. And in the event of an audit, consult with legal counsel and billing and coding experts.

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