PROGRAM INTEGRITY UPDATES

October 27 & 28, 2021

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FRAUD, WASTE & ABUSE

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FEDERAL FALSE CLAIMS ACT (FCA)

31 U.S.C. § 3729-3733 (civil FCA)

- Protects the U.S. Government from being overcharged or sold inferior goods or services.

- Illegal to submit claims for payment to Medicare or Medicaid that the submitter knows or should know are false or fraudulent.

- "Knowing" = 1) actual knowledge; 2) deliberate ignorance of the truth or falsity of the information; or 3) reckless disregard of the truth or falsity of the information.

FEDERAL FALSE CLAIMS ACT (FCA)

- No specific intent to defraud is required.
- Fines of up to three times the loss PLUS up to $11,000 per claim filed, adjusted for inflation (currently $23,607 per the Federal Register).
- Claim = each instance of an item or service billed to Medicare or Medicaid.
- Whistleblower provision allows a private individual to file a lawsuit on behalf of the U.S. Government and entitles them to a percentage of any recoveries.
- Criminal FCA (18 U.S.C. § 287): criminal penalties for submitting false claims include imprisonment and criminal fines.

FEDERAL FALSE CLAIMS ACT (FCA)

Examples:

- United States ex rel. Drakeford v. Tuomey: hospital compensated its physicians in a way that violated the Stark Law against physician self-referrals and violated the False Claims Act. Tuomey had submitted 21,730 false claims to Medicare with a total value of $39,313,065. The hospital was on the hook for $119,515,000 in FCA penalties.

- United States ex rel. Yates v. Pinellas Hematology & Oncology, P.A.: defendants relabeled lab results from an uncertified lab as originating elsewhere. Defendants had made 214 false claims with economic damage of $755.54. The court imposed judgment of “$755.54 times three; plus 214 times $5,500.00” for a total award of $1,179,226.62.

FEDERAL FALSE CLAIMS ACT (FCA)

References:

- A Roadmap for New Physicians: Avoiding Medicare and Medicaid Fraud and Abuse. U.S. Department of Health & Human Services, Office of Inspector General. https://oig.hhs.gov/compliance/physician-education/roadmap_web_version.pdf
- Civil Monetary Penalty Inflation Adjustment. Federal Register. https://www.federalregister.gov/documents/2021/01/11/2021-00230/civil-monetary-penalty-inflation-adjustment
- The False Claims Act: A Primer. U.S. Department of Justice. https://www.justice.gov/sites/default/files/civil/legacy/2011/04/22/C-FRAUDS_FCA_Primer.pdf
- False Claims Act Penalties: A Complete Guide. Whistleblower Law Collaborative. https://www.whistleblowerllc.com/false-claims-act-penalties/

FALSE CLAIMS EDUCATION CERTIFICATION

Section 6032 of the Deficit Reduction Act of 2005 (Pub. L. 109-171), mandates that any provider or provider entity that receives payments, in any federal fiscal year, of at least $5,000,000 from any state Medicaid program must have written policies for all employees, including management, and for all employees of any contractor or agent, regarding the following:

- The Federal False Claims Act under 31 U.S.C. § 3729-3733;
- Administrative remedies for false claims and statements under 31 U.S.C chapter 38;
- Any state laws pertaining to civil or criminal penalties for false claims and statements;
- Whistleblower protections under such laws; and
- The provider or provider entity’s policies and procedures for detecting and preventing fraud, waste, and abuse.

FALSE CLAIMS EDUCATION CERTIFICATION

- ND Medicaid will request providers or provider entities who meet the $5,000,000 threshold to submit certifications acknowledging that the required written policies have been disseminated and are readily available to employees.

- If your office receives this notification from ND Medicaid, please comply by the deadline stated in the letter.

- Failure to comply will result in sanctions, which may include termination from participation in the ND Medicaid program.

PROVIDER ENROLLMENT

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Providers are responsible for ensuring that their enrollment record remains current with up-to-date email addresses, phone numbers and contact names.

New contact options have been added and they include: PERM, Medical (for medical/dental record requests), and Audit. Please ensure that you have someone assigned to each of these areas and they may be the same person.

Ownership and managing employee information should be reviewed throughout the year to ensure that it is accurate. Changes in ownership are required to be reported to the State Medicaid Agency within 35 days after any change in ownership of the disclosing entity (42 CFR 455.104). Updates to ownership and managing employees shall be submitted on the SFN 1168 Ownership/Controlling Interest and Conviction Information form https://www.nd.gov/eforms/Doc/sfn01168.pdf.

Updated provider enrollment form

http://www.nd.gov/dhs/services/medicalserv/medicaid/provider-updates.html
SFN 615 Medicaid Provider Agreement was updated earlier this month

Revalidations- current and backlogged
http://www.nd.gov/dhs/info/mmis/revalidation.html

Noridian Healthcare Solutions
Attn: ND Medicaid Provider Enrollment
PO Box 6055
Fargo, ND 58108-6055
Phone: (701) 277-6999
Fax: (701) 433-5956
Email: NDMedicaidEnrollment@noridian.com

SURVEILLANCE, UTILIZATION AND REVIEW SECTION (SURS)

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SOME THINGS A PROVIDER NEEDS TO KNOW

- ND Medicaid providers are required to keep records that completely and thoroughly document the extent of services rendered to members and billed to ND Medicaid.
- Documentation must support the time spent rendering a service for all time-based codes.
- Signatures on medical (dental) records must follow Medicare signature requirements, which are published here: Medical Documentation Signature Requirements - JF Part B - Noridian (noridianmedicare.com)
- Past trainings are available at Medicaid Provider Education and Trainging: Medicaid Provider Information: Medicaid: Medical Services: Services: Department of Human Services: State of North Dakota.

The top 3 bullets are taken from pages 16-17 in the General Information for Providers Manual

SELF DISCLOSURES AND SELF-AUDITS

Self-Disclosures (aka voluntary self-audit)

- A provider has an obligation to ensure that claims submitted to North Dakota Medicaid are accurate. Overpayments should be returned, along with supporting documentation that will allow the Program Integrity Unit (PIU) to validate the self disclosure findings.
- The PIU may conduct an expanded audit to see if additional findings are present.

SELF DISCLOSURES AND SELF-AUDITS

PIU Requested Self-Audit

- If the PIU requests a self-audit, providers will receive three items:
    1. A letter explaining the audit
    2. An Excel spreadsheet, with defined columns, that the provider will complete
    3. A copy of the Provider Self-Audit and Self-Disclosures Policy
- The Provider will return the completed Excel Spreadsheet to the PIU
- The PIU will review the information and request documentation for a percentage of claims identified during the self-audit in order to validate the findings.
- The results of the validation will impact how the PIU proceeds with the audit, including any additional follow-up, expansion of the audit, education or other appropriate response.

QLARANT IS OUR UPIC

UPIC stands for: Unified Program Integrity Contractor

- The role of a UPIC is to aid states in detecting, preventing and proactively deterring fraud, waste and abuse in Medicare and Medicaid.
- CMS chose Qlarant for our region.
- The PIU works with Qlarant in a variety of ways including audits across all portions of ND Medicaid.
- Qlarant uses Transformed Medicaid Statistical Information System (TMSIS) data to begin the topic review process.
- CMS and the PIU give Qlarant topics to examine and review.

TIPS FOR TIMELY PROCESSING OF A SERVICE AUTHORIZATION

- The SFN 481 must be filled out completely and accurately
  1. Medicaid member number is completed and valid
  2. Diagnosis code(s) are valid, this must be a current ICD-10 code not a description
  3. CPT/HCPCS code(s) are completed and valid and represent the service that is being asked for
  4. A beginning and end date must be provided and represent the treatment dates requested

- Supporting/required documentation must be included

- For services that require an order, please note an order and a referral are not the same and are not interchangeable

SERVICE AUTHORIZATION

- A physician-signed plan of care is required every 90 days or in accordance with the plan of care, whichever is first

- Requested visits and the plan of care must align

Retro authorizations may be considered, but good cause must be demonstrated. Retro authorizations should be an exception and not a general rule. Services are to be requested prior to being rendered. The request must accurately reflect the request is retro; it is inappropriate to ask for a date range if the service has been provided.

PERM COMMUNICATION

NCI makes initial calls to providers to verify provider contact information.

NCI establishes a point of contact with providers and sends record requests.

- Providers have 75 days to submit documentation

NCI makes reminder calls and sends reminder letters on day 30, 45, and 60 until the medical records are received.

- If the provider does not respond, NCI sends a non-response letter on day 75 to the State PERM representative.
- If submitted documentation is incomplete, NCI requests additional documentation.
- The provider has 14 days to submit additional documentation.
- A reminder call is made, and a letter is sent on day 7.
- If the provider does not respond, NCI sends a 15-day non-response letter.

SAMPLE PERM LETTER

Payment Error Rate Measurement Program
CMS PERM Review Contractor, NCI Inc.
1538 E. Parham Road
Henrico, VA 23228

[||ProviderName||]
ATTN: [||ContactName||], [||ContactTitle||]
[||ContactAddress1||] [||ContactAddress2||]
[||ContactCity||], [||ContactState||] [||ContactZipcode||]

Date: [||RequestDate||]
Reference ID: [||PERM ID||]
OMB Control Number: [||OMB#||]
NPI: [||NPI#||]

Request Type & Purpose: Initial Request for Records (First Request)
Subject: Records Request – This is an initial request for records

PERM ELECTRONIC SUBMISSIONS

Providers are encouraged to submit requested medical documentation via the **Electronic Submission of Medical Documentation (esMD).** For more information, see http://www.cms.gov/esMD/. Please ensure that any documents submitted through esMD are routed to NCI.

If you choose to submit medical records via CMS's esMD system, you must enter the Reference ID (PERM ID #) from the records request letter into the ESMD CASEID field. If you enter any other information in this field the system will not be able to identify the record automatically which will result in additional processing time.

PERM FAX INFORMATION

- Place PERM cover sheet on top of each record submission.

- If your facility receives ***more than one*** PERM request, each record shall be faxed separately.

- Fax documents to the following number: **1-804-515-4220**

PERM MAILING INSTRUCTIONS

- Place PERM cover sheet on top of each record submission.
- All documents must be complete and legible.
- Please do not staple or paper clip any pages together.
- If you choose to send the documentation on USB Flash Drive/CD/DVD, the file(s) must be ***encrypted*.** Please submit the password via email to PERMRC_Encryption@nciinc.com and include the PERM ID in the subject line. **Please note that USB flash drives cannot be returned to providers.**
- Mail requested documentation to:

PERM Review Contractor
Attn: Medical Records Manager
CMS PERM Review Contractor, NCI Inc.
1538 E. Parham Road
Henrico, VA 23228

PERM RY 2022 OCTOBER UPDATE

Documentation requests continue to be sent.

If you have questions, call:

- PERM directly
- Steve McNichols
- Missy Rosales

All contact information is at the end of this presentation.

CURRENT AUDITS

- Home health visits greater than 50
- DME rentals vs. purchase
- FQHC self-audit

FUTURE AUDIT TOPICS

- Group therapy codes
- Rehab services self-audit
- PT documentation audit
- ESRD audit

Q & A – JUNE 23 AND 24, 2021

Q – Are there any issues with the State receiving secure e-mails from providers?

A – The State should be able to receive and open secure e-mails from any platform.

PROVIDER OUTREACH

PIU staff intends to meet with providers quarterly.

PIU leadership will contact professional organizations and attend conferences or meetings as requested.

Our goal is to improve communication and establish professional relationships.

CONTACT INFORMATION

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COMMUNICATIONS

Provider/stakeholder email list
http://www.nd.gov/dhs/services/medicalserv/medicaid/provider.html (very top of the page).

Provider update page

https://www.nd.gov/dhs/services/medicalserv/medicaid/provider-updates.html

MMIS provider message center: Once you have logged in to MMIS you should see your messages pop up. The messages might be a newsletter, an update, or a revalidation that is due. Please make sure to read the messages.

Please encourage your partners and contacts to subscribe to our emails and view messages for newsletters, updates, etc.

PROGRAM INTEGRITY TEAM CONTACT INFORMATION

Dawn Mock – Medicaid Program Integrity Administrator

Phone: (701) 328 – 1895 Email: dmock@nd.gov

Steven McNichols – Medicaid Audit Coordinator

Phone: (701) 328 – 4831 Email: smcnichols@nd.gov

Christina Altringer – Fraud Waste & Abuse/Managed Care Oversight Administrator

Phone: (701) 328 – 4024 Email: caltringer@nd.gov

PROGRAM INTEGRITY TEAM CONTACT INFORMATION - CONTINUED

Gale Schuchard – Compliance Technician

Phone: (701) 328 – 2334 Email: gjschuchard@nd.gov

Missy Rosales – SURS Analyst

Phone: (701) 328 – 3507 Email: melrosales@nd.gov

Sarah Schaaf – FWA Analyst

Phone: (701) 328 – 4682 Email: slschaaf@nd.gov

PROGRAM INTEGRITY CONTACT INFORMATION – FRAUD, WASTE AND ABUSE

General fraud email: medicaidfraud@nd.gov

Phone number: 1-701-328-4024 OR 1-800-755-2604 – select option 3 to report Medicaid fraud

Suspected fraud form (SFN 20) submission link: https://apps.nd.gov/itd/recmgmt/rm/stFrm/eforms/Doc/sfn00020.pdf

PROGRAM INTEGRITY CONTACT INFORMATION – PROVIDER ENROLLMENT

General provider enrollment email: NDMedicaidEnrollment@Noridian.com

PROGRAM INTEGRITY CONTACT INFORMATION – PROVIDER AUDIT

General audit email: auditresponse@nd.gov

PERM CONTACT INFORMATION

Should you require additional information or have questions, please call:

- Customer service representatives at (800) 393-3068
- Allison Keeley, our Medical Records Manager, at (804) 249-1746

CLOSING

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FUTURE DATES

March 2022: the 2nd at 1:30-2:30 PM and the 3rd at 8:30-9:30 AM

Additional 2022 dates are scheduled:

- June 22 from 2:30 to 3:30
- June 23 from 9:30 to 10:30
- Oct 26 from 2:30 to 3:30
- Oct 27 from 9:30 to 10:30

AS WE CLOSE…

- Questions
- Comments
- Ideas for potential future topics
- Things you'd like to hear more about

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