



Disclaimer



Our objective is to provide information about coding, documentation, compliance and billing issues.

This presentation should not be considered legal advice.

ahsrcm.comMore Money FasterAdvantEDGE Healthcare Solutions 877-501-16112



Key Compliance Risks in ASC Billing



- An ASC is not a practice—or a hospital
 - What is right for the ASC?
- Unique ASC Challenges
- Regulations = Risk
- Recommendations



ASC is Not a Practice – or Hospital



- Federal and States laws specific to an ASC
- Ownership
- Governance
- Accreditation
- Payment
- Payor contracts



Unique ASC Challenges



- Separating and staying connected to investors/owners
- Investor/owner expectations
- Patient expectations
- Maintaining compliance amid expectations
- Setting fees

Note:

- Legal structure is not the same as investors / owners
- Joint or tiered ownership often exists
- ASC is not an extension of a private practice



Federal & State Regulations = Risk



- Conditions of Participation
- Conditions for Coverage
- HIPAA – Health Insurance Portability and Accountability Act
- HITECH – Health Information Technology for Economic and Clinical Health Act
- False Claims – Civil and Criminal
- FERA – Fraud Enforcement and Recovery Act
- PPACA – Patient Protection and Affordable Care Act



Compliance – Fraud - Abuse



Compliance

- Follow laws, regulations, and ethical standards
- Submit claims according to laws, regulations and contracts
- Compliance Plan: recommended vs. required

Abuse

- Failure to meet medically sound standards for healthcare that result in unnecessary costs
- Accepting payment for services not medically necessary

Fraud

- Intentional deception or misrepresentation resulting in unauthorized benefit to oneself or other person
- Includes violations of the anti-kickback statute



Examples



- Submitting a claim with incorrect information
 - e.g. Inaccurate diagnosis
- Billing for services not provided or not documented
- Keeping money from overpayment for services
- Upcoding services or procedure
- Billing for medically unnecessary services
- Creation of false documents
- False documentation within records



Detection of Fraud and Abuse



Old Model

- Whistleblowers and informants

New Model

- Random review, error rate measurement, quality assessment
- Data integration, mining and analysis by numerous audit and review programs
- Broader definition of whistleblower
 - Qui Tam whistleblower case is brought on behalf of Government
 - May be joined by the government
 - May be a disgruntled employee or staff member
 - Whistleblower receives up to 35% of government settlement



The New Auditors



Comprehensive Error Rate Testing (CERT)

- CRC (Cert Review Contractor)

Medicare Administrative Contractors (MACS)

Recovery Audit Contractors (RACS)

Medicaid Integrity Contractors (MICS)

- State-administered

Zone Program Integrity Contractors (ZPICS)



FERA and False Claims Act



Fraud Enforcement and Recovery Act

- Provided \$100's millions for enforcement of false claims
- Whether or not "intent" to fraud exists
- Enhanced penalties - \$5,500 up to \$11,000 + 3x Damages
- Applies to request or demand from Government

False Claims Act

- Includes reckless disregard or deliberate ignorance
- "I didn't know" doesn't count
- Knowingly present or cause to be presented a false claim for payment or approval
- Conceal or knowingly avoid obligation to pay Government
- Return funds within 60 days after "knowledge"



Documentation Requirements



Medical Necessity

Signatures of providers

- Must be legible
- Included in RAC audit reviews
- Use Attestation

Use of ABNs

Maintain necessary films and images in chart



HIPAA



Health Insurance Portability & Accountability Act

- Use and disclose PHI (Protected Health Information) only for treatment, payment, and healthcare operations
- Safeguards for electronic disclosure

ASC Responsibilities

- Use and disclose PHI only for treatment, payment and health care operations
 - No access to records of family, friends, patients not in your care
- Develop policies and protocol
- Train providers, staff, administration
- Report breach to individual and Office for Civil Rights
- Sanction Employee? and Educate Staff
- Mitigate damages to the patient



HIPAA Examples



Caring for patients in the perioperative area

- Complying with HIPAA in the patient-family centered world
- Develop protocol and process for staff, nurses, doctors
- Set reasonable safeguards to reduce risk

Inappropriate use of technology

- Camera phones
- Smart phones
- Email



HITECH



Health Information Technology for Economic and Clinical Health (HITECH)

New Responsibility for the ASC

- Report breach to the individual
- Report breach to the Office for Civil Rights
- Mitigate patient damages

Patient Rights

- Right to accounting of all disclosures from an EHR
- Email

Increase in civil monetary penalties

- Right to accounting of all disclosures from an EHR



Recommendations



1. Compliance Plan
2. Policies and Procedures
3. Regular Reviews
4. Risk Management: Mindset and Approach



1. Compliance Plan



Update plan as needed and at least annually

- Use audit results
- New coding and reimbursement guidelines
- Review the OIG work plan

Identify new target areas

- Check OIG, RAC, CERT, your own observation of weak areas
- Watch for Medicare guidance and self correct
- Review Medicare Learning Network articles

Train all staff and surgeons on the plan

- Provide regular in-service on updates and requirements



2. Incorporate Compliance in Policies & Procedures



- Scheduling
- Billing and Payment for implants
- Coding
- Op Reports and Amendments
- Signature requirements
- Prior Authorization and Pre-certification
- Communication with patients



3. Conduct Regular Reviews



Scheduling and front end process

Handling of PHI

Documentation

- Patient charts
- Operative Reports
- Radiology and Pathology Reports

Coding

Billing

Financial activities

Payer Contracts



4. Risk Management



- A. Conduct a baseline audit
- B. Identify risk areas
- C. Develop and implement process improvement plans
- D. Create monitoring systems
- E. Maintain the provisions of your compliance plan
- F. TRAIN – TRAIN - TRAIN



Key Compliance Risks in ASC Billing



- An ASC is not a practice—or a hospital
 - What is right for the ASC?
- Unique ASC Challenges
- Regulations = Risk
- Recommendations



Thank You



Bill Gilbert

- Vice President Marketing, 908-279-8120, bgilbert@ahsrcm.com

Sandy Chilcote

- Senior Client Manager, 717-645-6402, schilcote@ahsrcm.com

Brice Voithofer

- Vice President ASC Services, 610-301-7625, bvoithofer@ahsrcm.com



References



General ASC

<http://oig.hhs.gov/oei/reports/oei-01-00-00451.pdf>
Quality Oversight of Ambulatory Surgery Centers

<http://oig.hhs.gov/oas/reports/region1/10900521.pdf>
Payments for ASC Services Provided to Beneficiaries in SNF Stays Covered Under Medicare Part A

http://oig.hhs.gov/fraud/docs/advisoryopinions/2008/redacted_ao_08-08.pdf
OIG Advisory Opinion

<http://edocket.access.gpo.gov/2003/pdf/03-10626.pdf>
FR 68, 23148 Publication of OIG Special Advisory Bulletin on Contractual Joint Ventures

https://www.cms.gov/GuidanceforLawsAndRegulations/02_ASCs.asp
CMS Survey & Certification – Guidance to Laws and Regulations

https://www.cms.gov/manuals/downloads/som107ap_1_ambulatory.pdf
CMS – State Operations Manual; Appendix L Guidance for Surveyors

https://www.cms.gov/CertificationandCompliance/02_ASCs.asp
ASC's – Certification and Compliance

https://www.cms.gov/CertificationandCompliance/downloads/ASC_HAI_MAP.pdf
Ambulatory Surgical Center Healthcare-Associated Infection (HAI) Initiative Recovery Act

https://www.cms.gov/ASCPayment/downloads/C_ASC_RTC%202011.pdf
U.S. Department of Health and Human Services Report to Congress: Medicare ASC Value-Based Purchasing Implementation Plan

<https://www.cms.gov/ASCPayment/ASCRN/Itemdetail.asp?filterType=none&filterByDID=0&sortByDID=3&sortOrder=descending&itemID=CMS1249114&intNumPerPage=10>
CMS-1525-P Proposed Changes to the ASC Payment System and CY 2012 Payment Rates

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div5&view=text&node=42:3.0.1.1.3&idno=42>
Electronic Code of Federal Regulations, Title 42, Part 416, Subpart F, Ambulatory Surgical Services

ahsrcm.com

More Money Faster

AdvantEDGE Healthcare Solutions 877-501-1611

23



References



GENERAL GUIDANCE

<https://www.cms.gov/manuals/downloads/clm104c14.pdf>
Medicare ASC Claims Processing Manual, Chapter 15

<http://www.sccma-mcma.org/images/userfiles/File/CMS%20Signature%20Requirements.pdf>
CMS Signature Guidelines for Medical Review

http://guide.org/getfile/a6bfa1bd-c07c-4323-8089-f92ce94ccaeb/ABN_Booklet_ICN006266.aspx?chset=e06444e6-8013-455b-a6ef-b4f387a3d4e93
Use of ABN's

<http://www.medicare.gov/publications/pubs/pdf/10116.pdf>
Official Government Guide of Services and Supplies Original Medicare Covers

CERT

<https://www.cms.gov/cert/>
Comprehensive Error Rate Testing

MACS

https://www.cms.gov/medicarecontractinereform/07_partaandpartbmedicareadministrativecontractor.asp
Part A/Part B Medicare Administrative Contractor

RACS

<https://www.cms.gov/recovery-audit-program/>
Overview Recovery Audit Contractor Program

MICS

<http://www.cms.gov/MedicaidIntegrityProgram/>
Medicaid Integrity Program

<https://www.cms.gov/ProviderAudits/Downloads/mipfactsheet.pdf>
Medicaid Integrity Program Fact Sheet

https://www.cms.gov/MedicaidIntegrityProgram/04_What%20is%20New.aspxhttps://www.cms.gov/MedicaidIntegrityProgram/04_What%20is%20New.aspx

Medicaid Integrity Program – What's New

<http://www.namfcu.org/contacts/mfciu-contacts>

National Association of Medicaid Fraud Control Units

ahsrcm.com

More Money Faster

AdvantEDGE Healthcare Solutions 877-501-1611

24





References



ZPICS

<https://www.cms.gov/manuals/downloads/pim83c04.pdf>

Medicare Program Integrity Manual, Chapter 4

<https://www.cms.gov/DeficitReductionAct/Downloads/fy08cmip.pdf>

Comprehensive Medicaid Integrity Plan 2008-2012

HITECH

<http://www.locket-access.gpo.gov/2009/pdf/E9-20169.pdf>

45 CFR Parts 160 and 164 Breach Notification for Unsecured Protected Health Information; Interim Final Rule

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brinstruction.html>

Instructions for Breach Notification

<http://transparency.cit.nih.gov/breach/index.cfm>

Notice (on-line filing) to the Secretary of HHS of Breach of Insecured Protected Health Information

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/breachnotificationfr.html>

Breach notification

FTC

<http://www2.ftc.gov/os/2009/08/R911002hbnform.pdf>

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/federalregisterbreachrfi.pdf>

FTC Notice of Breach of Health Information

FERA – Fraud Enforcement and Recovery Act

<http://www.gpo.gov/fdsys/pkg/PLAW-111publ21/pdf/PLAW-111publ21.pdf>

PPACA

<https://www.cms.gov/LegislativeUpdate/downloads/PPACA.pdf>

<http://docs.house.gov/energycommerce/ppacacon.pdf>

False Claims Act

<https://www.cms.gov/smdl/downloads/smd032207att2.pdf>

Federal False Claims Act

<http://oig.hhs.gov/fraud/state-false-claims-act-reviews/index.asp>

State False Claims Act Reviews