The Anatomy of an Investigation

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Your honor, my client would like to explain the difference between a financial incentive and a kickback.”
“Now I’ll show you what turns a $6,000 operation into a $17,000 operation.”

Doctor. I need to talk to you about my double hip replacement
AND THIS PILL’S FOR MY HEART, AND THIS PILL’S FOR MY HIP, AND THIS PILL’S FOR MY BACK, AND THIS PILL MAKES ME FORGET HOW MUCH THIS SHIT IS COSTING ME.

"Would you like a tan along with your MRI, sir — only $28.50 extra?"
Presentation Overview

- Our Industry at Risk
  - The Past
  - The Present
  - The Future

- The Investigation
  - Key Players
  - Case Study Presentation

- Questions
Our Industry at Risk - The Past

- 1976 - Office of Inspector General (OIG)
- 1977 - Medicaid State Fraud Control Units (MSFCU)
- 1986 - Amendments to the Federal False Claims Act of 1863 (FCA)
- 1995 - Stark Law

Our Industry at Risk - The Past

- 1995 - Operation Restore Trust (ORT)
- 1995 - DRG 72 hour window project
- 1996 - Project Outreach
- 1996 - National Correct Coding Initiative (NCCI)
- 1996 - Physicians At Teaching Hospital (PATH)
Our Industry at Risk - The Past

- **1996** - Health Insurance Portability and Accountability Act (HIPAA)
- **1997** - Medicare/Medicaid Anti-Waste, Fraud and Abuse Act
- **1997** - Compliance Program Guidance (CPG)
- **1997** - Project Integrity

Our Industry at Risk - The Past

- **1997** - Balanced Budget Act (BBA)
- **1998** - Provider Self Disclosure Protocol
- **1999** - Pneumonia DRG Upcoding Project
- **2003** - Civil Monterey Penalties (CMP)
- **2003** - Comprehensive Error Rate Testing Program (CERT)
- **2003** - Hospital Payment Monitoring Program (HPMP)
Our Industry at Risk - The Past

- **2003** - Medicare Modernization Act (MMA)
- **2005** - Permanent Error Rate Measurement (PERM)
- **2005** - Recovery Audit Contractors (RAC)
- **2006** - Deficit Reduction Act (DRA)
- **2006** - Medicare Administrative Contractors

Our Industry at Risk - The Present

$13,426,803,373,412.02

Source: US Department of Treasury

– Restoring the Medicare Trust Fund
Our Industry at Risk - The Future

- Coders
- Billing Managers
- Physicians
- Mandatory Compliance Programs
Key Players in Investigations

Government
Case Study Presentation

Case #1
Case #1 - Background

- “Medicare Specialist Matter”
- “Claims Appeal Matter”
- “Dr. Matter”

Case #1 - Methodology

- Interviews
- Review of Policies and Procedures
- Appointment Schedule Review
- Medical Record Review
- Claims Review
Case #1 - Results/Conclusion

• Medicare Specialist Matter
  – Fired
  – Possible jail term for Medicare fraud (case pending)
• Claims Matter
  – FI reviewed 1192 claims
  – 97% of the services were not medically necessary
  – 3% contained insufficient documentation
  – FI recovered $22,503
• Dr. Matter
  – OIG believed there was a potential overpayment of $553,606.89
  – Possible exclusion
  – Hurricane Katrina
Case #2

- “The Salesman & the Matrix Device”

Case #2-Background

- Physician purchased a new device
- Sales representatives billing instructions
- Office staff billed
- Claims rejected
- Advice sought
- Physician wrote off all charges
- Physician refunds carrier
Case #2 - Background

• Charges were based on services rendered to 15 patients
  – Charged with 62 counts
  – Insurance Fraud (Counts 1-41)
  – Second degree theft (Counts 42-61)
  – Unlawful ownership or operation of business by certain persons prohibited (Count 62)

Case #2 - Methodology

• Interviews
• Review of Policies and Procedures
• Appointment Schedule Review
• Medical Record Review
• Claims Review
Case #2 - Results/Conclusion

• Whistleblower
• Insurance Fraud Division started an investigation, which included a subpoena of documents pertinent to the allegations
• Coding concerns
  – Use of CPT® code 64402 Injection, anesthetic agent, facial nerve

Case #2 - Results/Conclusion

• “Expert Witness” Requirements
  – Medical Coders
    • CCA
    • CPC
    • CPC-H
    • CCS-P
    • CCS
  – Medical Billers
    • Several years of experience
Case #3

• Incident to Billing
Case #3 - Background

- Doctor/Owner
- Physician Assistant

Case #3 - Methodology

- HR Paperwork
- Appointment Schedule
- Medical Records
- Claims Forms
Case #3 - Results/Conclusion

- Direct Supervision
- Plan of Care
- Corporate Integrity Agreement
Somethings you should know!

- “Provider Corporate Integrity Agreements”
- Data Mining
- Claims Comparison
  - CMS 1500 versus CMS 1450 (UB-04)

Thank you for your attention!

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