

Surviving Third-Party Payor Audits and Investigations

here are preventative measures you can take.

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The Legal Corner is a regular feature that identifies risk management issues and steps you may wish to take in your podiatric practice to reduce the risk of being targeted for professional disciplinary action.

An increasingly common issue that confronts podiatrists is how to respond to third party payor audits and investigations. This article will address some of the red flags as well as steps to take and avoid taking when you find your podiatric practice under audit or investigation by a third-party payor.

* Audits and investigations are frequently the result of a complaint received by the third-party payor. Disgruntled patients, employees (former), and competitors are common sources of complaints. Perform a risk management review of your treatment and billing before placing a patient in collection or initiating other confrontational conduct with the patient. Unfortunately, too many audits and investigations are initiated as a result of a retaliatory complaint by the patient to the third-party payor. An audit can also be triggered when a patient calls up a third-party payor seeking clarification of information they didn't understand on an explanation of benefits. Make sure your patients understand the services provided and the related billing for same. Remember that your relationships with employees can be transient and your communications with them are not confidential or privileged. Therefore, don't allow employees access to sensitive information that could be used by them to make a report.

* Audits and investigations may also be triggered by internal third-party payor data. Third-party payors commonly prepare comparative performance reports which compare you to your peers in terms of multiple variables such as the volume of diagnostic tests ordered, procedures performed, and billing (CPT) codes used. If you fall outside of the norm for your peers, you can be subjected to an audit. Frequently, the third-party payors are unaware of, or fail to adjust for, differences in your patient population or case mix from that of your peers.

* Requests by third-party payors for a copy of more than one medical record at a time could be a red flag that you are the subject of an audit. Another red flag is a letter that comes from a "special investigation" unit of the third party payor. The special investigation unit of a third-party payor commonly addresses fraud issues.

* Respond to medical record requests in timely fashion. Delay can create suspicion on the part of the third-party payor. When you receive a request for medical records, do not alter the medical records. If you must make an addition to a medical record, this should be done in a separate note which is dated and

timed to correctly identify when the note was written. Since even correctly dated and timed additions to medical records can raise risk management issues, it is best to review the matter with legal counsel before making such additions. Remember that medical record fraud could convert an otherwise defensible or manageable case into a career ending fraud case.

* Be careful about attempting to defend yourself during an audit or investigation by answering the questions of an investigator or submitting written statements without the advice of legal counsel. Don't assume that the audit or investigation is all a terrible misunderstanding which can be clarified by showing good will on your part. Your statements, whether verbal or written, can subsequently be used against you. However, with the advice of legal counsel, useful information - such as podiatric literature justifying your approach to treatment; and data justifying your volume of diagnostic tests ordered, procedures performed, and billing (CPT) codes used - can be submitted. The submission of the aforementioned information may lead to an audit or investigation being closed out without any action being taken against you.

* In general, don't offer to make repayments without a written settlement agreement which addresses issues needed to protect your interest, such as the reason for repayment, your right to continue to be a provider for the third-party payor, and whether the matter has been, or will be, reported to government agencies such as state licensing authorities, state insurance departments, and the state/ federal criminal authorities.

* To reduce the risk of audits, investigations and prosecutions, consider implementing a compliance study of your podiatric practice to identify and correct problems relating to medical record documentation, billing and other practice issues.

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