# Postpayment Audits: Preparation and Response



John M. Bennett

Medical Management Associates, Inc.

Atlanta, GA



jmb@medicalmanagement.com 770.951.8427 x 57

# **Session Objectives**

- Identify various types of postpayment audits
- Learn strategies that may reduce the negative financial impact of a postpayment audit

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#### If You are Audited...

- That does not mean you have done something wrong
- Your billing likely deviates from the norm
- Send in supporting documentation
- You may receive a request to repay an overpayment
- You will have the right to appeal their findings
- Do not fabricate or alter documentation/information
- Remember, it can escalate...



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# Types of Claim Review

- Review = Audit
- Prepayment
- Postpayment
- Not limited to Medicare and Medicaid
- Automated vs. complex



# Types of Prepayment Review

- National Correct Coding Initiative (NCCI)
- Medically Unlikely Edits (MUE)
- Medical Review (MR)



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# Why Do Health Plans Perform Postpayment Audits

- Identify program error rates (i.e., CERT, PERM)
- Inspect integrity of program (i.e., OIG)
- Investigate provider-specific issues



# Types of Postpayment Review

- Comprehensive Error Rate Testing (CERT)
- Recovery Audit Program / Recovery Audit Contractor (RAC)
- Medical Review (MR)



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# Postpayment Medical Review (MR)

- Probe audit
- Statistically valid random sampling
- Sample vs. universe



# Calculation of Overpayment

- Actual vs. extrapolated
- Payment error rate vs. billing error rate



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# Why Providers are Targeted

- High volume of services
- High cost
- Dramatic change in billing frequency
- High risk, error prone areas
- Vulnerable areas identified by RA, CERT, OIG



# Why Providers are Targeted

- Questionable billing practices through data analysis
- Alerts from CERT, RA, OIG, etc.
- Complaints
- Error validation
- High volume of services
- High cost
- Dramatic change in billing frequency
- High risk, error prone areas
- Vulnerable areas identified by RA, CERT, OIG



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# Who Requests Medical Record Documentation?

- Medicare Administrative Contractors (MACs)
- Comprehensive Error Rate Testing Contractor (CERT)
- Payment Error Rate Measurement Contractor (PERM)
- Medicare Recovery Auditors (formerly called RACs)



#### Risk Areas

- DHHS OIG Work Plan 2012
- Issued fraud alerts
- Approved Connolly Medicare RAC audit issues
- GA OIG-MIU targets
- New Myers and Stauffer LC (MSLC) Medicaid RAC initiatives (April 2012)



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#### DHHS OIG Work Plan (partial)

- Place of service errors HOPD, ASC
- Excluded entities
- Evaluation and management coding (E/M)
- Diagnostic imaging procedures in ED, IDTF
- Focus on error prone, outlier providers
- Billing for immunosuppressive drugs
- Payments for off-label anticancer drugs and biologicals



### Recent Approved RAC Issues (May 2012 to date)

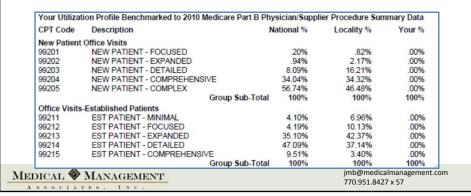
- Connolly (<u>www.connolly.com</u>)
- Pemetrexed billed with non-covered diagnosis
  - Automated review, approved 8/6/12
  - Date of service from 10/1/07
  - Cahaba local coverage article A48896
- Erythropoesis Stimulating Agents (ESAs) not billed in accordance with applicable LCD
  - Automated review, approved 5/22/12
  - Date of service from 10/1/07
  - Cahaba LCD L30024



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## Still a BIG Target

- Evaluation and Management Services (E&M) continue to be the focus of review
  - High levels of service (i.e., 99214, 99215)



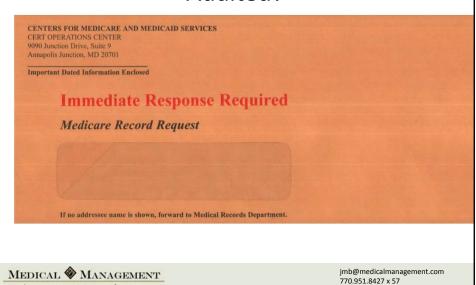
### Notification of Postpayment Review

- Written notice, usually certified mail
- Not in all cases (ZPIC)



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# How Do You Know You are Being Audited?



## Simplified Postpayment MR

- Usually not be a complete surprise
- Request/notification
- Auditor will review documentation you submit to billing and coverage policies
- Demand letter (overpayment)
- Defined period to initiate an appeal
- Recoupment



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## **Case Study**

- Health plan audit of one physician
  - Focused on E&M services
  - 20 patient sample from 2009 to present
  - Desktop audit based on documentation submitted
  - Plan audit team was Special Investigations Unit
  - Demand of immediate reimbursement of \$373k



### Step One

- Provider engaged legal counsel
- Legal counsel engaged MMA
  - Review situation and documentation
  - Strategy for response and appeal
  - Reduce overpayment



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# **Key Provider-Side Problems**

- Staff did not keep a copy of record request or records submitted
- No physician review prior to submitting records
- Disclosure to auditor of separate record keeping by contracted provider



### **Key Auditor-Side Problems**

- Not a statistically valid sample
- Claim error rate did not account for what should have been paid (partial overpayment)
- No detailed findings in the demand letter
- Findings were not consistent with Plan policy
- 3-year extrapolation of error rate
- Auditor advised physician to rebill corrected claims



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#### Reasons for 100% Denial

- Levels of service not supported
- No documentation submitted
- EMR notes not signed prior to claim payment
- Services of non-physician practitioner (NPP) not signed by physician
- Physician not listed as supervising physician on NPP protocol agreement



Other Federal Employee Program CPT Paid Amt Adjusted Amt CPT Paid Amt Adjusted Amt 99204 18517.13; 75% 13887.85 99204 51721.68; 75% 38791.26 99213 35484.50; 54% 19161.63 99213 16642.91; 54% 8987.17 99214 92022.56; 89% 81899.58 99214 232407.14; 89% 206842.35 99215 1207.38; 100% 1207.38 99215 2424.45; 100% 2424.45 Total: 128389.98; Adj. 105981.98 Total: 322037.77; Adj. 267219.69 jmb@medicalmanagement.com MEDICAL W MANAGEMENT 770.951.8427 x 57

# **Key Strategies**

- Resend documentation reviewed by physician
- Understand auditor's process and negotiation latitude
- Appeal specific findings
- Recalculate overpayment
  - Payment error rate vs. billing error rate
  - Shorter look-back period (extrapolation)
- Full rights to appeal, no ticking clock
- Close the book on the identified issues



## Recalculation of Overpayment

- MMA determination of level of service
- Signature not required prior to claim payment
- Physician was listed as supervising physician
- Payment error rate
- One year extrapolation

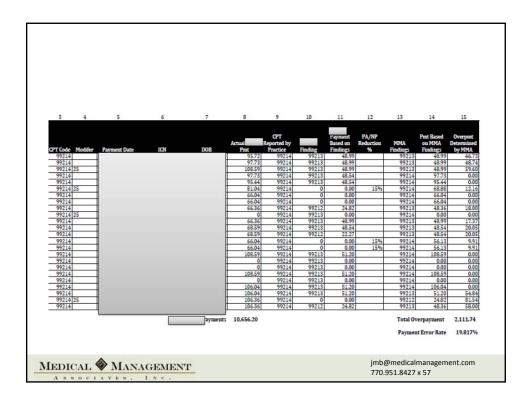


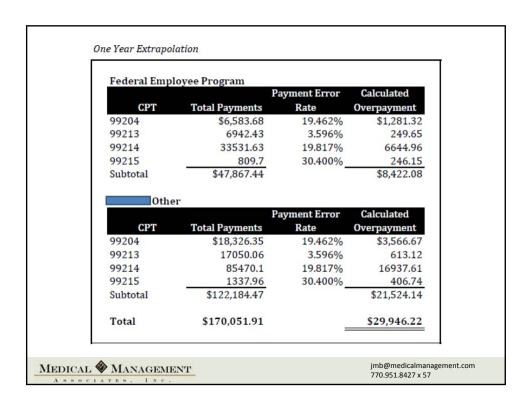
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## Meeting the Auditing Team

- SIU, auditing, legal...
- Provider, legal counsel, consultant
- Strategy
  - Clarify no intent
  - Identify operational obstacles (especially recent)
  - Face to the numbers
  - One of few providers taking new patients
  - Clarify recalculation assumptions
  - No offer for settlement at that time
  - Period to present findings
  - Email summary of assumptions







#### Result

- Offer to settle for \$29k accepted
- Payment plan over 30 months rejected, accepted 12 months of equal payments at 1.5% annual interest
- Settlement agreement provides some protection against reopening issues that did not result in an overpayment
- Physician on the right path



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#### Questions

Thank You for Your Attention and Enjoy the Conference!

John M. Bennett

Medical Management Associates, Inc.
jmb@medicalmanagement.com
770.951.2157



#### John M. Bennett

- 18 years of healthcare consulting experience and executive leadership of boutique and national consulting and education firms. He has assisted hundreds of medical provider, legal, professional/medical associations, pharma, government, and health plan clients in the areas of developing and executing management, reimbursement and regulatory compliance strategy. Clients served range from solo physicians in private practice to Fortune 500.
- John earned a Bachelor of Business Administration from the University of Georgia, Terry College of Business (UGA) and holds multiple certifications, including Certified Professional Medical Auditor and Certified Professional Coder from the AAPC.
- John is a member of the Health Care Compliance Association and American Academy of Professional Coders.

