

Yes! Internal Auditing May Prevent Inaccurate Billing in Outpatient Therapy Practices

As many outpatient therapy providers are aware, this level of post acute care has been involved in the Centers for Medicare and Medicaid Services (CMS) Targeted Probe and Educate effort. However, what many providers may not be aware of is that outpatient therapy services have also been on the radar screens of several multiple federal agencies (Department of Justice, US State Attorney's Office, Defense Criminal Investigative Services, HHS – OIG, the FBI, etc.). Several determinations involving outpatient therapy practices have been recently posted reporting significant financial impact, and in one case imprisonment, for the identified practices. However, and unfortunately, the issues identified are not “new” issues. It appears that these issues may have had an opportunity to be avoided by ensuring the organization's compliance plan had been fully implemented in outpatient therapy services. Recent issues include the following:

- Billing for individual therapy when more than one patient was being treated by the same licensed therapy staff member at the same time;
- Physical therapy assistants providing care without the direct supervision of a physical therapist;
- Inaccurate billing of attended electrical stimulation (E-stim) when the E-stim was unattended;
- Billing of services that were not provided by licensed therapy staff;
- “Rounding up” of therapy time.

Since at least one of the cases involved a “whistle blower”, it can be assumed that therapy staff may be aware of inaccurate billing and not only be concerned, but voice that concern – perhaps through a compliance hotline. While in some cases it is determined that inaccurate billing is taking place with the knowledge of leadership of the therapy practice, in many cases, it is caused as a result of situational circumstances. For example:

- One or more therapy staff call in sick and instead of cancelling patients, other staff cover the case load. However, the billing for the patients reflect individual therapy when in fact group therapy is occurring;
- Productivity and revenue expectations exceed what can be expected from the staff level.
- A modality is applied with the intention of “attending” the treatment and the therapy staff is called away for the whole treatment;
- Specific CPT codes are “untimed” and only one unit can be billed for a specific day. However, for the purposes of tracking productivity, multiple units may be tracked, etc.

An organization's compliance program should include components that would prevent and address these situations from occurring. Annual compliance education for therapy staff (and leadership of therapy staff) should include how both leadership and therapy staff contribute to compliant billing practices and provide specific billing scenarios to ensure staff is aware of how to adjust billing to accurately reflect treatment provided when circumstances change from what is planned/scheduled. And leadership should be made aware of new regulations that may impact the organization on a more global basis (e.g. changes to billing regulations, therapy caps, etc). The annual compliance education should always include an update to the guidelines for accurate billing for therapy staff. Examples:

- As defined by the Centers for Medicare and Medicaid Services (CMS), group therapy in an outpatient setting occurs when one licensed staff is dividing their time in the treatment of two or more patients at the same time who may or may not be doing the same activity.
- As addressed in the Balance Budget Act of 2018, a modifier requires CMS to provide a reduced payment for treatment provided by a physical therapy assistant or an occupational therapy assistant in the outpatient setting (the modifier will be required on claims submitted after 1/1/20 with the reduced reimbursement effective 1/1/22).
- While the provision of therapy for 8 minutes can result in the billing of one 15-minute unit, however the provision of three 8 minute treatments cannot result in the billing of 3 15-minute units because the total treatment time is only 14 minutes, etc.

As in all levels of post acute care, the issue of medical necessity of services and documentation to support medical necessity is an ongoing challenge. Perhaps this is more challenging in an outpatient setting since for an aging population, therapy may not only be a physically/functionally therapeutic environment, but a socially therapeutic environment as well. This results in patients often desiring and presenting in ways that would indicate continuation of therapy services are necessary. However, payor sources are only reimbursing for the medical necessity of therapeutic services.

If your organization provides outpatient therapy services, it is important for not only the organization and the compliance staff to maintain current with the associated rules and regulations, but annual audits of outpatient therapy records/claims should be part of the Annual Compliance Work Plan. Education focused on specific therapy issues should be provided to leadership so they are aware of their role in maintaining compliant guidelines in outpatient therapy and to therapy and associated billing staff to ensure they are aware of their role in compliant billing.



For additional assistance in enhancing your Compliance WorkPlan to address the specific needs of your Outpatient Therapy Services, contact jane.snecinski@postacuteadvisors.com.