When payors audit your private practice, panic is no help

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When an audit letter from one of your payors arrives, don’t panic. It’s not an ax falling on your private practice, but it may be a challenge to your record-keeping process. And be prepared to write a check if the auditors find an overpayment. You are not likely to get off scot-free, legal experts say.

Lawyers Ross Burris and Sean Timmons from one of the nation’s preeminent health care law firms, Polsinelli, discussed the administrative and economic issues physicians face with Medicare and commercial payor audits in the second of a two-part webinar for the AMA late last year. You can watch part one to learn about trends in payor audits and disputes.

Payor audits are mostly about record keeping, Timmons explained, and the audit process usually begins with a records request, he said. The outcome of the audit often relies on “the quality of the records,” he added.

“It’s really important to have a good strategy to respond to a records request,” he said, “because what you do in the first response really shapes everything else that is going to happen over the course of the audit and any potential appeals.”

Do not alter existing records, he warned. “Once the auditors detect that there has been editing of the record after the fact, they all of a sudden think that [they] cannot trust anything that has been sent in.”

If the record you are sending in is incomplete, it is fine to include an explanatory note to provide additional information so long as it is dated currently and does not pretend to be part of the original documents. Timeliness matters, the lawyers noted, and it is critical to maintain the accuracy and timeliness of your records. Responding late or not at all to a records request undermines the credibility of the records and your billing practices.
The AMA Payor Audit Checklist (PDF) helps practices respond effectively to payor records requests while minimizing the administrative burden associated with responding to such requests. A thorough and timely response could reduce the likelihood that a practice will have to return money to the payor, pay a penalty or lose access to the plan’s beneficiaries.

Training and preparation pay

The experts from Polsinelli recommended that all practice staff members who are involved in the billing-and-revenue cycle tasks be trained to respond promptly and properly to audit letters.

“Everyone needs to understand how important these things are and that a prompt and complete response is essential,” Timmons said. Also, “make sure that a clinician—preferably the clinician involved in the case—is reviewing the records,” he added, and all requested diagnostic imaging and laboratory tests are included.

Timmons said it is important to send in a complete record—everything that is relevant, but not anything that is irrelevant.

Learn about the eight medical coding mistakes that coding could cost you.

Have realistic expectations

Don’t expect an audit—even one that is managed well—to be a big win. When a claim or claims are audited, “the likelihood is that you are going to be writing a check. Our job is to make that check as small as possible,” Timmons said.

“The reality is that when payors do audits, they are going to find things, because nobody is perfect. A situation where you have a relatively small repayment is a win.”

If you fail to respond to the audit with excellent records and good arguments, there are a few appeal processes that may help, the lawyers noted. But do not count on them for a last-ditch victory. Physician practices can initiate a compliance complaint if they think the payor’s demand for repayment violates regulations.

Practices also can seek other kinds of regulatory assistance from the U.S. Department of Labor or seek help from their congressional representatives if they think they have been treated unfairly. If the audit involves a Medicare Advantage plan, then complaints can be made to the Centers for Medicare & Medicaid Services.

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“And don’t forget your patients,” Burris said. “They can be your best advocate” when all other approaches fail.

It takes astute clinical judgment as well as a commitment to collaboration and solving challenging problems to succeed in independent settings that are often fluid, and the AMA offers the resources and support physicians need to both start and sustain success in private practice. As physicians strive to continue to provide care to patients and maintain their practices during the ongoing COVID-19 pandemic, the AMA is providing an updated guide to help doctors to keep their practices open.

Find out more about the AMA Private Practice Physicians Section, which seeks to preserve the freedom, independence and integrity of private practice.