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Avoiding Fraud and Abuse: Follow the Rules of the Road

To say that there are good many controversial areas in healthcare today would be an understatement. While few stakeholders would argue that doing away with the flawed Sustainable Growth Rate (SGR) formula through the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) was a bad move, there is plenty of debate over the details for implementing the new Quality Payment Programs (QPP) MACRA introduces. CMS has received 3,875 comments on its proposed rule on this topic¹. While I have not read them all, I am certain that there are plenty of differing opinions on the many issues in that very complex proposal.

One area where there is agreement is that physicians do not want to find themselves facing any allegations of Medicare fraud or abuse. Taking the time to develop a fundamental understanding of the many laws about fraud and abuse is critical to avoiding such situations. Penalties under the fraud and abuse laws can include both criminal and civil liabilities and potential exclusion from the Medicare and other federal health care programs - which means that these programs will not pay for any service the excluded provider performs or orders.

The Centers for Medicare and Medicaid Services (CMS) publishes an informative booklet to educate physicians and other healthcare providers on federal fraud and abuse laws: - [Avoiding Medicare Fraud & Abuse: A Roadmap for Physicians](#).² This 20-page booklet provides important information on a range of relevant areas, including:

- an overview of some relevant federal laws including the False Claims Act, the Anti-Kickback Statute and the Stark Law;
- physician relationships with payers, other providers and vendors;
- compliant coding/billing along with accurate and complete documentation of services

Did you know that the Affordable Care Act (ACA) requires physicians who provide care to Medicare beneficiaries to have a compliance program? The CMS publication provides an overview of the components of a compliance plan.

Knowing the rules is an important part of compliance. The follow up question might be what you should do if you suspect a problem. This is even more important since CMS finalized its rule on [Reporting and Returning Overpayments](#) in February 2016.

¹ www.regulations.gov accessed 7/22/2016

² Avoiding Medicare Fraud & Abuse: A Roadmap for Physicians, Department of Health and Human Services, Centers for Medicare and Medicaid Services, April 2016

Timely Topics

PAYMENT AND PRACTICE MANAGEMENT

The knowledge gained from this [CMS resource](#) is not a substitute for legal counsel. Physicians should consult with an experienced and competent health care attorney when considering entering into an arrangement that could fall under the laws and rules outlined in this publication or if they have reason to suspect a potential compliance concern as these cases depend heavily on the facts present.