Reimbursement Update

NCAEMSA Winter Conference 2013
HIPAA

• Final Omnibus Rule Overview
• Federal Register – January 25, 2013
• Compliance Date – September 23, 2013
• Revised Business Associates Agreements – September 23, 2014
HIPAA

• **Breach Notification Standards**
  – Current “Harm Standard”
    • Risk Assessment
      – Who accessed PHI?
      – Whether “harm” was mitigated?
      – Whether PHI was accessed?
      – What type of PHI was accessed?
  – New “Presumption Standard”
    • Presume Breach Occurred
    • Unless Demonstrate Low Probability that PHI has been Compromised
    • Risk Assessment is Required
HIPAA

• **Risk Assessment**
  – the nature and extent of PHI involved
  – the person to whom the PHI was disclosed
  – whether the PHI was actually acquired or viewed
  – to the extent to which the risk to PHI has been mitigated
HIPAA

• **Breach Notifications**
  - <500 Individuals
    • Individual Notice within 60 days
    • Breach Notification Log – within 60 days of end of calendar year
  - > 500 Individuals
    • Media Notification within 60 days
    • Notification to Secretary of HHS within 60 days
HIPAA

• **Investigations**
  
  – HHS must investigate any complaint filed when possible violation of willful neglect
  
  – Willful neglect – conscious, intentional failure or reckless indifference to HIPAA compliance
  
  – HHS must conduct full scale random audits to ensure compliance
• **Business Associates**
  – Business Associate defined as an entity that: creates, receives, maintains, or transmits PHI
  – Business Associates subject to penalties
  – Covered Entity remains liable for breaches of BA regardless of Business Associate Agreement

• **Update Notifications**
  – Notice of Privacy Practices
  – Business Associates Agreements
### Penalties

- **Office of Civil Rights – Penalties to be used for purposes of enforcing HIPAA**

<table>
<thead>
<tr>
<th>Violation Category</th>
<th>Each Violation</th>
<th>Maximum Fine for Identical Violations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Did Not Know</td>
<td>$100-$50,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Reasonable Cause</td>
<td>$1,000-$50,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Willful Neglect – Corrected</td>
<td>$10,000 - $50,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Willful Neglect – Not Corrected</td>
<td>$50,000</td>
<td>$1,500,000</td>
</tr>
</tbody>
</table>
Physician Certification Statements

- **Repetitive Patients**
  
  - Federal Register – November 16, 2012
  
  - Add language to repetitive patients:
    
    - “The presence of the signed certification statement ... does not alone demonstrate that the ambulance transport was medically necessary...”
  
  - ALJ and Federal District Court Judges have overruled CMS decision on medical necessity for Repetitive Patients
ICD-10 Codes

• Implementation Date: October 1, 2014
• Expands code selection to 140,000+ codes compared to current ICD-9 selection of around 18,000
• Recent WSJ and USA Today Articles
  – Location Identifiers
    • Struck by a duck while waterskiing
    • Injury occurring in a chicken coop
    • Nine locations in and around a mobile home
    • Very Low Level of Personal Hygiene
ICD-10 Codes

• A total of 42 codes specific to ambulance:
  – Coma Scale, referring to eyes open, verbal response, and motor responses as observed by EMT
  – Accident Codes – referring to EMS Personnel and Patients injured in or by an ambulance

• Ambulance Condition Codes
  – Potential Crosswalk
Patient Protection and Affordable Care Act (PPACA)

- Fraud and Abuse Provisions
- Provider Enrollment Process
  - Revalidation Process (every 3 years)
  - Ambulances must be licensed and owned by billing provider
  - Lease Agreement – possible alternative
- Site Visit
- $532 Fee
Patient Protection and Affordable Care Act (PPACA)

- Fraud and Abuse Provisions
  - Prepayment Reviews
    - Patient Care Report (PCR) must be submitted prior to payment
  - Delayed Payments
- Post-payment Reviews
  - “Vulnerabilities” in Medicare
  - Statistical Comparisons
  - Extrapolations
- Medicare Contractor Oversight
- Corrective Action Process for Vulnerabilities
- Mandatory Compliance Plan

emsbilling.us  |  Trust. Ongoing.
OIG Work Plan 2013

- Medicare Strike Force Teams
  - Federal and State Collaborations
  - OIG, Attorney General, Medicare and Medicaid Fraud Investigators, DOJ
  - $492 Million – including $49.2 Million in Ambulance
- Ambulance Review
  - Medical Necessity
  - Level of Care
  - ALS Assessments, Specialty Care Transports
GAO Cost Study

• Government Accountability Office (GAO) Cost Study
  • Based on 2010 Data
  • Median payments = 1% lower than Medicare Payment
  • Wide Variance - $224 - $2,204
  • Rapid increase of 59% in non-emergency transfers between nursing homes and dialysis facilities
  • Rapid entry of for-profit suppliers
  • Uncompensated Care – 5% - 14%
USA Today

- $4.1 Billion Record Recovery in 2011
- $7.20 Recovery for every $1.00 spent – 2009 – 2011
- $5.10 Recovery – 1997-2008
- $300 Million HHS Budget for Anti Fraud Teams
- Health Care Fraud Prevention and Enforcement Action Teams (HEAT)
- 175 Prison Sentences – average 47 month sentence
MEDPAC

• Recommendations:
  • Allow current add-on payments to expire on 12/31/2012
  • Restructure Non-Emergency Payment Structure
  • Lower Rates for Non-Emergency Transports
  • Emergency Transports would remain the same
  • Develop Medical Necessity Guidelines for NE Transports
  • Lower Fee Structure for Dialysis Transports
2013 Reimbursement Updates

• Ambulance Inflation Factor (AIF)
  • 0.8% Increase
• Add – On Payments Extended through December 31, 2013
  • 2% Urban
  • 3% Rural
  • 22.6% Super Rural
• Dialysis Transports – BLS Non-Emergency
  • 10% Decrease – Effective October 1, 2013
Whose Looking at You?

• Prepayment Audits
• Postpayment Audits
• Medicare Administrative Contractors (MAC)
• Recovery Audit Contractors (RAC)
• Program Safeguard Contractors (PSC)
• Zone Program Integrity Contractors (ZPIC)
• Comprehensive Error Rate Testing (CERT)
• Statistical Reporting/High Risk Vulnerabilities
Providers Reaction

- **GAO Study of CMS Auditors**
  - Defective, redundant, administrative burdens
  - Goal:
    - Coherent Strategic Plan
    - Consistent Standards
    - Active Coordination
  - Review:
    - Audit Criteria
    - Methodologies
    - Clear and Consistent Process
    - Not Duplicative
What are they looking for?

• **Medical Necessity**
  – Condition Codes
  – Supported by Patient Care Report (PCR)

• **ALS Assessment**
  – Dispatch Protocols
  – Medical Necessity

• **Emergency vs. Non-Emergency**
  – Immediate Dispatch
What are they Looking For?

• **Patient Signatures**
  – Patient Signature
  – Authorized Representative Signature
  – Crew/Facility Signature
  – Lifetime?

• **Physician Certification Statements**
  – Detailed Medical Condition
  – Signed with Appropriate Credentials
  – Legible Signature
  – Supported by Patient Care Report (PCR)
Appeals

• American Hospital Association (AHA)
  – 75% Appeal Rate
  – 48% of all Appeals are overturned

• Appeal Process
  – Redetermination
  – Reconsideration
  – Administrative Law Judge
  – Appeals Council Review
  – District Court
Compliance Plan

- Internal Monitoring and Auditing
- Written Policies and Procedures
- Designated Compliance Officer
- Training and Education Programs
- Appropriate Response to Offenses and Corrective Action
- Open Lines of Communication
- Disciplinary Standards and Enforcement
Questions???
Documentation Reminders

• **Audit Findings**
  – Does documentation demonstrate need for ambulance?
  – Does the PCR provide a sufficient description of patient’s specific functional limitations?
  – Does the documentation reflect the crew’s observations or objective evidence to support the patient’s need for ambulance transport?
Documentation Reminders

- **Emergency Claims** - Medicare Condition Codes (examples)
  - **Abdominal Pain**
    - With associated Nausea, vomiting, mass, distention, rigidity, tenderness on exam, guarding
  - **Abnormal Skin Signs**
    - Diaphoresis, cyanosis, delayed cap refill, poor turgor, mottled
  - **Allergic Reaction**
    - Rapid progression of symptoms, prior hx of anaphylaxis, wheezing, difficulty swallowing, hives, itching, rash, local swelling, redness, erythema
Documentation Reminders

• **Medicare Condition Codes**
  - Chest Pain
    - Dull, severe, crushing, substernal, epigastric, associated pain, ie. Jaw, left arm, neck, back, with nausea vomiting, palpitations, diaphoresis
  - Cardiac other than Chest Pain
    - Persistent nausea and vomiting, weakness, hiccups, pleuritic pain, feeling of impending doom, palpitations, skipped beats
• Abnormal Cardiac Rhythm
Documentation Reminders

- **Medicare Condition Codes**
  - **Neurologic Distress**
    - Facial Drooping, aphasia, difficulty swallowing, tingling extremities, stupor, delirium, confusion, hallucinations, paralysis, vertigo, unsteady gait/balance, slurred speech
  - **Pain, Severe**
    - Acute onset, unable to ambulate or sit due to pain, severity scale (7-10 indicates severe), receiving pharmacological interventions
  - **Alcohol**
    - Unable to care for self, unable to ambulate, pharmacological intervention, decreased LOC potentially compromising airway
Documentation Reminders

• Medicare Condition Codes
  • Abnormal Vital Signs
  • Blood Glucose (<80 or >250)
  • Altered Level of Consciousness (GCS <15)
  • Convulsions, Seizures
    – Seizing, immediate post-seizure, postictal
Documentation Reminders

• **Narrative Fields**
  
  – Important element of PCR in order to paint detailed picture of medical necessity
  
  – Provides specific information not captured in the pull down menus and specific treatment fields
• **Narrative Fields – Examples**

• **Which paints the better picture?**

• Chief Complaint: Abdominal Pain

• Secondary Compliant: Nausea and Vomiting

• Abdomen Exam: Soft, Tenderness, Guarding upon Exam

**OR**

• **Narrative Field:** Upon arrival, witnessed patient lying on bed complaining of abdominal pain. The patient describes the pain as a severe, jabbing pain, and rates it as a 7/10 on pain scale. The patient began experiencing abdominal pain approx. 12 hours ago along with nausea and vomiting. The pain has worsening of symptoms over the past 2 hours. Upon examination, the abdomen was found to be tender upon palpitation and witnessed the patient guarding upon exam.
Medical Necessity

• **Non-Emergency**
  – Bed-Confined
    • Inability to get up from bed without assistance
    • Inability to ambulate
    • Inability to sit in a chair or wheelchair
      » All above criteria must be met before the patient is considered bed-confined.
  – Stretcher-Bound
    • Transportation by other means except stretcher could endanger the patient’s health (examples include: ER Transfer or Patient fully immobilized)
Documentation Reminders

• Non-Emergency Claims
  – When the PCS states the reason for tx is Altered Mental Status, Dementia, or other Behavioral Issues, does the PCR sufficiently document a mental assessment that concurs?
  – When the PCS states Contractures, does the PCR sufficiently document the location and severity?
  – When the PCS states Decubitus Ulcers, does the PCR specifically address the location and severity?
  – When the PCS states Bed Confined, while the PCR is contradictory (pt. found in wheelchair)?
  – Does each PCR stand alone?