

Developing a Compliance Workplan For Compliance Auditing and Monitoring In Healthcare Organizations

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Upon completing your annual compliance risk assessment, the next step is to create a compliance workplan detailing various compliance monitoring and auditing activities for the upcoming year. In doing so, the following matrix may prove beneficial in defining those activities most applicable to your organization and helping to inform your management of key risk areas. Included in this matrix are references indicating whether the 2005 OIG Work Plan includes language relevant to the activities as well as citations of applicable statutes/regulations and other guidance sources. Audit and compliance professionals may also find this information helpful in defining the objectives and scope of future projects.

Key Compliance Monitoring Activities (examples)	Identified on 2005 OIG Work Plan	Statute / Regulation Citation	Other Guidance
Billing Errors and Correction Reviews			
Postacute Care Transfers	YES	42 CFR § 412.4	69 Fed. Reg. 48916,49070 (August 11,2004); 69 Fed. Reg. 60242, 60244 (October 7, 2004)
Diagnosis-Related Group Coding	YES	42 U.S.C. § 1395ww(d)(1)(A)(iii)	69 Fed. Reg. 48916, 48925 (August 11, 2004); Quality Improvement Organization Manual (CMS Pub. 100-10), Chapter 11 – Hospital Payment Monitoring Program
Inpatient Outlier and Other Charge-Related Issues	YES	42 U.S.C. § 1395ww(d)(5)(A); 42 CFR §§ 412.80, 412.84	
Consecutive Inpatient Stays	YES	42 CFR §§ 412.531, 412.532, 412.534	
Outpatient Outlier and Other Charge-Related Issues	YES	42 U.S.C. § 1395l(t)(5)	69 Fed. Reg. 50448, 50542 (August 16, 2004) (Proposed Rule for CY 2005)
Lifetime Reserve Days	YES	42 U.S.C. § 1395d(a)(1); Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. 108-173, § 953(d); 42 CFR § 409.65	
Compliance committee(s) - meeting regularly and review of action items	NO		69 Fed. Reg. 32012, 32030 (June 8, 2004)
Compliance Issues Corrective Action Plans Tracking - Ensuring timely completion	NO		69 Fed. Reg. 32012, 32030 (June 8, 2004)
EMTALA Reviews	YES	42 U.S.C. § 1395dd; 42 CFR § 489.24	69 Fed. Reg. 32012, 32024 (June 8, 2004)
Government Exclusion Checks - Existing employees, vendors, and medical staff	NO		63 Fed. Reg. 8987, 8996 (February 23, 1998)
Government Exclusion Checks - New employees, vendors, and medical staff	NO		63 Fed. Reg. 8987, 8996 (February 23, 1998)
HIPAA Security Standards			
Administrative Requirements	NO	45 CFR § 160, § 162	
Administrative Safeguards	NO	45 CFR § 164.308	
Physical Safeguards	NO	45 CFR § 164.310	
Technical Safeguards	NO	45 CFR § 164.312	
Outside Billing Services - contract and contract performance reviews	YES	42 CFR § 424.73	63 Fed. Reg. 70138 (December 18, 1998)
HIPAA Standards for Privacy of Individually Identifiable Health Information			
Uses and disclosures to carry out treatment, payment, or health care operations	NO	45 CFR § 164.506	
Administrative Requirements	NO	45 CFR § 164.530	
Physician Contracts and Payment reviews	YES	42 U.S.C. § 1320a-7b(b)	69 Fed. Reg. 32012, 32021 (June 8, 2004)
Self Disclosures	YES		OIG Provider Self-Disclosure Protocol; 69 Fed. Reg. 32012, 32030 (June 8, 2004)

Citation / Guidance Index
 CFR - Code of Federal Regulations
 Fed. Reg. - Federal Register
 U.S.C - United States Code

Compliance Planning Resources

There are numerous sources that may be helpful in determining the types of compliance activities that are most applicable to your organization. Some examples of additional resources include:

- Federal Register Program Guidance
- State & Federal Laws
- CMS Website
- Fiscal Intermediary Website
- HCCA On-line resources
- AHIA On-line resources and audit programs
- Licensing, Accreditation, and Certification Requirements
- Commercially available compliance publications and subscriptions
- Department of Health and Human Services Office of Inspector General website (www.oig.hhs.gov)

Additionally, you should not underestimate the importance of utilizing your network of fellow audit and compliance professionals to help define the activities necessary to ensure that your organization is effectively managing those risks identified during the risk assessment process. Fellow members of your professional organization are a wealth of knowledge that should be tapped into for a quick review and discussion of your plan from a peer perspective, especially if you are completing your first risk assessment and project definition effort. It is with this type of information sharing that everyone benefits from lessons learned -some the easy way, and some otherwise.

Compliance Auditing & Monitoring Tools:

Other effective resources and tools that may be utilized that will be discussed in detail in the rest of this article include:

- OIG
- Advisory opinions
- OIG Office of Investigation reports
- OIG Office of Audit Services reports
- Local Medical Review Policies
- Local Coverage Decisions
- Medicare Bulletins
- CMS Updates
- Peer Review Organizations

OIG: The OIG provides an incredible amount of material to be used in compliance workplans. One listserve that is particularly helpful that allows you to receive regular communications from the OIG is <http://list.nih.gov/cgi-bin/wa?SUBED1=hhs-oig-media-l&A=1>. Reading the executive summaries of several of the OIG reports is an efficient way to determine if issues relate to your organization.

Advisory Opinions: Advisory opinions are OIG opinions related to cases in which organizations request an opinion related to fraud and abuse statutes related to specific situations. Specifically, organizations inquire whether specific programs, arrangements, relationships, etc. would constitute grounds for sanctions under the civil monetary penalty provision prohibiting inducements to beneficiaries, section 1128A(a)(5) of the Social Security Act (the “Act”), or under the exclusion authority at section 1128(b)(7) of the Act or the civil monetary penalty provision at section 1128A(a)(7) of the Act, as those sections relate to the commission of acts described in section 1128B(b) of the Act, the anti-kickback statute.

The OIG has provided fifteen fraud and abuse advisory opinions this calendar year. Organizations should review these brief advisory opinions to determine if the specific situation reviewed by the OIG should be included in the organization’s workplan. The web site that can be reviewed for all of the OIG advisory opinions is <http://oig.hhs.gov/fraud/advisoryopinions/opinions.html>

OIG Office of Audit Services: The Office of Audit Services (OAS) conducts hundreds of health care-related audits in any given year ranging from Medicaid and Medicare programs to beneficiary benefits to individual facilities and many more. Many of these audits can be found in the CMS section of the OIG OAS website found at <http://oig.hhs.gov/oas/oas/cms.html>.

OIG Office of Evaluation and Inspection: The Office of Evaluations and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department of Health and Human Services, the Congress and the public. The inspection reports provide findings and recommendations on the efficiency, vulnerability and effectiveness of departmental programs.

The OIG OEI conducts evaluations and investigations on health care organizations ranging on a number of issues that may or may not be related to fraud and abuse. Its website is <http://oig.hhs.gov/oei/atod.html>.

Coverage Decisions: Local Medical Review Policies (LMRPs), local Medicare Coverage Decisions, national coverage decisions, etc. must be considered when determining an organization’s workplan. It is very challenging to keep current with all of the current rules related to Medicare coverage decisions. However, it is critical to the vitality of a compliance program to remain current with these decisions and to include different coverage decisions as part of your compliance workplan.

Medicare Bulletins: Medicare bulletins can contain very important information about organizations’ ability to bill certain services. Because Medicare bulletins are written at a local level, compliance professionals should determine how to receive the monthly bulletins from its local intermediary/carrier.

CMS Updates: CMS updates are very detailed and at times too specific to be included as part of a compliance workplan. However, organizations cannot afford to miss important information provided by CMS and need to remain current with all CMS billing guidance.

Peer Review Organizations (PROs): Currently, peer review organizations in several states are involved in several compliance-related activities that should be reviewed by the compliance/audit office. Organizations have an obligation to understand these initiatives and be prepared for audits that may be conducted.

After determining what areas should be reviewed, your organization’s workplan should be developed with items listed in order of importance and who will be responsible for the auditing or monitoring activity (compliance department, internal audit, or management), as well as a

projected completion date (1st quarter, 2nd quarter, etc.). Both the Corporate Compliance Committee and the Board-level Audit/Compliance Committee should approve your compliance workplan.

One final point to consider is identifying the process and/or tools through which you will manage or track your progress in accomplishing the activities listed on your workplan, including the process of reporting the status of these activities to your respective Compliance Committees. It is critical that you decide how this will be done early in the process to ensure that you are able to meet the deadlines established when prioritizing the risks identified during the risk assessment process.

About the HCCA / AHIA Auditing and Monitoring Focus Group

This was the third in a series of articles by The HCCA/AHIA Auditing & Monitoring Focus Group regarding seven components to expand on the roles of compliance and internal audit functions, provide detailed “how to steps”, and discuss the essential coordination links between compliance, internal audit, legal, and management that are necessary for each component.

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The next two priorities for the focus group will be to publish articles and guidance materials in February and March 2005 on (1) compliance auditing tools and techniques; and (2) compliance communication & key issues awareness techniques.