NEXSEN | PRUET

Health Care Reimbursement

Related Professionals

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Practices

Health Law

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The laws and policies surrounding the financial relationship between payors and healthcare providers is healthcare reimbursement law. Our attorneys and consultants have broad experience handling matters involving the full range of requirements related to the Federal, state, management care, and commercial payors, and we routinely represent payors in matters involving internal and external billing investigations. We also routinely assist with internal risk based billing investigations, refinement of compliance program auditing and monitoring assessments and programs, and coding audits to help prevent or assess potential billing issues.

We represent a broad range of providers facing reimbursement issues, including hospitals, nursing homes, hospices, home health agencies, physicians and medical practices, and other related practices and organizations.

Who: Payors

Healthcare providers may receive reimbursement for services from a wide range of payors, including traditional federal payors (such as Medicare, Medicaid, and TRICARE), managed care organizations for government programs (such as Medicaid MCOs or Medicare Advantage plans), or commercial payors (such as Blue Cross Blue Shield, United Health, Cigna Healthcare, Aetna, and other commercial health insurance companies).

When a provider enrolls with CMS to provide covered services to Medicare beneficiaries, the provider agrees to abide by a federal statutory and regulatory framework in order to be reimbursed from Medicare. Besides Medicare, the State Children's Health Insurance Program (SCHIP), the Department of Defense TRICARE, VA program and Indian Health Service (IHS), and state-run Medicaid programs are the major federal payors.

Similar to Medicare, when a provider enrolls in Medicaid to provide services to Medicaid beneficiaries, the provider often enters into a contract with the Medicaid agency and agrees to abide by the State's statutory and regulatory framework, often including specific provider manuals, in order to be reimbursed by the State Medicaid program.

Managed care organizations for government programs often contractually obligate providers to follow applicable federal and/or state laws, as well as their own specific requirements. In turn, commercial payors require providers to sign contracts/provider agreements that often mandate they follow not only that payor's policies, but also state and federal laws.

What: Reimbursement Challenges Facing Providers

As you can imagine, a provider submitting claims to a federal or state funded program such as Medicare, Medicaid, Tricare, or other federal or state funded program often comes under great scrutiny because reimbursement is funded with federal and/or state taxpayer dollars. Management care organizations for federal and state programs as well as commercial payors also engage in intensive auditing and scrutiny concerning claims submitted for reimbursement.

All of these payors use tools like data mining to find providers who may be outliers in their billing practices and overpayment demands or fraud-based actions or investigations can ensue. In addition, payors routinely target areas or certain types of providers identified as "high risk" in the specific industries. Complaints from Whistleblowers, patients, competitors, or other sources may also lead to an internal or external billing investigation.

When Providers Need Help

The best time to seek the advice of a healthcare reimbursement attorney is at the very beginning: when a provider receives a record request from a federal or private payor. If the provider turns over the records to the payor before a review of the request and the requestor, then the provider risks losing the opportunity to not only ensure complete records are being provided, but risks losing the opportunity to identify issues and ensure the best defense begins immediately prior to the initial response and production.

In many case, a self-audit may be useful with a related corrective action plan to help mitigate exposure and show good faith to the payor. Our attorneys and consultants can assist with this process, as well as the complex federal, state, managed care, and commercial appeals processes. There are potential legal arguments to be made in addition to clinical arguments regarding the necessity of care, technical issues, offsets, and/or alleged fraud or misconduct.

Where to Go for Help

Many firms have healthcare practice groups, but few have attorneys that focus their practice on helping providers navigate the complex arena of healthcare reimbursement. Nexsen Pruet not only has attorneys who have focused their legal career on this segment of healthcare law, but Nexsen Pruet also has an in-house, certified coding expert.

Why Nexsen Pruet

From our experience, if payors identify issues during an audit, they will continue to audit and potentially raise the level of the allegations to fraud if providers don't appeal and open up communication with the payors. With access to an in-house coding expert, our attorneys utilize the expert's analysis to assist with clinical and technical appeal arguments. Our clients have immediate access to the coding expert to understand if mistakes have been made in order to implement corrective action. This is often very cost effective for our clients compared to retaining an outside expert to

review the medical necessity of claims.

Our attorneys can also assist with related risk based billing investigations and compliance program auditing and monitoring programs to help prevent or assess potential billing issues. Our in-house coding expert can assist providers with the related base-line or targeted billing audits.

Our goal is to help our clients navigate the myriad complexities of the challenges presented by the various reimbursement matters presented, and to simultaneously help providers have a clear path of coding compliance for the future.

This is an article from a series on Effectively Responding to Payor Audits & Program Integrity Investigations. Topics in this series include practical advice and legal developments for providers defending payor audits and investigations, plus articles concerning current audit and investigation targets and the various types of auditors reviewing claims and conducting investigations. The Series covers topics of interest to all providers of health care services, including hospitals, hospices, home health agencies, skilled nursing facilities, DME suppliers, clinical laboratories, pharmacies, FQHCs, RHCs, ASCs, community mental health centers, physicians, therapists, and other health care facilities, entities, practitioners, and clinicians.