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Spice up your corporate compliance program with PEPPER

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Every spring, CMS makes available the Program for Evaluating Payment Patterns Electronic Report (PEPPER) for SNFs. The agency offers variant reports for a number of other Part A provider types, including hospitals, home health agencies, and hospices.

These tools, which provide comparative billing data across a handful of setting-specific risk areas, can play an important part in a provider's corporate compliance program. To get the most out of the report, SNFs should have a strategy in place for sintegrating its findings into their corporate compliance program before accessing this year's edition.

Target areas

This year's SNF PEPPER, which is slated for release in mid-April, will summarize data from claims with dates of service from October 1, 2013, through September 30, 2015.

As in previous years, the report will provide an overview of SNF Part A claims data in care and billing categories that CMS considers to be at high risk for fraud, abuse, and waste (called target areas). These are summarized in Table 1.

PEPPER compares an individual SNF's data in these areas to aggregate SNF billing patterns at three levels:

- National
- State
- Medicare Administrative Contractor (MAC) jurisdiction

The PEPPER identifies the target areas in which the SNF is an outlier by highlighting high or low billing patterns in their Medicare claims.

A SNF is considered an outlier in a given target area when its related billing rate is significantly higher or lower than the national industry average. If a SNF's billing pattern places it at or above the 80th percentile nationally, it is considered a high outlier. On the other end of the spectrum, a SNF whose billing pattern

places it at or below the 20th percentile is considered a low outlier. Although CMS only applies these designations based on national percentiles, SNFs should look for root causes any time their billing rates are out of sync with industry trends (e.g., at the MAC- or state-level).

Studying the report's findings on individual facility- and aggregate-level billing patterns can help SNFs pick up on (and correct) potential billing issues before regulatory enforcement entities that also review Medicare claims—including MACs and the Office of Inspector General—get wind of them.

Adopt a team approach

After accessing its PEPPER, the first steps a SNF should take are reading the report carefully and identifying areas that require investigation. We always recommend taking a team approach when evaluating the PEPPER and incorporating it into the triple-check process and compliance program.

Assemble an interdisciplinary team that includes billing representatives, clinicians, therapists, and managers. Each team member should review the PEPPER independently before meeting as a group to discuss findings. Otherwise, the team may miss important details. During their preliminary review, team members should cross-reference significant PEPPER results (e.g., high or low billing patterns) with a sample of recently submitted Medicare claims to see whether problematic (or otherwise notable) practice trends become apparent.

Some discipline-specific questions team members should consider during their independent review of the claims sample—and address during the subsequent group meeting—include:

- Clinicians: Does documentation support necessity?
- Billers: Is there supporting documentation for all fields on the UB-04?
- Therapy: Are there measurable therapy goals, and is the progress toward those goals clearly documented?

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- Management: Are there signed and dated physician orders for all services provsided?
- Medical records: Are the correct ICD-10 and HCPCS codes included on the claims?

The above list is just a sample of what each discipline can bring to the PEPPER discussion, and should be expanded based on the facility's specific needs.

Identify 'normal' outliers

Just because a SNF is an outlier in a PEPPER target area doesn't mean anything is wrong. There are a number of legitimate reasons behind high (or low) billing patterns in target areas. For example, if a SNF specializes in short-term, intensive rehab, it may be an outlier for the ultra-high therapy RUGs and/or therapy RUGs categories. Conversely, a SNF that focuses on residents who are at a clinical RUG category may find itself an outlier in the non-therapy high ADL category. If an organization's operational circumstances and/or care mission are driving atypical billing patterns, a SNF should highlight this discovery in its corporate compliance documentation.

Regardless of the factors that contribute to outlier status, SNFs should perform self-audits on claims in relevant categories to ensure accuracy, and verify that documentation exists to support the level of care provided and billed.

Review and respond

Once the designated PEPPER team has investigated questionable report outcomes, the SNF must act on the team's findings.

For example, consider a SNF that is deemed a high outlier for ultra-high therapy RUGs. To identify the source of this status, the PEPPER team reviews a sample of Medicare claims involving ultra-high therapy RUGs and determines that some of the related MDS assessments were over-coded. They also discover that some of the billed therapy was provided at a level higher than was medically necessary, and therefore cannot be substantiated. What should the team do?

1. First and foremost, report to the corporate compliance officer and compliance team for guidance. After this discussion, the SNF may decide to enlist

Table 1: SNF PEPPER target areas

Target area	Description of target area (numerator)	Encompassing claims category (denominator)
Therapy RUGs with high activities of daily living (ADL)	Days billed with RUG equal to RUX, RVX, RHX, RMX, RUC, RVC, RHC, RMC, RLB	Days billed for all therapy RUGs
Nontherapy RUGs with high ADL	Days billed with RUG equal to HE2, HE1, LE2, LE1, CE2, CE1, BB2, BB1, PE2, PE1	Days billed for all nontherapy RUGs
Change of therapy (COT) assessment	Assessments with assessment indicators (AI) whose second digit is "D"	All assessments
Ultra-high therapy RUGs	Days billed with RUG equal to RUX, RUL, RUC, RUB, RUA	Days billed for all therapy RUGs
90+ day episodes of care	Episodes of care with a length of stay of 90+ days	All episodes of care

Source: Adapted from target area descriptions in the SNF PEPPER User's Guide on PEPPERresources.org

legal counsel to facilitate self-reporting. This is likely the appropriate path if the PEPPER team uncovers a large volume of overpayments. In less serious cases, the SNF may determine that cancelling or adjusting claims is sufficient. Either way, the compliance team needs to be involved in the decision.

2. Moving forward, every claim with those flagged characteristics (in our example, ultra-high therapy) should be reviewed prior to billing, as should all related documentation. This measure can help prevent additional fraudulent claims from slipping through the cracks.
3. Review the SNF's policies and procedures manual for any provisions related to the problem area and make necessary changes.
   a. Are the policies and procedures up to date?
   b. Are they being followed correctly?
   c. Does staff know what is expected?
4. Educate staff who directly or indirectly contribute to billing. All therapy personnel, clinicians, and billing office staff should receive discipline-specific training on the problem area to prevent future incidents.
5. Capture all findings and actions related to the problem area in the corporate compliance program as part of the compliance team's minutes or other documentation.
6. Repeat the review process. A corporate compliance program is a fluid tool that should constantly evolve and fuel ongoing review of claims.
7. When inappropriate billing is in play, SNFs should study CMS' new requirements on returning and reporting overpayments. Per the final rule published in the Federal Register on February 12, providers have 60 days from the date an overpayment is identified and quantified to repay the Medicare program. This means that any overpayments spotted during the triple-check process must be repaid to the MAC via ad-justment claims, canceled claims, or other approved means in a prompt fashion.

Takeaways

The SNF PEPPER can and should be used in a SNF's corporate compliance program, especially during self-audits and improvement activities. Furthermore, facilities should take credit within the compliance program for the self-auditing tasks they routinely conduct by recording these efforts in compliance program documentation. If a SNF is investigated by the OIG or another regulatory enforcement agency, being able to showcase all the proactive steps staff have taken to combat fraud, waste, and abuse will support a favorable outcome.

Access this year's PEPPER

Freestanding SNFs and those that are part of traditional hospitals can access this year's Program for Evaluating Payment Patterns Electronic Report (PEPPER) beginning on or around April 18, 2016.

A facility's CEO, president, administrator, or compliance officer can download the report by completing the access form on the secure PEPPER portal. To complete this form accurately, the designated representative should have the following information on hand:

- The facility's six-digit CMS certification number (also called a provider number or PTAN)
- A patient control number (found at form locator 03a on the UB04 claim form) OR a medical record number (found at form locator 03b on the UB04) for a traditional FFS Medicare Part A resident during the specified period

SNFs/swingbeds that are part of a short-term acute care hospital (i.e., those whose third PTAN digit is "U") will receive their PEPPER via QualityNET, and can download the report files from their corresponding Secure File Transfer Inbox.

Regardless of SNF type, first-time PEPPER users should review training materials on the report website prior to download.