

Practice Management Series:

Compliance Hot Topics:
Locum Tenens, Telehealth,
and Surprise Billing

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Agenda

- **Locum Tenens rules and common misconceptions**
- **The No Surprises Act**
- **Telehealth rule and enforcement**

Locum Tenens

- Fee-For-Time Compensation Arrangements
- Substitute Physician

Requirements

- Regular physician is unavailable
- Beneficiary arranged to receive services from the regular physician
- Locum Tenens physician paid on a per diem/ fee-for-time basis
- Locum may not provide services for a continuous period over 60 days
- Q6 modifier

Absent Provider

- Illness, pregnancy, vacation, continuing medical education
- Military Service
- Does NOT include part time work or regular off days

Continuous Period of Covered Visit Services (60-Day Rule)

- Begins 1st day in which Locum provides services
- Ends on last day Locum provides services for the absent provider
- Resets if provider returns
- Period continues on days where no services are provided

Examples of 60 Day limit

- The Locum substitute works 50 days, regular physician returns for one day, substitute provides services for 50 days ✓
- Locum works for 30 days, then takes 10 days off (regular physician does not return), then work for 30 more days ✗
- Locum 1 provides services for 50 days, then Locum 2 takes over for 20 more days ✓

Exceeding 60 Days

- First 60 days billed under regular physician NPI with Q6 Modifier
- Substitute physician must bill for excess days under own NPI
- A new 60 period can begin if the regular physician returns to work and then leaves again
- Military Exception
 - Called to Active-Duty →60 day limit does not apply

Public Health Emergency Waiver

- PHE extended as of April 23, 2021
- Locum Tenens 60 day rule waiver

Billing

- NPI of regular/billing physician listed on Claim
- Group must retain documentation of the services provided by the Locum along with the Locum's NPI and made available upon request.
- Q6 Modifier certifies correct use of Locum and assures that documentation can be provided if requested
 - Falsely certifying an improper arrangement could create liability for fraud

FAQ and Common Misunderstandings

- Physician retires or leaves a group
- Enrolling new physician with a group
- Excess work & Independent Contractors
- Deceased Providers

FAQ Continued

- Multiple Locum Tenens Physicians
- PA used as a Locum
- Does a Locum have to be enrolled in Medicare?
- Can a teleradiologist work as a Locum?

No Surprises Act

- Consolidated Appropriations Act signed into Law December 27 2020
- Goes into effect January 1, 2022
- Provides federal protections against surprise medical bills
- HHS, Dept. of Treasury, Dept. of Labor must provide additional details to complete the regulation

Overview - Patient Protections

- Hold patient harmless for OON care at In-Network Facilities
 - Responsible ONLY for in-network cost sharing amounts
- Certain OON providers can not balance bill unless they provide 72 hour notice
 - Radiology and other ancillary specialties excluded → can not provide notice

Reimbursement

- Insurer pays provider negotiated or IDR rate
- Independent Dispute Resolution
- 90 day arbitration limit

Health Plan Responsibility

- Continuous Care for status changes
- Health plan directories
- Plan provided EOB

Interaction with State Laws

- NSA defers to state law in some cases
- States can be more restrictive

Remaining Questions

- State Law interactions
- HHS Rulemaking

How to Prepare

- Determine what laws apply
- In-Network vs OON plans with group and facilities
- Minimum acceptable rates and plan to review
- How and when to bill patient
- Radiology and other ancillary specialties can not utilize advanced notice exception

Telehealth

- PHE Waivers
- Virtual Check-Ins
- E-Visits
- Telehealth Visits

Virtual Check-Ins

- Patient initiated
- Established Patient
- Brief communication to determine if office visit or service is needed

E-Visits

- Patient Initiated
- Established Relationship
- Online portal
- E/M service

Medicare Telehealth Visits

- Services that typically would be performed in person
- CMS Waiver for PHE
 - Patients can receive services at home
 - Patients in non-rural areas
 - Prior relationship requirement not enforced
 - Communication method relaxed HIPAA standards

OCR Telehealth Enforcement

- Relaxed standards, but still a high priority fraud area
- HIPAA enforcement eased during COVID-19 → Must consider post-PHE options
- Largest Fraud takedown in the history of the DOJ
 - 345 defendants
 - over \$6 Billion

Teleradiology

- Report the correct physical location on claims
- Submitting claims to the correct carrier
- Telerad must submit address where he was physically located regardless of location of TC
 - Infrequent location exception
- Claim must be submitted to MAC payment locality where the service was furnished

Teleradiology - Implications of Location Rules

- Report physical location where they performed work
- Each location enrolled with the correct MAC
- Enroll and submit claims to a carrier that is different from the TC
- Global billing prohibited unless both PC and TC performed in the same Medicare Payment Locality
- -26 Modifier

Questions?

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