2C. QAPI: Make a Compliance Program Prepare You for Surveys

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May 8, 2023

PERSPECTIVE
CHANGES EVERYTHING.

QAPI - Make A Compliance Program Prepare You for Surveys

LHH / Hospice Track

WIPFLI

Session Directive

Providers should strive to establish a culture of compliance to consistently be ready for a survey at any moment. An effective compliance program can maintain an agency's survey readiness. They drive a provider to establish a culture of proactive adherence to regulations, promote prevention, detection and resolution of conduct that does not conform to program requirements AND meet survey standards at all times.

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What Is a Compliance Program and Why Have One?

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What is Compliance?

Participating in reimbursement programs within the rules, regulations, laws and policies set by federal and state government

Following internal organization policies and procedures, including the Code of Conduct

Ensuring compliance is a priority at all levels of an organization

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What Is A Compliance Program?

- Program of coordinated efforts designed to:
  - Establish a culture of proactive adherence to health care laws and regulations
  - Promote prevention, detection and resolution of conduct that does not conform to federal and state law or government health care program requirements
- Is not "one size fits all"
- May vary based on an organization's structure and available resources

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Purpose of a Hospice Compliance Program?

- "Compliance efforts are designed to establish a culture within a hospice that promotes prevention, detection, and resolution of instances of conduct that do not conform to Federal and State law, and Federal, State and private payor health care program requirements, as well as the hospice's business policies.
- In practice, the compliance program should effectively articulate and demonstrate the organization's commitment to ethical conduct.
- Compliance programs guide a hospice's governing body (e.g., board of directors or trustees), chief executive officer (CEO), managers, physicians, clinicians, billing personnel, and other employees in the efficient management and operation of a hospice.
- Eventually, a compliance program should become part of the fabric of routine hospice operations."

OIG Compliance Program Guidance for Hospices (1999)

Purpose of a Home Health Compliance Program?

- "Compliance efforts are designed to establish a culture within a home health agency that promotes prevention, detection, and resolution of instances of conduct that do not conform to Federal and State law, and Federal, State, and private payor health care program requirements, as well as the home health agency's business policies.

- In practice, the compliance program should effectively articulate and demonstrate the organization's commitment to ethical conduct.

- The existence of benchmarks that demonstrate implementation and achievements are essential to any effective compliance program.

- Eventually, a compliance program should become part of the fabric of routine home health agency operations."

OIG Compliance Program Guidance for Home Health Agencies (1998)

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Benefits of a Compliance Program

- Protects patients and promotes quality care.
- Can decrease risk of enforcement and penalties by self-identifying issues and correcting them. **Prepares You for Survey Because You will Already Identify Your Internal Issues**
- Protects the organization's image and reputation.
- Increases staff awareness and understanding of compliance requirements and appropriate behaviors. **Increased compliance makes Survey Visits Easier!**
- May decrease culpability in case of a violation and enforcement action.
- May help to avoid imposition of a mandated compliance program via a Corporate Integrity Agreement.

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Culture of Compliance

- Commitment to the highest level of legal and ethical standards
- "Tone at the Top"
- Buy-in from Board of Directors, senior management, employees and vendors
- Provide compliance education and training
- Proactive approach to maintain commitment to compliance

Compliance Matters!

It is part of everyone's job

and

depends on everyone's participation for continued success.

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What Is In A Compliance Program?

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Compliance Program Elements

- OIG's Seven Elements of an effective compliance program:

1. Designating a compliance officer and compliance committee
2. Implementing written policies and standards of conduct
3. Conducting effective training and education
4. Developing effective lines of communication
5. Conducting internal monitoring and auditing
6. Publicizing disciplinary guidelines
7. Responding promptly to offenses/implementing corrective action

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Written Compliance Standards

Established written compliance and ethics standards, policies, and procedures

OIG: The development and distribution of written standards of conduct, as well as written policies and procedures, which promote the hospice's commitment to compliance and address specific areas of potential fraud, such as assessment of Medicare eligibility, quality assurance and financial relationships with nursing facilities and other health care professionals and entities;

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What Policies Should You Have?

- Employee screening
- Kickbacks, Inducements, gifts, and referrals
- Record retention
- Non-retaliation
- Conducting internal audits
- Grievance Process and Log
- Updating Policies and Procedures – COVID-19

What Polices Does the Surveyor Ask to see during Survey?

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High-level Program Oversight

- OIG: The designation of a compliance officer and other appropriate bodies, e.g., a corporate compliance committee, charged with the responsibility for operating and monitoring the compliance program, and who report directly to the CEO and the governing body
- Primary responsibilities should include:
    - coordinating personnel issues with the Human Resources/ Personnel office for exclusion checks;
    - coordinating internal compliance review and monitoring activities, including annual or periodic reviews of departments;

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Education and Training Programs

OIG: The development and implementation of regular, effective education and training programs for all affected employees

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Developing Effective Lines of Communication

- OIG: The creation and maintenance of a process, such as a hotline (internally) or other reporting system, to receive complaints and ensure effective lines of communication between the compliance officer and all employees, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation;

- EX: Compliance orientation and training materials that explain what the program requires and require participation.

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Conducting Internal Monitoring and Auditing

OIG: The use of audits and/or other evaluation techniques to monitor compliance, identify problem areas, and assist in the reduction of identified problem areas;

Monitoring - usually refers to "real-time" compliance verification.

Auditing - usually refers to "after the fact" compliance monitoring

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Publicizing Disciplinary Guidelines

- OIG: The development of appropriate disciplinary mechanisms to enforce standards and the development of policies to address (i) employees who have violated internal compliance policies, applicable statutes, regulations or Federal health care program requirements and (ii) the employment of sanctioned and other specified individuals

- Consistent enforcement of the operating organization's standards, policies, and procedures.

- Include disciplinary action for failure to detect or report violations.

- EX: a policy addressing disciplinary standards including consequences for violations.

- Ensure compliance and behavior expectations are clear.

- Collaboration with Human Resources

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Responding Promptly to Offenses/Implementing Corrective Action

OIG: The development of policies that direct prompt and proper responses to detected offenses, including the initiation of appropriate corrective action and preventative measures;

EX: After a violation is detected, the organization must ensure that all reasonable steps identified in its program are taken to respond appropriately to the violation and to prevent further similar violations, including any necessary modification to the operating organization's program to prevent and detect criminal, civil, and administrative violations under the law

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Responding Promptly to Offenses/Implementing Corrective Action

- Process:
  - Investigate. Is there a problem?
  - Determine scope.
    - **How big is the problem?**
    - **Isolated Incident**
    - **Can It Be Repeated?**
  - Payback?
  - Fraud or other issue to report?
  - Fix the problem. Fix the policy/procedure.
  - Audit to ensure problem stays fixed
  - Document the process you followed – **PULL OUT THIS FILE WHEN THE SURVEYOR ARRIVES**

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Bonus Element: Annual Review

- Annual review.

- The organization should review its compliance program annually and revise its program as needed to reflect changes in all applicable laws or regulations and within the organization to improve its performance in deterring, reducing, and detecting violations under law and in promoting quality of care

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OIG Hospice Work Plan

- Nationwide Review of Hospice Beneficiary Eligibility
  - OIG will perform a nationwide review of hospice eligibility, focusing on those hospice beneficiaries that haven't had an inpatient hospital stay or an emergency room visit in certain periods prior to their start of hospice care
- Review of Hospices: Compliance with Medicare Requirements
  - OIG will review hospice medical records and billing documentation to determine whether Medicare payments for hospice services were made in accordance with Medicare requirements

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OIG Home Health Work Plan

- Home Health Agencies' Emergency Communication Plans: Strengths and Challenges Ensuring Continuity of Care During Disasters.
    - natural disasters highlighted vulnerabilities in HHAs' preparedness for disasters, specifically with regards to communication and continuity of care.
    - determine selected HHAs' compliance with EP CoPs and will report factors these HHAs identify as hindering and/or supporting continuity of care during a disaster

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OIG Home Health Work Plan

- Audit of Home Health Services Provided as Telehealth During the COVID-19 Public Health Emergency
    - Evaluate home health services provided by agencies during the COVID-19 public health emergency to determine which types of skilled services were furnished via telehealth, and whether those services were administered and billed in accordance with Medicare requirements.
    - OIG will report as overpayments any services that were improperly billed
- Home Health Agencies' Challenges and Strategies in Responding to the COVID-19 Pandemic
    - Nationwide study will provide insights into the strategies HHAs have used to address the challenges presented by COVID-19, including how well their emergency preparedness plans served them during the COVID-19 pandemic.

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OIG Home Health Work Plan

- Home Health Compliance with Medicare Requirements - Multiple Audits
  - HHA did not comply with Medicare billing requirements for 32 of the 100 claims that we reviewed.
  - HHA received overpayments of $75,461.
  - HHA incorrectly billed Medicare for services provided to beneficiaries who were not homebound or did not require skilled services.
  - Estimate HHA received overpayments of at least $1.7 million
  - HHA did not comply with Medicare billing requirements for
    - **20 to 40% claims reviewed.**
  - Common elements:
    - **beneficiaries who were not homebound.**
    - **Beneficiaries did not require skilled services.**
    - **received reimbursement for claims for which the services were not supported by documentation.**
    - **services that were not delivered in accordance with beneficiary's plan of care**
    - **claims were assigned with incorrect Health Insurance Prospective Payment System payment codes**

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Five Practical Tips for Creating A Culture of Compliance

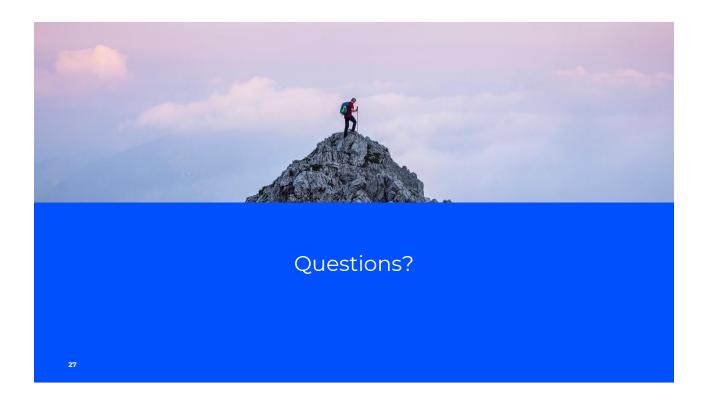| Make compliance plans a priority now. |
| Know your fraud and abuse risk areas. |
| Manage your financial relationships. |
| Just because your competitor is doing something doesn't mean you can or should. |
| Call 1-800-HHS-TIPS to report suspect practices. |
| When in doubt, ask for help. |
| **Focus Your Compliance Program on areas you performed poorly in on your last Survey** |

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Questions?

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Resources

- HEALTH CARE COMPLIANCE PROGRAM TIPS (hhs.gov) https://oig.hhs.gov/documents/provider-compliance-training/945/Compliance101tips508.pdf

- Microsoft Word - HCCA OIG Resource Guide (002) (hhs.gov) https://oig.hhs.gov/documents/toolkits/928/HCCA-OIG-Resource-Guide.pdf

- Publication of the OIG Compliance Program, Guidance for Hospices (hhs.gov) https://www.oig.hhs.gov/authorities/docs/hospicx.pdf

- Compliance Program Guidance for Home Health Agencies (hhs.gov) https://oig.hhs.gov/documents/compliance-guidance/807/cpghome.pdf

- Nationwide Review of Hospice Beneficiary Eligibility (hhs.gov) https://www.oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000648.asp

- Home Health Compliance with Medicare Requirements (hhs.gov) https://www.oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000100.asp

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Your Presenter

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