
Medicaid Providers Who Use Third Party Billers Must Verify Their Biller's Compliance With Federal and State Laws

Section 6503 of the Federal Patient Protection Affordability Care Act ("PPACA") requires that any third party-agent, clearinghouse or other alternate payee who submits claims on behalf of a healthcare provider (or any person who verifies eligibility or obtains service authorizations) must register with Medicaid. Additionally, New York State requires that third party billers who submit Medicaid claims on behalf of healthcare providers be registered as "service bureaus" with Medicaid. As such, healthcare providers must verify and ensure that outside third party billers who submit claims on their behalf are properly registered with Medicaid. As of February 1, 2011, the New York State Office of Medicaid Inspector General ("OMIG") will post on its website a current list of Medicaid-enrolled service bureaus.

As part of the enrollment application, billers are also required to disclose their fee schedule in order to reflect how they are compensated by the healthcare provider for their "claims submission" services. Providers should carefully review their compensation arrangement with third party billers to ensure that it does not violate any federal or state laws, including the State's prohibition against "fee-splitting". This means that the compensation paid to billing agents should be related to the cost of processing the bill **and** not a percentage of the amount billed or collected, or based on any other formula which is dependent on actual collections. Accordingly, a commonly-used formula whereby a healthcare provider pays his or her billing company a percentage of the amounts collected by the billing company is improper.

Third party billers are an additional focus target of OMIG. Through their registration with Medicaid, billers will be accountable for their claims submission. Contemporaneous records supporting claims, data entry, and revenue cycle management activities may be focuses of future OMIG audits. Providers and billers should therefore follow the OIG's Compliance Program Guidance for Third Party Medical Billing Companies as a guide for developing and implementing an effective third party billing compliance program.

* * *

If you have any questions pertaining to third party billing companies, please contact Betsy R. Malik, Esq. at (516) 328-2300, extension 114, or your attorney contact in our firm.