The Language of Medicare & The Language of Physicians: Compliance Challenges of Making the Two Work Together

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Outline

(slides to be presented at session)

I. Overview of Goals of Presentation

- Identify how language is important in both Medicare and Medicine.
- Identify how language and terminology differs between Medicare and Medicine.
- Discuss examples of confusing terminology.
- Discuss how to communicate Medicare ideas and issues to physicians.

II. Language in Medicare Law and Medicine

- The intersection of Medicare and Medicine in the U.S. is important to understand:
  - Medicine in the U.S. cannot be effectively practiced without Medicare support.
  - Medicare is the largest payor of Medicine.
  - A significant portion of medical education is subsidized by Medicare.

- Clear language is essential for communication – words matter!

- In compliance, communication is vital because the healthcare workforce tends to be:
  - Highly educated.
  - Professionals who are used to forming opinions and making decisions.
  - Over-extended, stretched and very busy.
  - Often not trained outside their discipline and not aware of specialization competencies in other disciplines.

- All compliance issues need corrective actions and usually require training.

- Effective training means communicating in a way the person can understand.

- As a complex regulatory scheme, Medicare is highly "definitional."
  - ➢ Medicare uses terms of art and defines words.
  - ➢ Medicare defines terms in ways that are sometimes counter-intuitive.
  - ➢ Medicare sometimes defines terms in precise and limiting ways.
  - ➢ Medicare defines terms and then carves out exceptions from the definition.

- Common mistakes in communicating between compliance and physicians:
  - ➢ Assuming that the physician understands the terms the compliance department is using.
  - ➢ Assuming that the physician is grasping a discussion of complex rules simply because the physician is a highly-educated professional.
  - ➢ Leaving a room after a meeting explaining complex rules and assuming that the attendees "got it" – assume they didn't and don't be disappointed at the need for multiple meetings.
  - ➢ Getting "too complex" too quickly – get to the point but don't leave the physician mystified by the complexities of Medicare law.

III. <u>Language Conflicts: Clearing Up Some Myths and Understanding Terminology</u>

- The basic statutory requirement: Medicare covers services that are "reasonable and necessary"

- Part A versus Part B

- Provider versus supplier

- Beneficiaries

- Spell of illness

- Covered versus billable

- Medical necessity

- Custodial care

- Routine care (inpatient)

IV. <u>Case Example: Medicare & Clinical Trials</u>

- The basic Medicare rule: Medicare covers routine costs of qualifying clinical trials.

- One simple line with so many complexities that are rooted in how terms are defined and used:
    - What does "cover" mean?
    - What does "routine costs" mean?
    - What are "not routine costs"?
    - What does "qualifying clinical trial" mean?

- Some specific clinical trials billing compliance terminology issues:

    - NCDs versus LCDs

    - Coverage is not a question of medical judgment – it is merely a question of what Medicare pays for

    - Investigation/experiment

    - Investigational item or service

    - Routine care

    - Conventional care

    - Detecting and preventing complications

V. Some Helpful Suggestions

- Develop a glossary for policies and procedures

- When writing a memo to physicians, make sure Medicare "terms of art" are highlighted or defined in some way – or cross-referenced to a glossary.

- Don't be afraid to repeat explanations of terms and rules.

- Don't be afraid to re-train/re-educate.

- Give your physicians or medical staff a basic in-service on Medicare terminology, not to make them experts but to sensitize them to the need for the physician to know that interpreting Medicare needs a good understanding of the language of Medicare.