



Compliance for Long-Term Care

OIG Priorities and Regulatory Developments

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Case Study 1 – Scenario

- Health care provider failed to check HHS-OIG Online exclusion database
 - Hired two individuals who had been excluded from Medicare and Medicaid
- Allegations that Provider caused claims to be submitted to a federal health care program for services performed by excluded individuals



Case Study 1 - Result

- Provider agreed to pay \$109,688.96 to settle False Claims Act allegations.
- Provider also entered into certifications promising policies have been established to check for excluded individuals.
 - Settlement occurred as part of the U.S. Attorney's Office and HHS-OIG's "Excluded Provider Project."



Case Study 2 – Scenario

- Five nursing homes operated by one corporation
 - Staffing at the nursing homes not sufficient to provide adequate nursing care
 - Wound care not provided at the nursing home
 - Residents often not receiving their medication as prescribed



Case Study 2 – Scenario Cont.

- Medical records falsified and a "charting party" held to fill in medical records, regardless of whether or not the medication was actually given
- Nursing home submitting fraudulent claims to Medicare and State Medicaid for services that were not provided or were worthless



Case Study 2 - Result

- Corporation pled guilty to felony health care fraud for failure to provide adequate care to Medicare and Medicaid residents
- The majority owner of facility entered into a criminal deferred prosecution agreement for a period of two years



Case Study 2 – Result Cont.

- Nursing homes agreed to pay \$1 million in criminal fines and penalties and an additional \$628,000 to resolve civil false and fraudulent claims allegations
- Five-Year CIA with Quality Monitor



OIG 2010 Work Plan & Unimplemented Recommendations

- http://oig.hhs.gov/publications/docs/workplan/2010/Work_Plan_FY_2010.pdf
- <http://oig.hhs.gov/publications/docs/compendium/compendium2009.pdf>



Supplemental Compliance Program Guidance for Nursing Facilities

- 2008 Supplement to OIG Compliance Program Guidance for Nursing Facilities identifies risk areas
- http://oig.hhs.gov/fraud/docs/compliance_guidance/nhg_fr.pdf



OIG Compliance Guidance for Hospice and Home Health

- <http://www.oig.hhs.gov/authorities/docs/hospicx.pdf>
- <http://www.oig.hhs.gov/authorities/docs/cpghome.pdf>



Benefits of Voluntary Compliance Program

- Demonstrated commitment to honest and responsible conduct
- Increased likelihood of prevention or early correction of unlawful conduct
- Reduced risk of False Claims Act lawsuits
- Enhanced resident satisfaction and improved reputation increasing market competitiveness



Elements of Effective Compliance Program

- Written Policies and Procedures
- Compliance Officer and Committee
- Effective Training and Education
- Effective Lines of Communication
- Publicized Disciplinary Guidelines
- Monitoring and Auditing
- Prompt Response and Corrective Action



Regulatory Developments

Patient Protection and Affordable Care Act

- “Elder Justice Act of 2009” (EJA) - to detect, prevent and prosecute elder abuse, neglect, and exploitation. Amends several titles of the Social Security Act (SSA)
- SNFs Required disclosure of ownership



Regulatory Developments

HITECH Act – Title XII of ARRA

- New breach notification requirements
- Business Associates of HIPAA Covered Entities must comply with HIPAA Security Rule
- Broader enforcement authority under HIPAA
- Increased civil monetary penalties for HIPAA violations



Questions?