Policy on Third-Party Payor Audits, Abuse, and Fraud

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Purpose

Pediatric dentists provide dental services covered by the Medicaid program and other third-party payors. The auditing process can discourage provider participation in state Medicaid and insurance programs due to excessive burdens on practitioners, provider profiling, and unfounded claims of fraud and abuse. The American Academy of Pediatric Dentistry (**AAPD**) supports efforts to eliminate insurance and Medicaid abuse and encourages fair and reasonable audit practices. This policy is intended to help AAPD members understand the insurance audit process and provide guidance on audit management.

Methods

This document was developed by the Council on Clinical Affairs, adopted in 2014[1], and last revised in 2019[2]. This policy is based upon a review of current dental and medical literature, including a search of the Google Scholar electronic database using the terms: *dental audits*, *dental abuse and fraud*, *peer review*, *dental peer review committee*, *provider profiling*, *practice management*, and *Early and Periodic Screening, Diagnosis, and Treatment* (***EPSDT***); field: all; limits: within the last 10 years; human; English. Papers for review were chosen from this list as well as references within the selected articles.

Definitions

Abuse: "Provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid program, or reimbursement for services that are not medically necessary or that fail to meet the professionally recognized standards for health care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program."[3]

Audit: "An examination of records or accounts to check their accuracy. A post treatment record review or clinical examination to verify information reported on claims.[4]"

Fraud: "An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or some other person."[3]

Medically necessary care (MNC): "Reasonable and essential diagnostic, preventive, and treatment services (including supplies, appliances, and devices) and follow-up care as determined by qualified health care providers in treating any condition, disease, injury, or congenital or developmental malformation to promote optimal health, growth, and development."[5]

Recovery audit contractor (RAC): One who reviews claims on a postpayment basis.

Third-party payor: "An organization other than the patient (first party) or health-care provider (second party) involved in the financing of health care services."[4]

Background

Dental care is medically necessary for the purpose of preventing and eliminating orofacial disease, infection, and pain, restoring the form and function of the dentition, and correcting facial disfiguration or dysfunction.[5] In order for children to access oral health care services, providers frequently must participate in third-party payor plans including public aid. Providers need to be ethical in their treatment and billing practices, and payors need to provide timely payments all while showing good stewardship and monitoring potential fraud and abuse. Approximately 38.5% of children in the United States participate in Medicaid or Children's Health Insurance Program (CHIP) with dental benefits.[6] Dental provider participation in Medicaid improves access to medically-necessary care and is vital in reducing the burden of oral disease in underserved communities.

Private and public third-party payors use audits as a mechanism to inspect for potential improper behavior, recoup overpayments, and possibly guide health care providers to control utilization and costs.[7] External audits are increasingly common for a full range of health care providers. Dentists are no exception, as some pediatric dentists have experienced. If a provider requests payment from third-party payors, the claims may be subject to review by a RAC, a private entity that reviews paid claims and, in some cases, earns contingency fees for improper payments it retrieves. Notably, there can be serious financial and even criminal penalties associated with billing errors.[8]

ABBREVIATIONS

AAPD: American Academy of Pediatric Dentistry. **ACA:** Patient Protection and Affordable Care Act. **CMS:** Centers for Medicare and Medicaid Services. **EPSDT:** Early and Periodic Screening, Diagnostic, and Treatment. **MNC:** Medically-necessary care. **RAC:** Recovery audit contractor.

In 2021, an estimated $98.3 billion, or 21%, of the federal Medicaid funds were absorbed by improper payments, which include fraud and abuse as well as unintentional mistakes such as paper errors.[9] Improper payments can occur when funds go to the wrong recipient, the recipient receives the incorrect amount of funds (either an underpayment or overpayment), documentation is not available to support a payment, or the recipient uses the funds in an improper manner.[9] The *Deficit Reduction Act of 2005* was enacted to provide increased funding for Medicaid fraud-and-abuse control activities.[10] Subsequently, a pilot program of Medicaid RACs was initiated. The 2010 *Patient Protection and Affordable Care Act* (**ACA**)[11] expanded the Recovery Audit program and allowed the Centers for Medicare and Medicaid Services (**CMS**) to contract with external RAC organizations. RAC professionals are contracted by the state in which the audit process occurs and are required to abide by that state's Medicaid laws. The RAC detects and corrects past improper payments allowing CMS and carriers, fiscal intermediaries, and Medicare administrative contractors to implement actions preventing future improper payments.[12] Thus, RACs are often independent contractors tasked with identifying and correcting improper Medicaid payments.[13] RACs might not be dental professionals or, if they are, they might not be pediatric dentists.

After receiving an audit notice from a third-party payor, ascertaining the type and scope of audit to be conducted in writing allows the dentist to understand expectations and proceed in complying with such a request.[14] Given the heightened concern regarding an external audit, internal audit preparation can help providers reduce appeals and improve the administrative process.[14] A compliance program generally will incorporate a credible internal audit system, which means that it must be prepared to respond to an external audit by various authorities. Some providers have discovered that an internal audit system can be developed so that it not only addresses the external audit but also serves other quality of care and performance improvement purposes.[14]

Credentials of auditors

The ACA required that each state Medicaid program use at least one RAC beginning in 2011.[11] Some states have started employing the RACs to aid in recovery of improper payments.[9,15] While audits are a part of third-party payment contracts and are necessary to protect the integrity of these programs, having auditors whose credentials are on par with the dental provider being audited is essential.[14] For example, pediatric dentists would be audited by a dentist who specializes in pediatric dentistry and understands the clinical practice guidelines and best practices adopted and followed by their specialty.

Provider profiling

Provider profiling is a strategy sometimes employed by health plans to determine practitioners to audit. Claims-based data that are not collected solely for performance assessment may be irrelevant or inadequate for provider profiling.[16] Furthermore, the procedure codes included in claims-based data cannot fully characterize the nature of a particular episode of care and may fail to account for variations in a patient's baseline status, socioeconomic considerations, compliance with treatment, and access to care.[16] Compelling evidence that a practitioner is an outlier compared to peers practicing in similar geographic areas, on similar populations of patients, and within the same specialty would serve as a more just indication for audit.

Peer review as part of audit outcomes

Peer review is a way to offer information and support to dentists who need to review best practices regarding chart documentation, coding, and billing practices related to third-party payors. Offering peer review in lieu of financial penalties when an audit shows no intent to defraud provides education to improve practice systems without discouraging provider participation in funded care plans. It provides practicing dentists a means to preserve their reputation and good standing in the community and fosters risk management, accountability, and self-regulation among dental professionals.[17] This model would be consistent with the peer review practices that occur when clinical decision making is in question. The intent of peer review is to resolve discrepancies between the dentists and third-party payors expeditiously, fairly, and in a confidential manner.[17]

Best practices for chart documenting, coding, and billing

Understanding appropriate coding and billing practices is consistent with the AAPD's *Strategic Plan*[18]; the AAPD, therefore, supports its members through the creation of educational resources and programs that promote best practices, which may include

- programming offered at the AAPD's Annual Session or other AAPD-sponsored continuing education courses.
- programs offered by pediatric dentistry state unit and district organizations.
- a web-based tutorial for dentists and their staff, including the states' dental Medicaid provider manuals and frequently asked questions regarding Medicaid.
- partnering with other public/private organizations and agencies to distribute Medicaid updates that can be accessed online and augmenting *Medicaid Compliance for the Dental Professional* presentations offered jointly by the AAPD and CMS.[19]
- the development of a third-party payor submission compliance program.[7]

Medicaid policies that conflict with AAPD clinical practice guidelines and best practices

Professional health care organizations with recognized expertise often disseminate clinical recommendations based on current scientific evidence or, if data is insufficient or inconclusive, expert and/or consensus opinion by experienced researchers and clinicians. The AAPD, as the leading national advocate in pediatric oral health, develops clinical practice guidelines and best practices to encourage a diverse audience to provide the

best level of care for children. Unfortunately, Medicaid programs sometimes include policies that directly conflict with these. For example, in several states, children are not receiving appropriate dental treatment covered by EPSDT because there is a refusal to reimburse providers for EPSDT-covered dental services for the age 1 visit.[20] According to CMS, state Medicaid agencies are required to inform all eligible individuals (or their families) about EPSDT services.[21] This requirement enables caregivers to seek necessary dental treatment for their children. Furthermore, the AAPD provides clinical practice guidelines and best practices that could better inform the audit process.

Policy statement

Dental care is medically necessary to prevent and eliminate orofacial disease, infection, and pain, to restore the form and function of the dentition, and to correct facial disfiguration or dysfunction. MNC is based upon current preventive and therapeutic clinical practice guidelines and best practices formulated by professional organizations with recognized clinical expertise. Expected benefits of MNC outweigh potential risks of treatment or no treatment. Early detection and management of oral conditions can improve a child's oral health, general health and well-being, school readiness, and self-esteem. Early recognition, prevention, and intervention could result in savings of health care dollars for individuals, community health care programs, and third-party payors. Because a child's risk for developing dental disease can change over time, continual professional reevaluation and preventive maintenance are essential for good oral health. Value of services is an important consideration, and all stakeholders should recognize that cost-effective care is not necessarily the least expensive treatment.[22]

The American Academy of Pediatric Dentistry

- encourages its members and all third-party payors to support efforts to eliminate billing fraud and abuse.
- opposes any of its dentist members committing abuse and fraud.
- encourages Medicaid programs and RAC auditors to utilize AAPD clinical practice guidelines and best practices as a guide to practices evaluated during the audit process.
- encourages its members to develop internal self-audit programs to improve their practice performance and be better prepared to address these challenges of external audits.
- cautions against ill-informed or misguided investigations that may discourage dental provider participation in Medicaid.[23]
- strongly believes that, while audits are a part of third-party payment contracts and are necessary to protect the integrity of these programs, such audits must be completed by those who have credentials on par with the dental provider being audited.
- adamantly opposes auditors' receiving financial incentives for any money recuperated through audits.
- opposes provider profiling and believes that dentist providers selected for audits should be chosen with compelling evidence that makes them an outlier as compared to their peers who practice in similar geographic areas, on similar populations of patients, and within the same specialty.
- supports peer review in lieu of financial penalties when an audit shows that no intent to defraud was present, to offer information and support to dentists who need to reacquaint themselves with clinical practice guidelines and best practices regarding chart documentation, coding, and billing practices relating to third-party payors.
- supports the education of pediatric dentistry residents, pediatric dentists, and their staff to ensure a good understanding of appropriate coding and billing practices.
- supports the creation of educational resources and programs that promote appropriate coding and billing practices.
- opposes Medicaid programs that have policies in direct conflict with AAPD clinical practice guidelines and best practices and are of detriment to patient care.
- endorses the enforcement of the federal law that requires state Medicaid agencies to inform all eligible families about EPSDT services[24] to enable caregivers to seek necessary dental treatment for their children.

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