

Shopping the Market for Billing Errors & Omissions Insurance

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Have you reviewed your past Medicare billings recently? There could be a ticking time bomb hiding in them.

In the President's agenda to both balance the budget and reform healthcare, considerable attention has been given to the Centers for Medicare and Medicaid Services (CMS). This is no surprise when you take into account that Medicare and Medicaid make up one-fifth of our national budget and are the nation's largest health insurance programs. Consequently, CMS has been empowered with

the resources to research, audit, and recoup the money it has paid wherever it can identify an overpayment, independent of whether the overpayment occurred due to fraud, dishonesty, or as a legitimate error.

By now, you have probably heard about Recovery Audit Contractors (RAC), the private contractors authorized by CMS to find your Medicare billing errors. With contingency fees in the range of 9-12%, these auditors have been compared to bounty hunters as they are highly inclined to find errors and then to extrapolate the erroneous data based on a random sampling. Unless the errors are disputed, CMS can begin withholding payments and charging interest rates that in recent years exceeded 11% on overpayments not paid in full within 30 days. These payment demands could lead to financially devastating results for you or your practice.

The Insurance Response

The insurance industry has responded to this financial threat with policies covering physicians and healthcare entities for defense costs and fines and penalties resulting from various types of regulatory investigations, including billing errors and fraud allegations.

When looking for such an insurance policy, pay close attention to the following terms:

Definition of insured may include a single physician or a group with or without multiple entities, as well as current and former partners, directors, officers, and employees. In the event of the insured's death, disability, or bankruptcy, it may also include the estate, heirs, administrators, and legal representatives.

Limits of Liability for individual physicians and/or healthcare entities may range from \$250,000 to \$5 million in coverage.

Deductible is the amount you are required to pay before the insurance will start covering the loss. These can vary greatly, from \$1,000 to \$25,000 and beyond, so it's important to choose a policy with a deductible you're willing to pay in the event of a claim. It should be recognized that, in general, higher deductibles mean lower premium.

Exclusions list what is not covered under the policy. Typically, these will state that fraudulent, criminal, dishonest, or otherwise intentional acts are not covered, in addition to claims outside the scope of billing errors and omissions.

Additional Coverages can include

coverage for EMTALA, Qui Tam, HIPAA, breach of security, data recovery, and administrative disciplinary proceedings, but these features are not necessarily common to all billing errors and omissions

policies. Insurance policies can vary; therefore, finding a policy that works for your practice takes careful analysis, review, and counsel. It is important to refer to the actual pol-

icy for its description of coverage.

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