



# HOW ARE YOU MONITORING YOUR THERAPY PROVIDER?

A WHITE PAPER ABOUT

# COMPLIANCE

..... AUTUMN 2016

# INTRODUCTION:

In the past two years, the US Department of Justice and the Office of Inspector General have brought numerous lawsuits<sup>1</sup> against skilled nursing homes and their contract therapy partners alleging that the long term care providers were focused on revenues over patient care and clinical necessity. Those claims charged that SNFs and their therapy providers violated the False Claims Act by submitting claims to Medicare that were not reasonable, necessary or skilled, and in some cases never occurred.

Settlements have ranged from \$1 million (for a therapy provider and SNF in western Michigan) to \$125 million<sup>2</sup> (for the nation's largest therapy provider + \$8.225 million to four of its SNF clients).

## What practices look suspect to CMS?

CMS auditors (MACs, RAs, ZPICs, HEAT, etc.) most commonly find potential for fraud when SNFs and their therapy providers do the following:

- Set unachievable goals for residents to enhance length of stay.
- Record an excessively high percentage of patients' minutes that hit directly on the threshold for the given therapy RUG category.
- Set quotas for therapists to provide enough services to place patients in the "Ultra High" RUG category resulting in artificially inflated RUG distribution curve (versus patient-centered care planning.)
- Give bonuses based upon therapy revenues created.
- Continue therapy services despite lack of documented "skilled" care.
- Direct patient care from offsite rather than make clinical decisions with onsite staff.

1. "Government Sues Skilled Nursing Chain HCR Manorcare for Allegedly Providing Medically Unnecessary Therapy," Department of Justice, Office of Public Affairs, April 21, 2015 <http://bit.ly/2aFV9Pb>
2. "Nation's Largest Nursing Home Therapy Provider, Kindred/Rehabcare, to Pay \$125 Million to Resolve False Claims Act Allegations," Department of Justice, Office of Public Affairs, January 12, 2016. <http://bit.ly/1s5UVbX>

# What can SNFs do to ensure that therapy is clinically appropriate and meets all government regulations and expectations?

1.

## Learn to understand and measure against the PEPPER Report.

Medicare issues yearly comparative data in the form of a provider-specific PEPPER Report which tracks discharges and services that may appear vulnerable to improper payments.

SNFs can compare patterns in their data with other SNFs at the national, jurisdictional, and state level to determine if their rehabilitation services are possibly being over-coded or under-coded. The five “target areas” listed in the table show where rehabilitation services are at risk for overpayment.

SNF PEPPER, 10/1/14 – 9/30/15

Target Area	National High Outlier	State (MI) High Outlier
Therapy High ADL	48.1%	44.6%
NonTherapy High ADL	39.5%	29.5%
COT (Change of Therapy) Assessment	17.8%	17.8%
Ultrahigh Therapy RUGs	77.3%	75.2%
90+ Day Stays	25.3%	16.5%

As SNFs monitor compliance, they should review these metrics on a regular basis. If your SNF’s target area percentages are near or over the outliers, your facility is at risk.

2.

## Assess your clinical outcomes and seek continuous improvement.

Clinical outcomes are important measurements that show that your rehab program is helping patients heal in the shortest time possible. This data can also be shared with referral sources, insurance payers, and physicians. **Clinical outcomes can be assessed by length of stay, condition of patient at admission vs discharge, re-hospitalizations, and patient satisfaction.** Internal reviews should be conducted on a quarterly basis to assess outcomes and monitor areas of risk.

# HOW DOES THERAPY MANAGEMENT, INC. ENSURE COMPLIANCE?

Based on CMS's current rules, oversight of our partners' therapy programs includes the following practice standards:

- Written policies, procedures, and standards of conduct enforced through well publicized guidelines.
- Experienced Compliance Director and Quality Assurance Specialist.
- Compliance committee including PT, OT, SLP and RN who oversee the program.
- MDS Nurse and AANAC certified consultants are available.
- Effective, ongoing compliance training / education program.
- Facility's philosophy/culture mesh with RUG placement process.
- Lines of communication are open – between staff, facility, and our leadership team.
- Clear complaint resolution process.
- Internal monitoring and auditing practices.
- Clearly defined, evidence-based clinical assessment tests and measures.
- Clinically-appropriate case management of therapy minutes on a daily basis.
- Interdisciplinary planning and decision making for therapy minute delivery.
- Established methods for tracking and reporting therapy minutes.
- Change of therapy OMRA compliance.
- Interdisciplinary involvement in facility meetings, QA, and clinical decisions.
- Defined and realistic productivity expectations.
- Thorough documentation, plus complete Medical Review response and management of Medicare Appeals.
- Use of specialized software (for MDS 3.0) & a customized dashboard with weekly/monthly reports on KPIs + overpayment risk variables.
- Compliance Hotline for employees and customers to report concerns.



**THERAPY MANAGEMENT, INC.**  
*Your Partner for Rehabilitation and Growth*

**CONTACT US WITH YOUR QUESTIONS  
ABOUT MINIMIZING RISK WITH YOUR  
REHABILITATION PROGRAM.**

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