Federal Investigators Are Auditing CMS – Is Your Practice at Risk?

Feb 10, 2025

Categories:

Health Law Matters
Publications

Authors:

Derek R. Staub

The Centers for Medicare & Medicaid Services (CMS) is under intense scrutiny as Elon Musk's Department of Government Efficiency (DOGE) initiates an audit aimed at uncovering fraud, waste, and abuse. Musk has emphasized the severity of the situation, stating, "Fraud in the federal government is closer to 10% of disbursements, so more like ~$700 billion per year." Additionally, Musk wrote on X, "Yeah, this is where the big money fraud is happening," referring to DOGE going into Medicare systems.

This unprecedented level of oversight signals a major crackdown on improper payments, compliance failures, and potential fraud. Health care providers that rely on Medicare and Medicaid reimbursements should take immediate action to protect themselves. The government is actively looking to recoup funds, and failing to prepare could result in significant financial losses, penalties, or even legal consequences.

Federal Government's Long-Standing Efforts to Recoup Taxpayer Dollars

The Department of Health and Human Services' Office of Inspector General (HHS-OIG) plays a crucial role in safeguarding the integrity of federal health care programs. In addition to recovering $7.13 billion in misspent funds during fiscal year 2024, HHS-OIG conducted 1,548 criminal and civil enforcement actions against individuals and entities engaged in fraudulent activities targeting federal health programs. Furthermore, 3,234 individuals and entities were excluded from participation in federal health care programs due to violations, reinforcing the government's aggressive stance on fraud prevention. These enforcement actions serve as a stark reminder that non-compliance can lead to severe consequences, including exclusion from federal reimbursement programs and legal repercussions.

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While the DOGE audit has intensified scrutiny, the federal government has long-established mechanisms for detecting and recovering overpayments and fraudulent claims within health programs. Each year, billions of taxpayer dollars are recouped through various oversight initiatives. In fiscal year 2024 alone, HHS-OIG recovered $7.13 billion in misspent funds, while the Justice Department secured an additional $1.7 billion in settlements and judgments from healthcare-related false claims litigation. These numbers illustrate the government's commitment to aggressively pursuing improper payments and enforcing compliance measures across the health care sector.

What This Means for You

When federal agencies conduct audits of this magnitude, they seek to identify overpayments, improper billing, and compliance violations. CMS administers health care reimbursements to over 140 million Americans, making it a prime target for government scrutiny. If your practice, hospital, or health care organization bills Medicare or Medicaid, you could be subject to review. Now is the time to ensure that your records, contracts, and compliance programs are in order. Providers should not assume they are immune—many past audits have targeted even well-intentioned health care entities that lacked sufficient documentation or made minor billing errors.

Be Proactive: Conduct an Internal Audit

Health care providers should not wait for an audit notice. Instead, take immediate steps to review your internal operations. Conducting a proactive internal audit can help identify and correct potential vulnerabilities before they are flagged by federal investigators. Here's what you need to do:

- **Review Your Billing Practices:** Ensure that your billing processes comply with CMS guidelines. Common red flags include upcoding, duplicate billing, unbundling services, and incorrect coding for procedures. Regular audits of billing records and coding compliance can mitigate risks before an external audit exposes issues.

- **Evaluate Compliance Programs:** Federal regulations require that health care entities maintain robust compliance programs. Make sure your policies align with federal and state laws, and update any outdated procedures. A comprehensive compliance program should include staff training, regular risk assessments, and internal reporting mechanisms for potential violations.
- **Audit Contracts and Agreements:** Now is the time to review all management services agreements (MSAs), management services organizations (MSOs), and any other third-party agreements. Ensure these contracts are compliant with health care regulations and clearly define financial arrangements to avoid regulatory scrutiny. Poorly structured agreements, particularly those related to provider compensation and referrals, can raise serious legal concerns under anti-kickback statutes.
- **Assess Employee and Provider Documentation:** Make sure all credentialing, licensing, and employment agreements are up to date. Any lapses in documentation could be grounds for reimbursement denials or penalties. Additionally, confirm that all providers are properly enrolled in Medicare and Medicaid programs to avoid unexpected claims rejections.
- **Prepare for a Records Request:** If CMS or DOGE audits your organization, they may request extensive documentation, including patient records, contracts, financial statements, and compliance policies. Have these readily available and well-organized. A failure to produce requested records in a timely manner could result in immediate payment suspensions or accusations of obstruction.

What Happens If You Are Audited?

If you receive an audit notification, do not panic—but do not ignore it either. The government is actively seeking reimbursement for overpayments, and failing to comply could result in severe penalties, repayment demands, or even legal action. CMS and DOGE are not just looking for outright fraud—they are also targeting billing mistakes, documentation errors, and regulatory lapses that can cost

your practice thousands or even millions of dollars. Your best course of action is to engage legal counsel immediately.

Call Your Lawyer – Don't Go It Alone

Health care audits are complex, and any misstep could have serious consequences. Whether you are a physician, hospital administrator, or health care business owner, you need experienced legal guidance to navigate this situation. A health care attorney can help you as follows:

- Respond appropriately to audit requests.
- Identify and correct compliance issues before auditors do.
- Develop a defense strategy in case of disputes.
- Negotiate settlements to minimize financial exposure.
- Ensure ongoing compliance to prevent future issues.

The time to act is now. Do not wait for the government to knock on your door. Conduct an internal audit, ensure your documentation is in order, and seek legal guidance to protect your practice. By taking these proactive steps, you can safeguard your practice against the heightened scrutiny of current CMS audits and avoid the severe consequences of non-compliance. If you have any concerns about your compliance status or need assistance conducting an audit, please contact the author or any attorney with Frost Brown Todd's Health Care Innovation Team.

Presidential Administration Impacts

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