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MEMORANDUM

TO: RHCF Members

FROM: Dan Heim, Vice President for Public Policy

DATE: September 18, 2009

SUBJECT: **PRI Audits**

ROUTE TO: Administrator, Directors of Finance, Nursing and Corporate Compliance

ABSTRACT: OMIG conducting PRI audits.

Introduction

As NYAHS reported during its recent Annual Conference for Financial Managers, a number of downstate nursing homes recently received letters from the Office of the Medicaid Inspector General (OMIG) indicating that OMIG plans to audit their Patient Review Instruments (PRIs) for the period January 1, 2005 through December 31, 2006. The letters were signed by Colleen Quackenbush, RN, Health Systems Specialist.

Further Details on Audits

We understand that the OMIG letters went to approximately 30 downstate nursing homes last month, and asked the facilities to produce within 30 days significant amounts of documentation prior to the audit entrance conferences. Requested documentation included:

- Policies and procedures on background checks
- Facility operating certificate(s)
- Audited financial statements and tax returns for 2006-08
- CPA management letters and access to CPA audit work papers for 2007-09*
- Policies and procedures on PRI completion
- Corporate compliance program policies and procedures*
- Summary of corporate compliance auditing and monitoring activities for 2006-08*

* - We understand that OMIG has since dropped its demands for these items.

We are further advised that so far this week, OMIG has conducted brief (i.e., 15 minute) "entrance conferences" with approximately half of the 30 facilities, and will visit the remaining noted facilities in the near future to ensure that the audits are initiated within 60 days of the date the letters were mailed.

The OMIG correspondence further indicates that a sample of PRIs will be selected for each audit, and the following documents will be reviewed for each sampled PRI:

- Patient admission form
- Patient's account receivable transaction ledger for the audit period
- Complete medical chart covering the audit period
- All Medicare and third party insurance remittance statements
- Documentation 3 months prior and 3 months after PRI selection date
- Therapy records
- Care plans
- Other supporting documentation

Although OMIG's purpose for conducting these audits is not addressed in the letters, the OMIG 2009-10 work plan (posted at: <http://www.omig.state.ny.us/>) states as follows:

“Patient Review Instrument –Clinical Audit

The number of a nursing home's residents classified in the various resource utilization group (RUG-II) categories determines the facility's overall case mix index (CMI) and thus significantly influences its per diem Medicaid reimbursement rate. Consequently, it is essential for each resident's condition and functional ability to be assessed accurately. This is accomplished by means of the patient review instrument (PRI). The PRI was utilized through December 2006 to calculate the nursing home rate.

The Department of Health's Bureau of Long Term Care Reimbursement (BLTCR) utilizes PRIs to adjust a nursing facility's operating component per diem rate to recognize intensity of services. **The OMIG will examine the propriety of the preparation of the PRIs as they affect the nursing facility's case-mix index portion of its per diem rate of reimbursement.** The last case-mix index calculated by the DOH's BLTCR for 2006 will be used for the 2007 and 2008 rates, per PHL § 2808-2-b (a) (v).” [emphasis added]

Audits and DOH Regulations

As you are aware, the Department of Health (DOH) utilized outside firms for several years to conduct PRI audits. DOH regulations (10 NYCRR 86-2.30) prescribe the procedures for completion and submission of PRIs, DOH on-site reviews, and remedies for improperly completed PRIs. During the period in question, DOH contracted with IPRO to conduct PRI audits.

An issue discussed at the NYAHSAs Financial Managers' conference was whether OMIG has the authority to audit the PRIs for this time period, since DOH separately contracted with IPRO to audit PRIs pursuant to the regulations. We understand that a number of member facilities raised this issue with DOH and OMIG, and that OMIG has indicated that it does not intend to re-audit PRI submissions already reviewed by IPRO. What, if any bearing, this development may have for those facilities that were not selected for audit by IPRO during this period is uncertain.

Assuming OMIG can establish that in fact it does have the authority to conduct these audits, a secondary issue is whether OMIG will comply with the audit stages and procedures enumerated in 10 NYCRR 86-2.30 and DOH guidelines on PRI completion (Q&As, etc.) that the PRI audit contractors were required to adhere to.

Guidance to Affected Facilities

If your facility has been or is contacted in the near future relative to one of these audits, NYAHSA recommends that you comply with OMIG's document request and allow the OMIG auditor(s) to enter the facility. As with other types of on-site audits, you should maintain a log of all documents released to the auditors, and maintain control over all original documents during the process to ensure that all original documents remain with the facility.

However, both in writing and at the entrance conference, your facility should consider contesting OMIG's authority to conduct the noted PRI audit on the basis that an audit process already existed pursuant to 10 NYCRR 86-2.30 during the rate periods in question. If OMIG does issue a draft audit report, you should include in the written response any possible jurisdictional, procedural and/or substantive grounds for contesting the proposed adverse audit findings. If your facility was actually audited during the 2005-06 period by IPRO, you should also bring this to OMIG's attention, both in writing and at the entrance conference.

Please contact me at (518) 449-2707, ext. 128 or via e-mail at dheim@nyahsa.org with any questions.