2016 Program Audit and Enforcement Report

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Greg McDonald: Hi everybody. My name is Greg McDonald, and I work within the division of analysis policy and strategy within MOEG here at CMS, and I'm going to talk to you for just a few minutes today about our 2016 Program Audit and Enforcement Report, which we also kind of internally call our annual report.

Now Vikki kind of mentioned this earlier, but I think it's worth repeating. It came out quite a bit earlier this year than it has in previous years. So as you may know, as she said, it came out this year on Tuesday afternoon, so in advance of the conference in May. Whereas in 2016 it came out in early September, and in 2015 it came out, if I remember correctly, sometime in October. So it's a pretty big jump up in term of timing, and it's something that we are happy about. As was the case last year, everything that is in this presentation in some form or another is in the actual annual report itself. So I admit I have moved some things around. I have truncated some things. But all of the actual substance, the content itself is in that document for you to peruse.

As always, our goal in releasing this document is to give you a sense for where you stack up relative to peer organizations if you've been audited in a given year, see what some trends are across the industry, trends across time, to give you a sense for what changes we're making to the audit process, and, also, starting with last year's iteration of the annual report, giving you a sense for what are some particularly problematic

things we're seeing on audit so that you can focus your efforts on ensuring that those are not problems for you, whether you're actually audited or not. So our agenda is as follows:

We're going to talk for just a minute about the audit landscape, a state-by-state breakdown of last year's audits in terms of who was covered. We're going to look at audit lifecycle, cross-year audit results from 2015 to 2016; 2016 audit scores broken down a number of different ways; the most common conditions from last year, cross-year ICAR citations from 2015 to 2016; the most common ICAR conditions, and this is aggregated across both 2015 and 2016; and then, finally, we're going to take a look at the enforcement actions that we took in response to the audits that we conducted last year.

So, as many of you know, starting last year -- or sorry, 2015, rather, we started a new audit cycle, which basically means that we began to audit sponsors that we had audited at some point in the past. Our first cycle actually ran from 2010 to 2014, and through the first two years of this cycle, so 2015 and 2016, we've actually audited organizations that cover about 78% of the Medicare beneficiaries that are enrolled in Part C and D. And last I checked, I think that's about 43-, 44 million people. So it's a pretty significant number. Around 32% of that number was audited or covered by the organizations that we audited last year alone. We're actually projecting that by the end of this year we will audit organizations that cover actually about 94% of those 43-, 44 million people.

Just as a point of comparison: in our first audit cycle, which, like I said, ran from 2010 to 2014, we actually managed to hit 96% of the enrollees. So we've gotten within 2 percentage points, but we've actually gotten there in two years less. So we are making some pretty good progress with respect to moving through all of the enrollees, or at least most of them.

In terms of parent organizations, last I checked, again, this is going back a little bit in time, there were about 200 of them, and in the first two years

of this audit cycle we've actually audited 54. Now, in truth, we've audited a few more than that. It's actually 59. But a few organizations aren't around anymore because either they terminated their contracts or they were acquired by other organizations. So 54 organizations that we audited in 2015 and 2016 are actually still out there in operation.

By the end of 2017, we are aiming for this number to be 94. So we're shooting for 40 audits this year. And those 94 sponsors, 94 audits, will be about 46%, roughly, of those 200 organizations that are actually out there now with currently active Medicare contracts.

Now, the discrepancy -- and I said the same thing last year, the discrepancy between the percentage of sponsors that we've covered and the percentage of enrollees that we've covered is attributable to the fact that we do place an emphasis on auditing some of the larger organizations out there. And we really only do this to make sure that the audits that we conduct have the best chance possible of reaching the maximum number of beneficiaries possible. I don't want anybody to think, though, that we do this to the exclusion of auditing smaller or what you might call medium-sized organizations. We do still, every year, routinely audit many of them. And, actually, there is a slide coming up in a little bit that touches on that and actually shows some numbers that relate to that.

So what we see here is a state-by-state breakdown of our 2016 audits, and in particular, the percentage of enrollees in each state that were covered by our 2016 audits. This is not any kind of aggregation. It's not like the previous slides where I was combining things across 2015 and 2016. This is only 2016. And what we see here is there are some states that have more of their beneficiaries, at least in terms of percentages, covered than others.

So, for instance, on the high end -- red means higher, larger parentage -- we see states like Washington, Illinois, and Wisconsin that actually have had more or a higher percentage of their beneficiaries enrolled -- sorry -- audited, by the audits that we did; whereas on the other hand you have

some states with lower percentages, like Ohio, South Carolina, Kentucky, which are blue and, therefore, have fewer of their beneficiaries enrolled. The overall range, you can kind of see in the legend there, goes from about 1% on the low end; that is to say that a given state had 1% of its beneficiaries in plans that were audited, whereas on the high end it's about 47%. So there is a pretty decent range there.

This is related, though it is still somewhat different. This is actually a percentage of plans in each state. And by the way, these two charts are something that we actually put out for the first time last year. This is a percentage of plans in each state that were covered by our audits last year. And if you actually put these two maps side by side you'd notice that the colors actually change for some states from one chart to the other, just suggesting that, for instance, in one state you might have lots and lots of plans audited for, but those plans don't necessarily have a lot of beneficiaries, so the percentage of beneficiaries were covered is not necessarily all that high. So, for instance, if you go from one chart to another you would see that Illinois went from dark red to light blue, whereas Ohio went from dark blue to pink. So they're kind of going from one to the other. They're switching. That being said, many states actually stay the same in terms of color. Those would be, for instance, Rhode Island, Texas, Nevada, and Arizona.

Here, on the low end, some states had about 18% of their plans audited last year, whereas on the high end it was about 28%. So there is still a range there, though it's not quite as big as it was on the previous slide, where it went from 1% of enrollees audited for on the low end to about 47% on the high end. And, again, I think some of this becomes more clear when you actually look at these two charts side by side, and you can do that if you print out the annual report. Though I would advise you to do that in color, because it gets a little bit hard comparing blue to red if you're doing it in black and white.

This is something that we are looking at for the first time this year. We're looking at the relationship between audit lifecycles and audit scores. In

other words, is the amount of time it takes for us to close out an audit related in any way the results of that audit? Now just a couple things before we go on, and I think this actually may have been spoken to before, we define audit duration as the amount of time in days that has elapsed between the engagement letter going out or the audit start notice and the audit closeout letter going out, basically closing the audit.

The second thing is -- I do want to let you know that this is not a typo -- this actually is for 2015. The reason for that is that many of the audits that we started last year have not yet closed, and so if we were to report on those, we just wouldn't have as many data points as we would really like. All that being said, what we found was that there is a positive correlation between audit score and audit duration; that is to say, that as audit scores increase; that is to say, get worse, it takes longer to close those audits out. That's not terribly surprising. I think one of the rationales you'd have for that is the more conditions you have for that the more instances of non-compliance on your audit, and the more serious those instances of non-compliance are, which these two things would necessarily increase your audit score, the longer it takes to put in place a plan to actually fix them, and then finally, to put that plan into action and make sure those things have been remediated.

It's worth noting, by the way, that as we've moved to the use of independent auditors to validate correction of audit deficiencies, sponsors largely control the duration of their audit lifecycles, as they determine when they are ready to undertake validation and, ultimately, audit closeout activities. So there is some relationship here, but it is something that, to some extent, is within your control. We do know that you like to get back to business as usual as quickly as possible because, you know, the audit process does necessitate the dedication of certain resources.

Here we see cross-year results, so this is between 2015 and 2016. And across the little chart there you see each program area, as well as the overall average scores across the two years. So we have CPE, which is Compliance Program Effectiveness, FA, which is Part D Formulary and

Benefit Administration. CDAG, which is Coverage Determination Appeals and Grievances; ODAG, which is Organization Determination Appeals and Grievances; and then finally we have SNP-MOC, which is Special Needs Plan Model of Care. And what you'll notice is that in every program area there is a pretty marked decrease from 2015 to 2016 in terms of the scores. The two program areas with the highest percentage decrease actually were FA and CDAG. If you look at CDAG in particular, the score in 2016 is actually not even half of what it was in 2015. So we do see pretty significant drop offs in terms of score, which is encouraging, in each program area.

It is worth saying, it is worth noting, that, to at least some extent, these decreases in scores are attributable to differences in the way that we define ICARs, CARs and observations. So, as opposed to some previous years, ICARs now, starting with the audits last year, necessitate some sort of access to care issue. So no matter how widespread an issue is, no matter how systemic it is, if it doesn't involve access to care it can't be an ICAR. And so if you remove certain things from being ICAR eligible it does, at least in theory, actually make it possible to lower scores.

We actually communicated this in late 2015 in advance of the audit year just so that everybody knew where we stood on these things. This was November 30th, 2015, and this memo was actually entitled -- and I just want to get this right -- "Classification of Audit conditions ICARs, CARs, and observations. So if you want more details on how we're actually defining things, that's a good place to look.

This is new for 2016. We took a look at the relationship between audit scores in formulary and CDAG, and the number of formularies that organizations use. What you see here on the chart is two different buckets. So we're dealing with sponsors that have only one formulary, and then those that have, actually, two or more. I think, going off memory, the overall range was something like 1 to 17 or 1 to 19. So some used one, but on the longer end, or the end with more formularies, it went all the way up to about 17 or 19.

And what we found is that there is a relationship between the number of formularies that you use and your actual performance in these two program areas. Sponsors that use fewer formularies in this particular case with the chart the way it is, one formulary, had on average lower audit scores than those that used more than one. So you're comparing .74 to 1.09, and then 1.04 to 1.63 for the two program areas.

The correlation is stronger in FA than CDAG. For those of you who are statistically inclined -- I don't know how many of you that is -- the actual correlation between number of formularies and FA scores is .51, and the corresponding correlation for CDAG scores is .19. If you want more information on that you can feel free to ask me some questions.

This is breaking down 2016 audit scores by tax status. We've done this for the last few years actually. Tax status is determined at the contract level, so you can have organizations that are purely for profit; that is to say, all of their contracts are for profit, purely nonprofit, or a mix of both. And when we ran the numbers, what we found was that the group in the middle there; that is to say sponsors that have a mix of contract types, actually fared somewhat better on audit than those that were purely for audit or purely nonprofit. And this actually deviated from what we saw in 2013, 2014, and 2015, when we did this analysis. In all of the previous years, actually, purely nonprofit sponsors had the average -- the best average overall audit score. So for the first time we're actually seeing that be somewhat different here.

It is worth noting, though, that if you look at the actual ends below the description there at the bottom, there were only three organizations that fell into that category. So for the purely for profit and purely nonprofits you are dealing with larger sample sizes.

Moving along, we also did this for the first time last year, we broke down audit stores by program experience. Program experience is the amount of time your oldest effective contract has been in existence. So if, for

instance, you had five contracts and one went back to 2000 and four went back to 2015, you would be in the over 15 years category, because that's how old your earliest or oldest effective contract is. And what we found was that sponsors that have been around for longer; that is to say, five plus years, actually fared somewhat better on audit than sponsors that have been around for a shorter period of time. This is essentially the same finding that we actually found last year. It's not terribly surprising.

I think one of the rationales that we have for this, or one of the theories that we have is that if you've been around for longer you've had longer to familiar yourself with guidance, operationalize that guidance, and in some cases, organizations that have been around for a while may have actually been audited before, sometimes more than once, which would give them a chance to remediate problems that they actually had discovered on their first audit. And if you've been around for only a year or two, or maybe three years, you wouldn't necessarily have had that opportunity.

Moving along, this is also something that I believe we ran for the first time last year. It's looking at audit scores by enrollment size. And what we found -- this is the same as last year -- is that there's not really a discernible relationship between enrollment size and audit score. So we have three categories here. The categories actually line up with those that we use to determine the review periods for CDAG and ODAG. So we have what you might call small sponsors, which is fewer than 50,000 enrollees. We have a medium-sized group, a so-called medium sized group, which is between 50,000 and 250,000, and then we have our so-called large group, which is over a quarter million. And you see that the group in the middle there actually has the average audit score that's the lowest. So it goes down and then it goes up again.

If memory serves and we go back and look at last year's audit report, or the one we presented on last year from 2015, the relationship here is actually flipped. You see the ones on the ends actually have the lowest audit scores, on average, and the one in the middle actually have the highest. So you don't see any kind of lasting pattern or relationship or

anything like that. One other thing, there's nothing linear. As you go up in audit -- as you go up in enrollment size or down in enrollment size you don't see some sort of a consistent change in audit score.

One other thing that's worth pointing out as we look at this is that if you look again, below the descriptions, you see these Ns. These Ns indicate the number of actual sponsors that fit into that category. And only 5 of the 37 audits that we did last year were of sponsors that were over a quarter of a million beneficiaries. If you look at the smallest one there, which is fewer than 50,000, you're looking at 20, which is over half of the 37 that we actually audited. So as I was saying before, we do try to spread the audits around, to the extent we can. We don't audit large organizations to the exclusion of auditing medium or smaller organizations.

This is a little bit different. This is what I call the "most common most common conditions," and what I mean by that is that these are the conditions that were among the five most common in all the different program areas from 2016 that have appeared in every single list that we've compiled, going back do 2011, or they could have missed one time. So you see, for instance, there six out of seven for one of them. So these are the conditions that were common this past year, but have been common in lots of other years too.

And I don't want to read through these line by line. I mean, that's kind of tedious. But I do want to call a couple of things out, which is that if you look at FA -- by the way, before we go any farther, CPE is not on this list. It seems like the noncompliance there is a little bit more erratic. The things that we see there aren't quite as consistent. But if you look at FA and CDAG, which are the two program areas on this particular slide, in FA you have three seven out of sevens. That means that basically 60% of the common conditions list in FA has never changed. It's been the exact same going back to 2011 when we started this.

The same thing can be said for 40%, or two out of five of the CDAG list. You see seven out of seven, and then seven out of seven. And there's one other, where it's actually six out of seven. So there's not a lot of movement on some of these conditions. We're just seeing these things, you know, over and over again. In CDAG in particular, we see noncompliance having to do with insufficient denial rationale on denial notices, and then also insufficient outreach.

Moving along, this is ODAG and SNP-MOC. These two program areas have not been around quite as long as the other three. In ODAG we see noncompliance again, as in CDAG, having to do with denial rationale on denial notices, and also insufficient outreach. The noncompliance that we are seeing in SNP-MOC pertains mostly to ICPs or individualized care plans, and health risk assessments or HRAs. So when you actually go into the annual report -- let me go back one slide -- it's not broken down this way. It's broken down by all the different program areas and you get a top-five list in each one. And I just went through and pulled out the most common ones from each one based off of how frequently they've occurred in the past. So you can make this yourself, but it doesn't actually show up in the annual report. That's one of the things I was talk about at the beginning of the presentation.

Here we see cross-year ICAR citations. So this is the average number of ICARs that were cited per audit in these three program areas. These were the only three program areas where we had ICAR cited in 2015 or 2016. And what we see is in CDAG and ODAG there's actually a pretty marked drop off from 2015 to 2016. The number is actually the same across both years in FA. Again, as was the case a few slides ago, this is contributed to or is partly attributable to the fact that we redefined ICARs and we made certain type of noncompliance ineligible for them. But nonetheless, the fact that we're see these numbers go down is something that we are encouraged by. We certainly don't want to see them go up. And one other thing that's worth pointing out is that ODAG in both years had the average that was the highest, followed by CDAG, and then closely by FA.

Here, too, this is something that we're putting out the first time this year, or sharing for the first time this year. These are the most common conditions that resulted in ICARs. And this is aggregated across 2015 and 2016. So this is not one year versus the other. It's not only one year. This is everything that happened in 2015 added to everything that happened in 2016. What you see here is a top-six list, which is kind of awkward. I did that for space reasons. When you actually go into the annual report itself, if you haven't had a chance to take a look at it, you will see that there is actually a top-ten list. Of those top ten, five were in ODAG, two were in CDAG, and three were in FA. Remember, as I said a second ago, over the last couple of years we haven't cited any ICARs in CPE or SNP, so you don't actually see any of those here. But nonetheless, this is something that's worth looking at to get a sense for what types of noncompliance result in ICAR so that you can, you know, focus on making sure that these aren't going to be problems for you whether you are audited or not. It's just good information to actually have at your disposal.

And then finally, the enforcement actions that we took as a result of last year's audits. So, as I think I said a couple times, we audited 37 sponsors last year. 17 of those audits resulted in the imposition of CMPs or civil money penalties. Those CMPs – when you total them up -- were just under $7.3 million, which I believe was somewhat less than it was for 2015's audits. And unlike in 2015, there were actually no intermediate sanctions imposed as a result of last year's audits, which is encouraging and is good to see.

So that is all that I have. I think we are a little early, so we should have time for some questions. So you can ask those of me while you have me here. If you think of some in a little bit, you can ask at the Q&A session after the conference is over, or if you think of any that come to your mind, actually after the conference is over, you can also send them to the e-mail address here, and the people that run the mailbox will make sure that

those questions are routed to me, and I'll answer them for you. So that's all that I have, and thank you.

Stacey Plizga: Okay, do we have any in-house questions for Greg? Okay. Well I do have a few questions that came in from our virtual audience, so we will go ahead and go to those questions. And the first one is, "To what extent were IDS conditions a problem in 2016?"

Greg McDonald: I don't -- just going off memory, I don't think they were terribly problematic. I did look at the numbers on this. I want to say -- I'm not close enough to the mic. I want to say there were about eight or so across seven sponsors. I think one of them actually got two. So it wasn't terribly problematic. But obviously we'd like to see those be zero.

Stacey Plizga: Okay, the next question, "Now that you've covered 94% of Medicare enrollment with your cycle-two audits, when are you planning to start a third cycle?

Greg McDonald: The short answer to that question is that we don't really quite know yet. We're still looking at that.

Stacey Plizga: All right. I have one final question here, and it is, "If the number of ICARs cited per audit stayed the same in FA in 2015 and 2016, why did scores go down?"

Greg McDonald: Well, necessarily it just mean that CARs went down. So observations obviously don't affect scores, so those drop out for scoring purposes. So if ICARs stayed the same and scores still went down, by process of elimination, CARs must have gone down. So that's what it was.

Stacey Plizga: Okay. I see that we have some in-house guests with questions. So please introduce yourself and tell us what organization you are from, please.

Elizabeth Lippincott: Hi. Elizabeth Lippincott, Strategic Health Law. And I am wondering, of the 40 audits you plan on doing in 2017, you know, I know you might not know the exact number, but about how many of those plans have been notified, and what do you anticipate will be the timeframe and the year in which you'll be notifying plans?

Greg McDonald: All of that information is known, to some people at least. And I can -- we do have a schedule. I can answer that question technically. But let me consult with some other people to see what we're willing to say and then we can kind of revisit that at the end. But we do have that information, but let me just make sure I can give that away.

Elizabeth Lippincott: Okay. Thank you.

Julie Mason: Julie Mason, Medicare Compliance Solutions. One of your earlier slides with the pie chart showed the breakdown of plans and enrollees covered by audits in this last audit cycle. And I think one of them, for number of plans, the very small blue slice indicated, I think, 17 plans, which was 8% of the plans.

Greg McDonald: Correct.

Julie Mason: Can you tell us whether those 17 plans are going to be covered in the next audit cycle in 2017?

Greg McDonald: Well, as a general matter, I'm always trying to be sensitive with what information I give out. We generally try not to audit people more than once in the same cycle. There are things that could come up that could cause us to change that. But I think there's actually a paragraph in the annual report itself that speaks to this. It says, you know, we generally avoid trying to do that, but we can't obviously make any sort of guarantee that it won't happen. Things could come up that require our attention for lack of a better word, that we have to go in and look at. So it's kind of a noncommittal answer. But the answer is probably not, but you never really know.

Julie Mason: Okay. So a follow up. Maybe I'm not understanding the chart. My understanding was those 17 blue plans in that slice are those that have not been audited in the last two years.

Greg McDonald: No. It may be that the little squares are too small on the legend. 17 -- the 8% is 2015 audits, and then the 37 is last year, 40 is what we're projecting this year, and then the 111 is what we haven't done yet.

Julie Mason: Oh, okay. Okay.

Greg McDonald: So it could just be the way the colors are. But, as I said, even for 2015, the number -- depending on how you really want to look at it, the number could be 22. We're just not counting those five because they're not around anymore.

Julie Mason: Okay.

Greg McDonald: As a separate parent org. But, really, as far as, you know, who's -- let's say, for instance, that we stayed in the same audit cycle next year, we didn't start a new one, which is kind of what one of the questions was getting at, most of the people that we're going to be looking at to audit would be in that 111 slide, not 17 slice. The 17 is the ones that were done two years ago. So hopefully -- I mean, like I said, it could just be that the color is not clear in the legend there, but hopefully that answers your question.

Julie Mason: It does. Thank you.

Greg McDonald: You're welcome.

Stacey Plizga: Okay. Thank you for your questions. And I would like to thank Greg for sharing the results of MOEG's 2016 program audits. Thank you.

Okay, if you would like to go ahead and evaluate this session, please select "A" on your phone or on your computer or tablet, follow the link. And in the interest of staying on time, we are going to take a short break, and we will return and begin promptly at 2:00 o'clock, with timeliness monitoring. So you get to stretch a little bit, but please be back by 2:00 p.m. Thank you.

[BREAK].

Stacey Plizga: Hey, welcome back from that break. We are going to go ahead and get started, as soon as everybody's ready. And hopefully our viewing audience has returned also. The Timeliness Monitoring Project allows key Medicare Advantage and prescription drug coverage and appeals data to evaluate timeliness of processing these requests and compliance with auto-forwarding cases to the independent review entity. Here to discuss how collection is currently being conducted and possible uses of the data is Jennifer Smith and Alice Lee-Martin.