

Medicaid Compliance for the Dental Professional
Presentation

Goals

At the conclusion of this presentation, participants will be able to:

- Explain how to document "medical necessity" for dental procedures
- List at least two ways in which a compliance program can benefit a dental practice
- Explain how elements of a compliance program can be implemented in a small or solo dental practice
- Recall where to report suspected issues of fraud, waste, and abuse

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Introduction



- Dentists are critical partners in the success of Medicaid and the Children's Health Insurance Program (CHIP)
- The Centers for Medicare & Medicaid Services (CMS) hopes to increase the percentage of enrolled children receiving preventive dental services from 42 to 52 percent by October 2015

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Scrutiny of Dental Management Companies

Dental Abuse Seen Driven by Private Equity Investments

By Robert F. Preibing, May 16, 2012 11:01 AM ET. Provided by Bloomberg.com



Isaac Gagnon stepped off the school bus sobbing last October and opened his mouth to show his mother where it hurt. She saw steel crowns on two of the 4-year-old's back teeth. A dentist's statement in his backpack showed he had received two pulpstones, or baby root canals, along with the crowns and 10 X-rays — all while he was at school. Isaac, who suffers from seizures from a brain injury in infancy, didn't need the work, according to his mother, Sibony Gagnon.

“I never gave them permission to drill into my son's mouth. They did it for profit.”

“I was absolutely horrified,” said Gagnon, of Camp Verde, Arizona. “I never gave them permission to drill into my son's mouth. They did it for profit.”

Isaac's case and others like it are under scrutiny by federal lawmakers and state regulators trying to determine whether a popular business model fueled by Wall Street money is soaking taxpayers and having a malign influence on dentistry.

Isaac's dentist was dispatched to his school by ReachOut Healthcare America, a dental management services company that's in the portfolio of Morgan Stanley Private Equity, operates in 22 states and has dealt with 1.6 million patients. Management companies are at the center of a U.S. Senate inquiry, and audits, investigations and civil actions in six states over allegations of unnecessary procedures, low-quality treatment and the unlicensed practice of dentistry.

Allegations like Gagnon's “are not representative” of the more than 500 cases handled by ReachOut affiliates in Isaac's school district, said Mickey Mandelbaum, a company spokesman.

Government Investigation of a Dental Management Company

A government investigation of one dental management company confirmed:

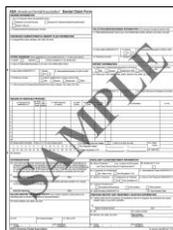
- Improper use of restraints
- Improper or inadequate anesthesia
- Unnecessary treatment



Improper Claims— Services Not Rendered

Some dentists have fabricated records and submitted bills for services or items not rendered, such as:

- Office visits
- Fillings
- Tooth re-implantations
- Bite adjustments
- Palatal expanders
- Nitrous oxide
- Intraoral X-rays



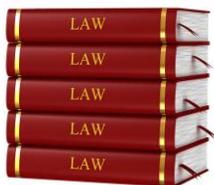
Improper Claims—Upcoding

Dentists should be careful not to upcode, or bill for more than they actually did. Common areas of upcoding include billing:

- Topical fluoride treatments as dental examinations
- Non-covered crown buildups as restorations
- Simple extractions as surgical extractions
- Preventive resin restorations as fillings
- Dental hygienist assessments as comprehensive oral evaluations

Laws Against Medicaid Fraud

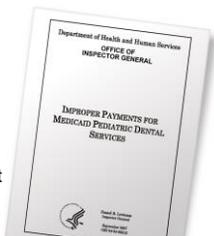
- False Claims Act
- Health Care Fraud Statute
- Anti-Kickback Statute
- Civil Monetary Penalties Law
- State laws



Dental Claim Issues—Office of the Inspector General

A report on pediatric dental claims in five States concluded:

- Thirty-one percent of services billed resulted in improper payments
- Eighty-nine percent of improper payments were due to insufficient documentation



Covered Services

In general, covered services include dental care at as early an age as necessary, needed for:

- Relief of pain and infections
- Restoration of teeth
- Maintenance of dental health



Billings for preventive and maintenance services should conform to periodicity schedules and individual caries risk assessments.

Billing for Non-Covered Services

Non-covered services typically include:

- Cleanings that are too frequent
- Routine periapical or anterior X-rays
- Panoramic X-rays on children under 3 years old



Billing Issues—Unbundling

In some States, Medicaid rules require that:

- Cleanings, X-rays, and examinations be billed as part of a single visit
- X-rays, oral/facial images, and pre-orthodontic visits be billed as part of a comprehensive orthodontic code

Medical Necessity

State Medicaid definitions vary. Many require that the treatment must be:

- Consistent with generally accepted standards of practice
- Reasonably necessary to prevent significant illness or disability or alleviate severe pain
- The least costly course of treatment that adequately addresses the problem



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Documenting Medical Necessity—Requirements

For documentation of medical necessity to be adequate, the tooth chart and treatment notes should include:

- A description of the conditions requiring treatment
- References to supporting diagnostic tests
- The diagnosis

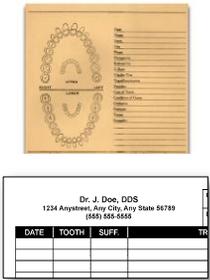


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Documenting Medical Necessity—Crowns and Pulpotomies

When crowns or pulpotomies are necessary on primary teeth, the tooth chart and treatment notes should show:

- The tooth was not already exfoliating
- The tooth was diseased as determined by tactile or X-ray examination
- The extent of the disease



Dr. J. Doe, DDS 1234 Anytown, Any City, Any State 56789 (888) 666-6666			
DATE	TOOTH	SUFF.	TR.

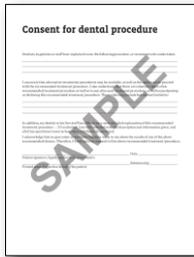
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Documenting Informed Consent

Documentation should include:

- Patient's name and date of birth
- Authority to consent (for children)
- Description of procedure, risks, and alternatives
- Opportunity to ask questions
- Signature of patient or authorized person and name of witness

http://www.aapd.org/media/Policy%20Guidelines/G_InformedConsent.pdf



Benefits of Having a Compliance Program

A compliance program can help a dental practice:

- Avoid problems with improperly coded or undocumented claims
- Address small problems before they become big problems
- Be better prepared for program integrity audits or investigations



Compliance Program Elements

The seven elements of a compliance program can be summarized as:

- 1 Conducting internal monitoring and auditing
- 2 Implementing written standards and procedures
- 3 Designating a compliance officer or contact(s)
- 4 Conducting appropriate training and education
- 5 Responding promptly to detected offenses and taking corrective action
- 6 Maintaining open lines of communication
- 7 Enforcing well-publicized disciplinary standards



Internal Monitoring and Auditing— Baseline Audit

To establish effective internal monitoring, a practice should first conduct a baseline audit that:

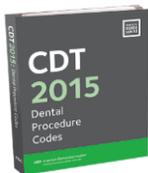
- Reviews a random sample of claims and associated dental records
- Checks for correct:
 - Coding
 - Billing
 - Documentation



Internal Monitoring and Auditing— After the Baseline

After the baseline audit is complete, a practice should:

- Monitor samples of claims and records on an ongoing basis
- Keep procedures up to date with changes in professional standards and government regulations
- Perform a self-audit of claims, records, and procedures at least once a year





Internal Monitoring and Auditing— Exclusions

- You may be liable for civil monetary penalties if you knowingly employ an excluded person to perform services paid for by Medicaid
- Check the List of Excluded Individuals/Entities at <http://exclusions.oig.hhs.gov/> on the U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) website





Written Standards and Procedures

The dental practice should have written standards and procedures that address:

- Correct coding and billing
- Medical necessity
- Proper documentation
- Improper inducements or kickbacks

Written standards and procedures should refer to Medicaid program requirements, State dental laws and regulations, professional standards, and Current Dental Terminology codes.



Designate Compliance Contacts

To ensure implementation of the compliance program, the practice may wish to assign:

- Overall responsibility for the compliance program to a compliance officer
- Responsibility for specific compliance tasks to different individuals





Appropriate Training and Education

Practices should require recurrent training on:

- The compliance program
- Applicable statutes and regulations
- Coding and billing
- Documentation
- Other risk areas



5 Prompt Responses and Corrective Action—Prompt Response

Upon receipt of a report of noncompliance, the practice's compliance contact should:

- Review relevant documentation
- Talk with persons who have knowledge
- Identify the standard that applies
- Make a preliminary determination of whether there has been a violation



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6 Prompt Responses and Corrective Action—Corrective Action

- Return any funds improperly paid
- Take internal corrective action
- Report to the State Medicaid agency (SMA) or other government agency, as appropriate



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7 Open Lines of Communication

Practices should maintain open lines of communication by:

- Publicly designating a specific compliance contact to receive complaints about compliance
- Requiring the designated contact to have an open door policy
- Making reporting of suspect behavior a duty for all employees
- Protecting employees from retaliation for reporting



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Disciplinary Standards

Disciplinary standards should be:

- Articulated in clear guidelines
- Discussed in training and staff meetings and posted in public places
- Enforced through timely and consistent disciplinary action



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Don't Just Stand There—Report it!

By reporting suspected fraud and abuse, dental professionals can help:

- Preserve a level playing field among competitors
- Protect the integrity of the Medicaid program
- Protect the health of their patients



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Where to Report Violations

Dental practices should report potential violations of the law or Medicaid rules to:

- The SMA
- The Medicaid Fraud Control Unit (MFCU)

Contact information for SMAs and MFCUs is available at http://www.cms.gov/medicare-medicaid-coordination/fraud-prevention/fraudabuseforconsumers/report_fraud_and_suspected_fraud.html on the CMS website.

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Where to Report Violations— Continued

- HHS-OIG
 - 1-800-HHS-TIPS
- <https://forms.oig.hhs.gov/hotlineoperations/complaint.aspx#english>



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31

Medicaid Program Integrity Agencies and Contractors

- CMS
 - Payment Error Rate Measurement (PERM) program
 - Medicaid Integrity Contractors (MICs)
- SMA
- Medicaid Recovery Audit Contractors (RACs)

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32

Program Integrity Audits— Preparation

Medicaid dental providers can prepare for audits by program integrity agencies or contractors by:

- Performing and documenting internal monitoring and auditing
- Having regular outside audits done by independent auditors
- Having an adequate audit response policy

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33

Program Integrity Audits— Response

In responding to a program integrity audit, practices should:

- Ask for information about the audit
- Provide relevant policy and procedure documents
- Provide requested billing and treatment records promptly
- Respond to proposed findings
- Take corrective action to address findings

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34

Improving Medicaid Dental Care

CMS' Oral Health Initiative plans to increase the percentage of children on Medicaid who receive preventive services.

Dental practices can help Medicaid achieve this goal by:

- Providing preventive services
- Informing families about transportation and appointment reminder services



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35

Medicaid Coverage of Oral Health Services

Oral health services include:

- Screenings and assessments done by unsupervised dental professionals or by medical providers
- Fillings and simple extractions done by mid-level dental professionals
- Dentists should let these providers know they are available to handle referrals that require treatment by a dentist



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36

Conclusion

A compliance program can protect your practice by:

- Ensuring that patients receive high-quality care
- Generating well-documented claims that will more likely be paid timely
- Having well-documented files in the event of an outside audit or investigation
- Resolving employee concerns before those concerns result in:
 - A complaint to a government agency
 - A whistleblower lawsuit



Questions



Please direct questions or requests to: MedicaidProviderEducation@cms.hhs.gov

To see the electronic version of this presentation and the other products included in the "Medicaid Compliance for the Dental Professional" Toolkit, visit the Medicaid Program Integrity Education page at <http://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the Centers for Medicare & Medicaid Services website.

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July 2015
