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Healthcare Monitoring and Auditing Processes: A Key Control for Improving and Ensuring Compliance

By: Louise Lindsey

To describe a healthcare compliance and ethics program in simple terms, it is an official plan or framework that defines organization's efforts to prevent, detect, respond to, and report violations of laws, government regulations, and ethical rules.

The idea of healthcare compliance programs and the federal regulations that have been enacted to manage them has been developing, changing, and expanding for quite some time. Congruent with that growth has been an ongoing effort to improve on the effectiveness of healthcare compliance programs for beneficiaries covered under federally funded programs such as Medicare and Medicaid, and to reduce the fraud, waste, and abuse that occurs every year from inaccurate or intentionally fraudulent billing, amounting to billions of dollars.

The constant changing of laws and regulations presents a challenge for post-acute long-term care facilities to keep pace, but added to that are the various state laws with which a facility must comply that may differ from federal laws, e.g., use of medical marijuana, and the demands of growing requirements from the Centers for Medicare & Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC) in response to the COVID-19 pandemic.

The primary government entity responsible for dealing with healthcare noncompliance is the Office of Inspector General (OIG) of the Department of Health and Human Services (HHS). The OIG has the authority to exclude providers from participating in federally funded healthcare programs and to impose civil monetary penalties.

One of the seven fundamental elements the OIG requires to be included in an effective compliance and ethics programs, and that OIG continuously emphasizes as key to an effective compliance and ethics program, is Element 5, Monitoring, Auditing, and Internal Reporting. While every element plays an important role, how a facility implements and

carries out its monitoring and auditing programs can help to ensure that healthcare providers avoid fraud, waste, and abuse liability. Likewise, failure to have effective auditing and monitoring plans that include reporting of findings and correction can result in increased violations, undetected kickbacks and/or false claims, evidence of deliberate unawareness of false claims, and may lead to the OIG requiring an organization to enter into a Corporate Integrity Agreement.

What is Monitoring and Auditing?

The OIG does not define the differences between monitoring and auditing, and that presents a challenge for compliance and ethics officers. Typically, monitoring looks at the area under scrutiny over a period of time, while auditing takes a snapshot view of the issue at a particular moment in time. From the OIG's perspective, monitoring and auditing activities provide in-depth reviews of a facility's compliance and ethics program from both inside and outside a facility's compliance department.

The objectives for an audit are to review the ongoing monitoring process and to make sure that the policies, procedures, and controls in place are adequate and followed. The success of the monitoring process is identified when the auditing process validates that there are fewer errors and risks.

Objectivity is the key component in a successful audit; consequently, the audit needs to be performed by a person who is independent of the process being audited. When corrective actions are revealed by an audit, there should be a report submitted to the appropriate individuals that makes specific recommendations for corrective actions.

External audits involve more formal reviews including the identification of risk areas, assessing internal controls, testing processes, validating information, and formally communicating recommendations and corrective actions for improving compliance program operations to management and the Governing Body. To ensure independence and objectivity, it may be advisable to use an external group or firm.

Monitoring, as a continuing process, is less structured than auditing and is focused on detecting compliance risk issues that are related to the organization's operations. It is usually done by a management team, e.g., the Compliance Department Staff, who work to ensure that internal policies and procedures are developed to comply with changes in regulations and applicable laws. This team is charged with taking the steps necessary to monitor and verify the organizations' compliance with such regulations and laws.

While monitoring is performed on a weekly or monthly basis, auditing may be done as a quarterly or annual function. However, deficiencies discovered during monitoring may indicate a need for additional internal auditing, either by the facility's Audit Department or by an external group.

One of the first steps involved in auditing and monitoring involves determining what standards and procedures apply to the different types of healthcare organizations. The OIG Work Plan can be a helpful tool for identifying areas of risk that the OIG is focusing on and determining if any of those risks are applicable to an organization like a post-acute long-term care facility.

Healthcare monitoring and auditing plans should be structured based on the unique aspects of the facility and on current operations, risks, and procedures. There are some standard monitoring and auditing tools that can help a facility be confident that its compliance and ethics program is operating properly. They are as follows:

- Risk assessments and evaluations
- Compliance work plans
- Sampling protocols
- Computer Assisted Audit Techniques (CAATS)
- Core policies and procedures
- Healthcare compliance audit templates
- Compliance training

The OIG has compiled a list of 19 important aspects for the monitoring, auditing, and internal reporting systems in Element No. 5. They are applicable for any organization and

were published with details on what to measure and how to measure and include similar information for the other six OIG elements. A publication titled *Measuring Compliance Program Effectiveness: A Resource Guide* may be viewed at: <https://oig.hhs.gov/compliance/compliance-resource-portal/files/HCCA-OIG-Resource-Guide.pdf>. Items addressed in this publication for Element 5 Monitoring, Auditing, and Internal Reporting Systems, include the following:

Element 5: Monitoring, Auditing, and Internal Reporting Systems

- Protect anonymity and confidentiality within legal and practical limits.
- Publicize the reporting system to all workforce members, vendors, and agents.
- Assure monitoring occurs for violations of laws and regulations.
- Conduct organizational risk assessments.
- Develop work plan based on risk assessment.
- Maintain reporting system(s) to enable employees to report any noncompliance (e.g., hotline).
- Respond to compliance concerns expressed by employees through internal reporting.
- Assure the existence of procedures for monitoring adherence to compliance policies and procedures.
- Conduct compliance audits.
- Analyze compliance audit results (e.g., track, trend, benchmark).
- Develop an annual compliance audit plan.
- Evaluate results of audits conducted by external entities.
- Monitor that retaliation for reporting compliance concerns has not occurred.
- Recognize need for attorney consultation in the auditing/monitoring process.
- Employ auditing methodologies that are objective and independent.
- Determine sampling methodology consistent with circumstances.
- Assure a timely response is made to reported compliance concerns.
- Monitor management's implementation of corrective action plans.
- Provide timely feedback to management on compliance concerns based on audit results.

According to the instructions within the OIG publication *Measuring Compliance Program Effectiveness: A Resource Guide* in which these ideas are presented, the purpose of the above list, as well as lists for the other six elements, is to provide healthcare organizations with as many ideas for auditing and monitoring as possible. Facilities using this guideline can choose what they would like to monitor and audit in any given time period. Topics selected should address the individual facility's hazard vulnerability risk assessment findings and other identified areas of concern, because each facility has its own compliance and ethics program and unique areas of focus in preventing and identifying issues of fraud, waste, and abuse.

New NAB/NCERS Approved Privacy Series Course Now Available

The Privacy Management for Post -Acute Healthcare Professional Series is designed to provide a policy focused framework for leaders in post-acute healthcare settings.

This series will help leaders to plan, implement and evaluate privacy practices consistent with laws, regulations and best practices. It is intended for administrators, directors, officers, clinical staff, employees, contractors, consultants and others working in the post-acute care setting.

The course consists of 4 modules. Each module includes a post-test. The program is approved for 2.25 CE's from NAB/NCERS. A combined minimum passing percent of 70% for all post-tests is required to earn the 2.25 CE's.

For full details please click on this link:

<https://mednetcompliance.com/store/product/nab-ncers-approved-privacy-series-course/>

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