

PHYSICIAN PRACTICES

POSSIBILITIES

*OIG Shows Its Cards; Releases Work Plan for 2010***OVERVIEW**

Each year, the Office of Inspector General (OIG) publishes a Work Plan detailing areas it will focus on when performing audits and investigations. This article highlights several areas identified by the OIG that are of special interest to physicians.

Each year, the Office of Inspector General (OIG) publishes a Work Plan detailing areas it will focus on when performing audits and investigations. This annual Work Plan provides an advance look where the OIG relates their planned activities for the current work year, beginning October 1. This is an ideal opportunity for health care organizations to review their own practices to determine if they are at risk for investigation or audit by the OIG.

For physicians, the OIG indicated they will review Place of Service reported on billing claims. Medicare Part B payments are generally higher for services performed in a physician's office. The OIG will review claims to determine if physicians properly coded the places of service on claims for services provided in ambulatory surgical centers and hospital outpatient departments.

Another area specific to physicians is the use of modifier GY on claims for services that are not covered by Medicare. When physicians provide services to Medicare beneficiaries that are statutorily excluded for payment by Medicare, providers are not required to provide patients with an Advance Beneficiary Notice, but simply attach modifier GY to the service on the claim form. OIG is concerned beneficiaries may unknowingly be acquiring large medical bills which they must personally pay due to inappropriate use of modifier GY. The OIG will be reviewing claims to identify patterns and trends regarding the use of modifier GY and the providers compliance with obtaining Advance Beneficiary Notices from the patient.

An additional area of review significant to physicians reflects OIG concerns regarding

compliance with assignment rules. Physicians participating in Medicare agree to accept the direct Medicare-allowed payment as payment in full for provided services. OIG is concerned Medicare beneficiaries are unaware of their rights regarding assignment and that they are being inappropriately billed for charges beyond the Medicare-allowed amount. The OIG will assess beneficiaries' awareness of their rights regarding potential billing violations by providers.

Several other areas of interest to physicians are mentioned in the Work Plan: OIG will review physician billing for Medicare hospice beneficiaries to identify whether physicians have double-billed hospice services to Part A and Part B; OIG will assess the extent of and remedy for erroneous Medicare incentive payments made for electronic prescribing activities; and OIG will determine whether industry practices related to the number of E&M services provided during global surgical periods have changed significantly since global periods were introduced in 1992.

In total, OIG has identified 22 areas for review in its 2010 Work Plan that pertain to physicians. A comprehensive index introduces all of the planned activities in the Work Plan. The areas identified in the Work Plan for 2010 provide a unique opportunity to know what regulators are going to do before they do it. Don't gamble with the OIG—take advantage of this opportunity to assess your organization's risk for investigation and audit by reviewing the full text of the OIG Work Plan at: http://oig.hhs.gov/publications/docs/workplan/2010/Work_Plan_FY_2010.pdf. ■



David Manning, CPA, CMPE
Senior Associate
Eide Bailly LLP

inside

2 *Preparing for RAC***3** *Roth IRA—
Conversion
Opportunities
Unfold for 2010***4** *End of the Year
Tax Planning*

OVERVIEW

In our last issue, *Possibilities* provided facts on the Recovery Audit Contractor program. This article reviews policies and procedures to help you proactively prepare for a RAC audit.

RAC CONTACT INFORMATION

Region A: Diversified Collection Services, Inc. of Livermore, CA (866) 201-0580
www.dcsrac.com
CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT

Region B: CGI Technologies and Solutions, Inc. of Fairfax, VA (877) 316-7222
www.racb.cgi.com
IL, IN, KY, MI, MN, OH, WI

Region C: Connolly Consulting Associates, Inc. of Wilton, CT (866) 360-2507
www.connollyhealthcare.com/RAC
AL, AR, CO, FL, GA, LA, MS, NM, NC, OK, SC, TN, TX, VA, WV, Puerto Rico and U.S. Virgin Islands

Region D: HealthDataInsights, Inc. of Las Vegas, NV (866) 376-2319
www.racinfo.healthdatainsights.com
AK, AZ, CA, HI, ID, IA, KS, MO, MT, NE, NV, ND, OR, SD, UT, WA, WY

Preparing for RAC

In order to mitigate the financial risks associated with a Recovery Audit Contractor (RAC) audit, physician practices should be proactive in developing policies and procedures to address both the audit process and an internal educational and accountability program. Such policies and procedures should be built on a best practices environment and should continually evolve.

Set Up a RAC Steering Committee

A core team should be formed, minimally consisting of the practice's medical director, practice administrator, patient financial services director and medical records director. The committee's initial focus should be on establishing key goals such as:

- Develop and maintain a process for sharing regulatory information.
- Develop and maintain educational systems to ensure the appropriate staff stay current on guidelines for coding and reimbursement policies.
- Develop and enforce reporting and accountability processes.
- Assume responsibility for data integrity for all recovery reviews and audits, no matter the payer.
- Hold regular meetings to share review and audit findings.

Get and Stay Informed

There is a wealth of information available for practices to learn about RAC and to help you stay informed. First, find out which of the four established jurisdictions your state has been assigned and monitor your RAC's website for updates. The Steering Committee should frequently review the RAC website to determine if CMS has approved any issues for review that may involve claims from physician practices and to stay up-to-date on the Provider Outreach schedule. See sidebar for information on each region, including the RACs' contact information.

In addition, the Steering Committee should sign up for e-mail notifications from their national and specialty associations.

Design a RAC Response Workflow

Most health care providers respond to their first RAC audit requests with a reactive and fragmented approach. There are several key

questions that should be answered in order to develop a response workflow document:

- Who will be the practice's primary point of contact?
- Who will be responsible for tracking all correspondence and the status of each case being audited?
- How will each appropriate department be notified and specific requests be addressed?
- What internal verification processes should be in place?
- What level of financial thresholds should be established to trigger an appeal process?
- What outside advisors should be included in the response process?
- Are there sufficient internal staff to address the RAC audit process? If not, what other resources are available to the practice?

Build a Best Practice Approach

The Best Practice Approach identifies the vulnerabilities and inefficiencies of the current system and develops policies and procedures which will help prevent poor documentation and inappropriate billing practices. The first step a practice should conduct is an initial operations assessment and data analysis. An evaluation should be conducted for accuracy and compliance to coding guidelines, payer regulations (especially Medicare) and chart documentation.

After this initial assessment and the identification of risk areas, the practice should develop a formal education and accountability program. This program should delve deeply into the potential problem areas, educating both the physicians and staff.

There certainly is no better or harder way to learn than from experience. Establishing the above processes will help make that learning experience much less problematic. ■



Jacqueline Bruns, CPA
Senior Manager
Eide Bailly LLP

■ Roth IRA

Conversion Opportunities Unfold for 2010

The Taxpayer Relief Act of 1997 added Code Section 408A which created a new type of Individual Retirement Account, known as Roth IRAs. The basic premise of the Roth IRA is that there is no tax deduction for contributions going in, and no income tax due on money coming out, as long as qualified conditions are met, which include:

- The Roth IRA has been in existence for five years, and
- Distribution occurs after the account holder attains age 59 ½, or after death or disability of the individual, or for a first time homebuyer (\$10,000 limit).

However, many high-income Americans have been denied the ability to establish or fund a Roth IRA due to several long-standing rules. Current law prevents married couples with Adjusted Gross Income (AGI) above \$176,000 from contributing to a Roth IRA. In addition, only taxpayers whose modified AGI of \$100,000 or less may convert amounts in a traditional IRA to a Roth IRA.

A new tax law provision regarding Roth IRA conversions becomes available in tax years after 2009. Americans will be able to qualify and consider a Roth IRA conversion regardless of their income level, as the modified AGI limit on conversions is eliminated. An additional wrinkle involves Roth IRA conversions made in 2010; the taxpayer can choose to be taxed on the entire conversion in 2010, or may defer the taxability of the conversion equally between 2011 and 2012. The decision to tax a conversion will require careful considerations; as we watch tax legislation unfold, that will likely impact changes to individual income tax rates.

Although it is obvious that a Roth IRA is a solid choice for a taxpayer who expects to be in a higher tax bracket in their retirement years, the greatest benefit of a Roth IRA may be in transferring wealth to heirs. A Roth IRA is not subject to Required Minimum Distributions at age 70 ½, which can become an appealing vehicle to accumulate assets on a tax-free basis for the owner's lifetime and surviving spouse. In turn, the income tax-free nature of the Roth can be preserved for one more beneficiary

generation's lifetime (i.e., child or grandchild), as the only distribution requirement for them is to take distributions based upon their life expectancy. This can stretch the Roth's tax-free duration for decades.

There are a variety of other scenarios where a Roth IRA can be advantageous. Taxpayers with large estates can reduce their estate tax exposure by incurring the income tax consequence from a conversion; paying the income tax from a conversion is akin to adding extra value to your retirement plan account. Investment accumulations in a tax-free Roth environment can exceed the accumulation value of an IRA with time, even after incurring the income tax from the conversion.

Although the law change provides significant opportunity, one must emphasize the importance of doing sound financial planning in thinking through the possibilities. Many providers have software tools that can make planning calculations for these retirement plan considerations or conversions, and provide a sound resource for your planning needs. ■

OVERVIEW

The next year could be a pivotal one for retirement planning, as it will be the first year in which taxpayers will be able to convert funds in regular IRAs (as well as qualified plan funds) to Roth IRAs regardless of income level. This article reviews changes for 2010.



Ken Wolff, CPA
Partner
Eide Bailly LLP



POSSIBILITIES is produced and published by Eide Bailly and distributed with the understanding that the information contained does not constitute legal, accounting or other professional advice. It is not intended to be responsive to any individual situation or concerns as the contents of the publication are intended for general informational purposes only. Readers are urged not to act upon the information contained in this publication without first consulting competent legal, accounting or other professional advice regarding implications of a particular factual situation. Questions and information for publication can be submitted to your Eide Bailly representative or to the editors of the newsletter. Copyright 2009

To view this and previous issues of **POSSIBILITIES**, visit www.eidebailly.com/publications

Managing Editor: Liz Stabenow
Assistant Editor: Lisa Dahlen
Send comments to:
possibilities@eidebailly.com

An Independent Member Firm
of HLB International



4310 17th Ave S
PO Box 2545
Fargo ND 58108-2545

RETURN SERVICE REQUESTED

End of the Year Tax Planning

With 2009 coming to an end, one thing on many taxpayers' minds is last-minute tax planning. One favorite tax planning option for many business owners is the use of Section 179, which is the election to expense certain depreciable assets. The current rules for 2009 are very generous for the expensing of depreciable assets, but this, like many beneficial tax rules for businesses, is set to drastically decline or go away after 2010.

However, for 2009 a business can write-off the cost of equipment or other qualifying property up to \$250,000 as long as they do not purchase more than \$800,000 of qualifying property. Many businesses will use this incentive to purchase equipment this year rather than the near future if they know there is equipment they will be purchasing in the next few years. Make sure to check with your business advisor before trying this, as there are some income limitations that need to be considered.

If you can't take advantage of Section 179 due to income limits or the cap on qualifying property, bonus depreciation may be right for you. For 2009, 50 percent of the cost of qualifying property can be written-off in the year of purchase. The remaining cost is depreciated over the depreciable life of the asset.

Setting up a deferred compensation plan before the end of the year can not only help reduce current year taxes, but also help save

for the future. These plans can allow some income for 2009 to be taxed in a later year, up to \$49,000 of income for someone under the age of 50, or up to \$54,500 for someone age 50 and older. If you are not currently taking advantage of a Simplified Employee Pension plan (SEP), 401(k) or other deferred compensation plan, speak to your business advisor to find out how this may benefit you. Another advantage of many of these plans is creditor protection, depending upon your state of residence.

With long-term capital gains rates at only 15 percent, this may be the time to sell stocks and take advantage of this low tax rate that will soon be increased. The coming year may also be one of those rare cases where paying taxes now is better than deferring, as tax rates are scheduled to return to higher rates in 2011.

If you have not already met with your tax advisor to make sure that you are taking advantage of all of the latest tax planning options, make your appointment today. It is not too late to take advantage for 2009. ■



Clay Wilber, CPA
Manager
Eide Bailly LLP