



Medicaid Compliance for Dental Providers

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Chief Dental Officer

Centers for Medicare & Medicaid Services

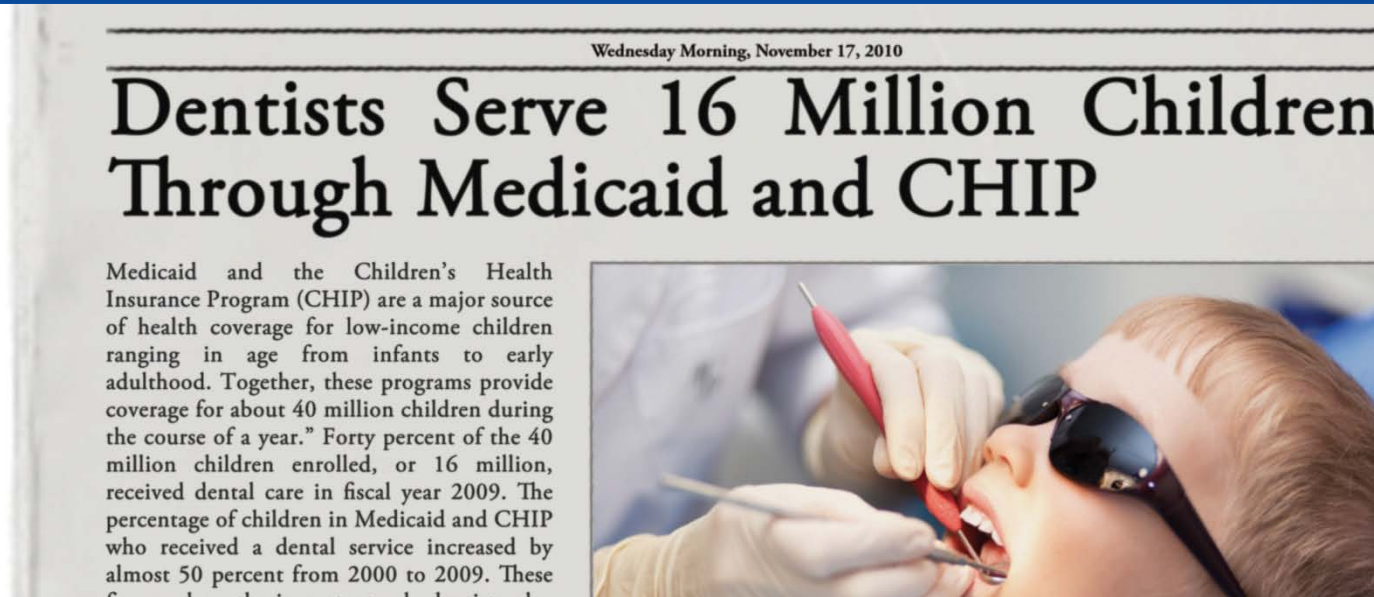
August 19, 2013

NAMPI 2013 Annual Conference

CMS Mission

- CMS aims to be a major force and a trustworthy partner for the improvement of health and health care for all Americans
- The Center for Medicaid and CHIP Services (CMCS) carries this mission forward with a particular emphasis on making Medicaid and CHIP the best programs they can be
- Beneficiaries are our focus
- Partnerships are critical to success

Introduction



- Dentists are critical partners in the success of Medicaid and the Children's Health Insurance Program (CHIP)
- Dentists have helped increase the number of children receiving dental services through these programs by 50 percent from 2000 to 2009

Media Scrutiny

Dental Abuse Seen Driven by Private Equity Investments - Bloomberg - Windows Internet Explorer

http://www.bloomberg.com/news/2012-05-17/dental-abuse-seen-driven-by-private-equity

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By Sydney P. Freedberg - May 17, 2012 12:01 AM ET

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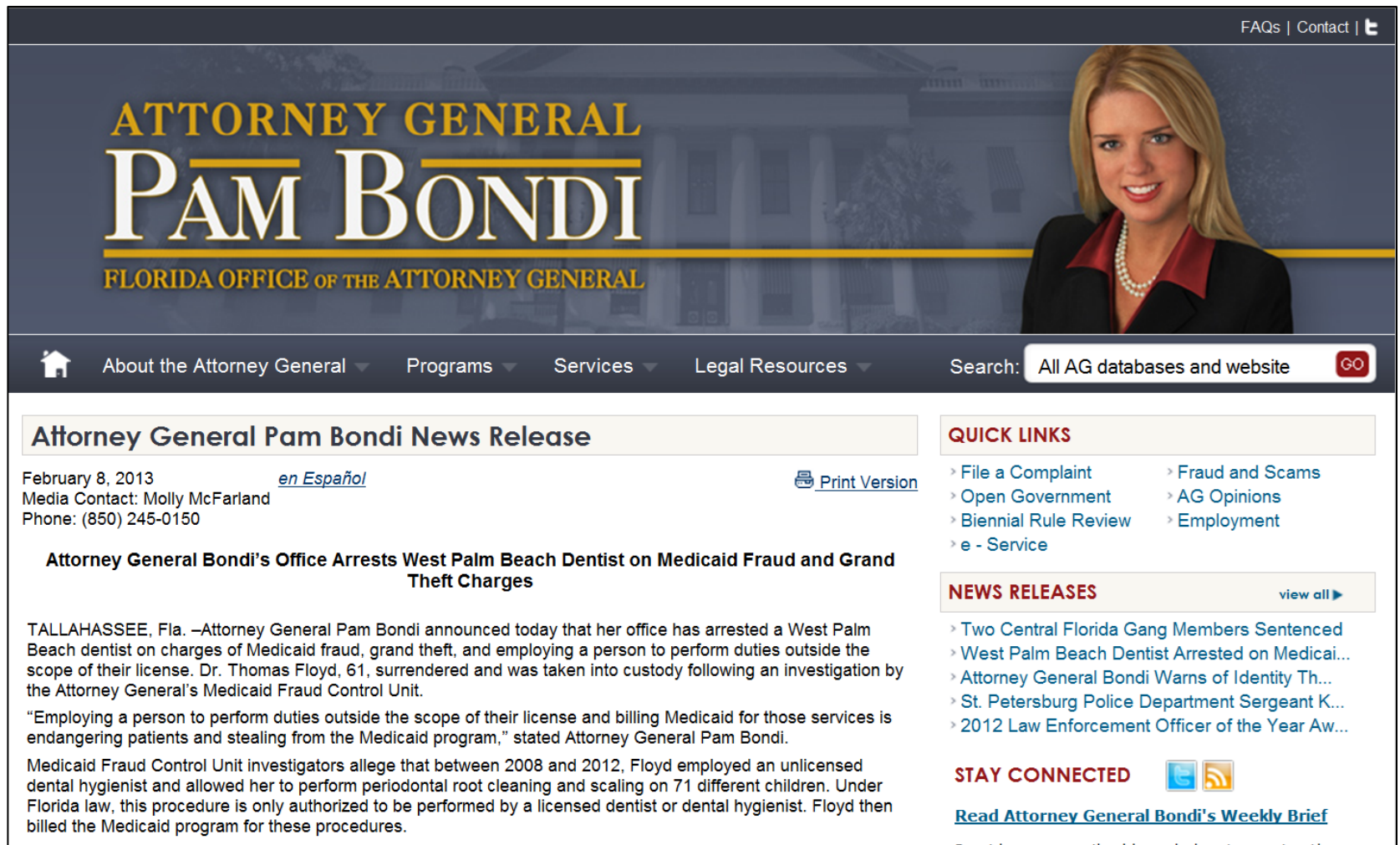
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Attorney General Pam Bondi News Release

February 8, 2013 [en Español](#)  [Print Version](#)

Media Contact: Molly McFarland
Phone: (850) 245-0150

Attorney General Bondi's Office Arrests West Palm Beach Dentist on Medicaid Fraud and Grand Theft Charges

TALLAHASSEE, Fla. –Attorney General Pam Bondi announced today that her office has arrested a West Palm Beach dentist on charges of Medicaid fraud, grand theft, and employing a person to perform duties outside the scope of their license. Dr. Thomas Floyd, 61, surrendered and was taken into custody following an investigation by the Attorney General's Medicaid Fraud Control Unit.

"Employing a person to perform duties outside the scope of their license and billing Medicaid for those services is endangering patients and stealing from the Medicaid program," stated Attorney General Pam Bondi.

Medicaid Fraud Control Unit investigators allege that between 2008 and 2012, Floyd employed an unlicensed dental hygienist and allowed her to perform periodontal root cleaning and scaling on 71 different children. Under Florida law, this procedure is only authorized to be performed by a licensed dentist or dental hygienist. Floyd then billed the Medicaid program for these procedures.



QUICK LINKS

- › File a Complaint
- › Open Government
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- › West Palm Beach Dentist Arrested on Medicaid Fraud
- › Attorney General Bondi Warns of Identity Theft
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New York

Dentist smeared in Spitzer Medicaid fraud witchhunt wins \$7.7 million from former governor's staff

Dr. Leonard Morse was pursued by Elliot Spitzer because Morse was one of the top Medicaid billers in the state, his suit claimed. The dentist ended up losing his practice and credibility in the field, and the verdict garnered \$1.6 million more than expected.

Comments (7)

BY JOHN MARZULLI AND CORKY SIEMASZKO / NEW YORK DAILY NEWS

TUESDAY, FEBRUARY 12, 2013, 9:30 PM

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

- Be familiar with the need for documentation related to dental procedures in Medicaid
- List at least two ways in which a compliance program can benefit a dental practice
- Identify the seven elements of a compliance program and how each element can be applied to a dental practice
- Recall where to report suspected issues of fraud, waste, and abuse

U.S. Department of Health & Human Services, Office of Inspector General–2013

- Study of dental claims in five states
- Reports:
 - Billing practices
 - Access to care

Medical Necessity

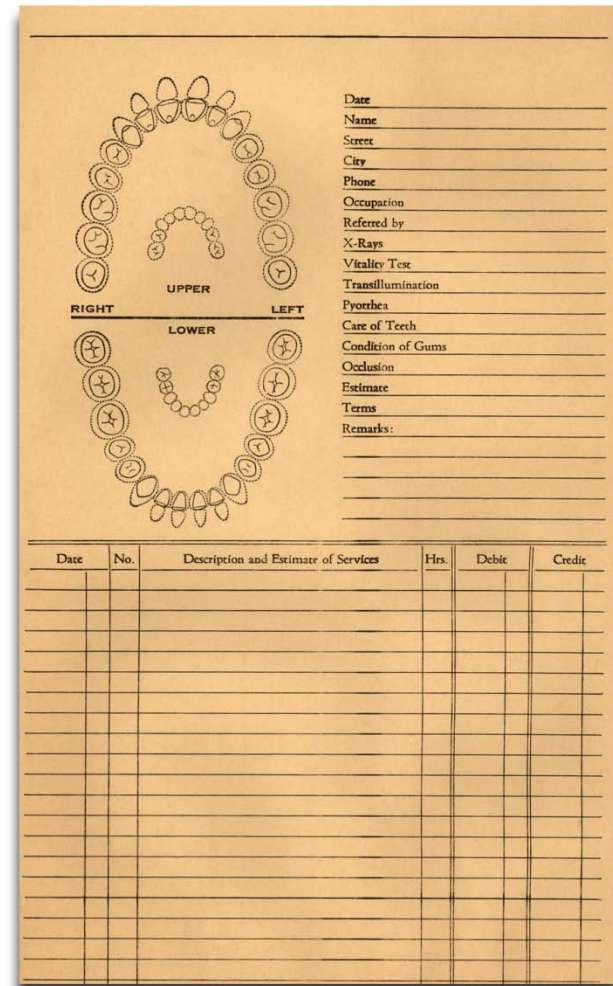
Under the mandatory Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit, children in Medicaid are entitled to “dental care, at as early an age as necessary, needed for relief of pain and infections, restoration of teeth and maintenance of dental health.”*

*Code of Federal Regulations, 42 C.F.R. § 441.56(c)(2)

Documenting Medical Necessity

Adequate documentation of medical necessity can help avoid questions about:

- Multiple treatments on the same tooth
- Treatment more expansive than the treatment plan



The form includes a dental chart with two diagrams: 'UPPER' and 'LOWER'. The 'UPPER' diagram shows a semi-circle of teeth with 'RIGHT' on the left side and 'LEFT' on the right side. The 'LOWER' diagram shows a semi-circle of teeth with 'RIGHT' on the right side and 'LEFT' on the left side. To the right of the charts are the following fields:

Date
Name
Street
City
Phone
Occupation
Referred by
X-Rays
Vitality Tests
Transillumination
Pyorrhea
Care of Teeth
Condition of Gums
Occlusion
Estimate
Terms
Remarks:

Date	No.	Description and Estimate of Services	Hrs.	Debit	Credit

Why Is Having a Compliance Program Important?

“All health care providers have a duty to ensure that the claims submitted to Federal health care programs are true and accurate.”*

*U.S. Department of Health & Human Services, Office of Inspector General

Benefits of a Compliance Program

Benefits of an effective compliance program include:

- Ensuring true and accurate claims are submitted
- Identifying and correcting issues before they become big problems
- Placing a dental practice in a better position to respond to oversight agencies

Compliance Program Goals

Goals of a compliance program include:

- Providing high quality, medically-necessary services
- Adequately documenting dental services
- Appropriately billing for services rendered



Compliance Program Elements

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



Written policies



Designation of compliance officer/contact(s)



Training



Communication



Monitoring



Enforcing disciplinary standards



Responding promptly



Written Policies

The written policies of a dental practice should refer to:

- Medicaid program requirements
- State dental laws and regulations
- Current Dental Terminology codes



Written Policies—False Claims

Any entity receiving or making payments of \$5 million or more annually under the State Medicaid program must have written policies that provide detailed information on:

- The False Claims Act
- Administrative remedies for false claims
- State laws pertaining to false claims
- Detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse
- Whistleblower protections

This information must be included in any existing employee handbook.



Designate a Compliance Officer or Contacts

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

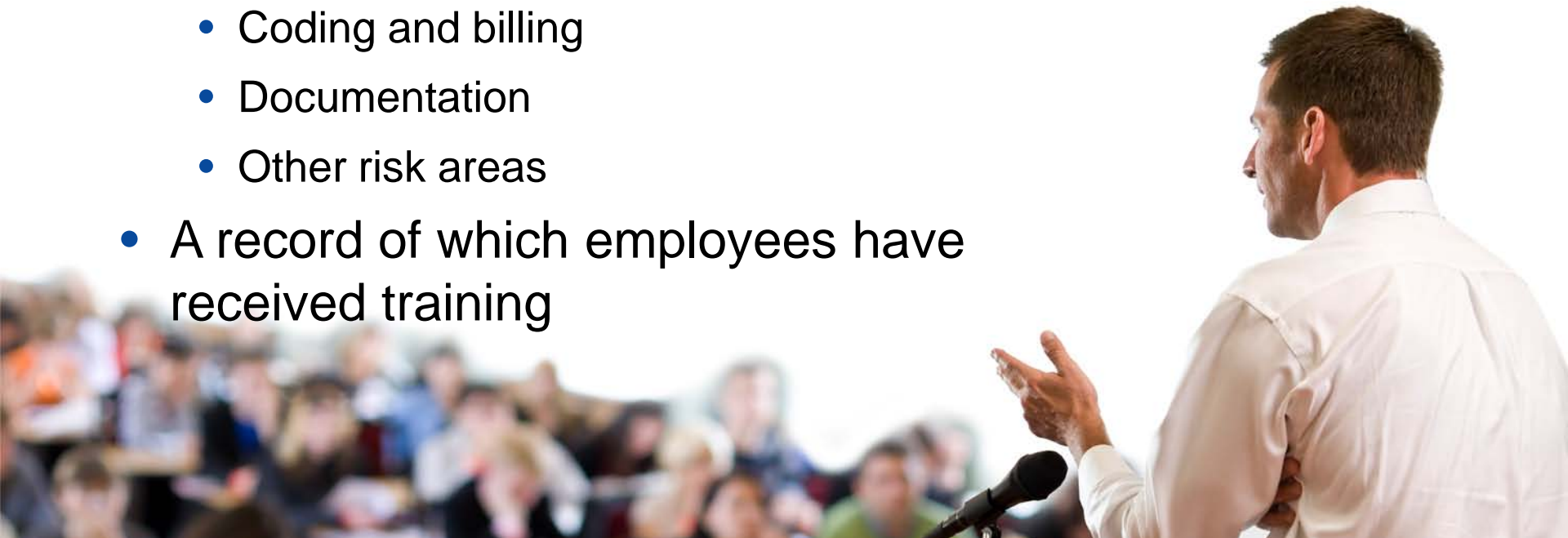
- Overall responsibility for the compliance program to a compliance officer
- Responsibility for specific compliance tasks to different individuals





An effective compliance program should require:

- Recurrent training on:
 - The compliance program
 - Applicable statutes and regulations
 - Coding and billing
 - Documentation
 - Other risk areas
- A record of which employees have received training





Why Are Open Lines of Communication Important?

Internal reporting from employees lets the dentist:

- Find out about the problem
- Correct the problem before the practice is at risk





What Methods Can Be Used for Effective Communication?

Encourage internal reporting of compliance issues by:

- Having an open door policy
- Having a mechanism for anonymous reporting
- Discussing compliance issues in staff meetings

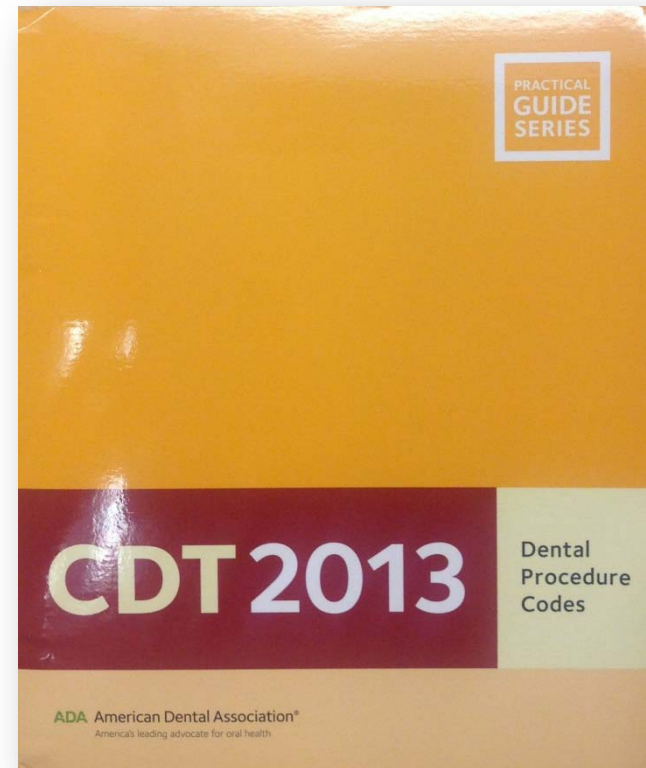




Conducting Internal Monitoring and Auditing

An effective compliance program can monitor for changes in:

- Government regulations
- Professional standards
- Billing codes





Monitoring for Licensure

Monitor to ensure licenses or certificates are:

- Current for persons performing specified services
- Displayed as required by State law



Monitoring for Exclusions

Screening for exclusions is important because:

- Excluded employees cannot participate in Federal healthcare programs
- Federal healthcare programs cannot pay for any items or services that are furnished, ordered, or prescribed by an excluded individual

“Furnished” includes items or services provided or supplied, directly or indirectly.



How to Monitor for Exclusions

Ensure you do not employ excluded individuals.

Check the List of Excluded Individuals/Entities at <http://exclusions.oig.hhs.gov/> on the U.S.

Department of Health & Human Services, Office of Inspector General (HHS-OIG) website.



Monitoring for Medical Necessity and Informed Consent

Two fundamental issues to monitor are:

- Failure to document medical necessity of services rendered
- Failure to document informed consent

Dental Consent Form

Dental Service Provider

P A T I E N T	Last Name Given Name		P R O V I D E R	Unique Number	Specialty	I hereby assign my benefits payable from this claim to the named provider and authorize payment directly to him/her.																																			
	Address																																								
	City State Zip					Signature of member																																			
	Patient I.D. Number			Duplicate Form		I understand that the fees listed in this claim may not be covered or may exceed my plan benefits. I understand that I am financially liable to the provider for the entire treatment. I authorize release of information contained in this claim.																																			
Provider Use Only - For additional information, diagnosis, procedures, or special consideration. Referred By: _____ Was this emergency treatment? <input type="checkbox"/> No <input type="checkbox"/> Yes - provide additional information						Patient Signature OFFICE VERIFICATION																																			
Attachments: <input type="checkbox"/> Radiographs (lg/sm) <input type="checkbox"/> Models <input type="checkbox"/> Photographs Date of Service (YR/MM/D) Procedure Code Tooth Code Tooth Surfaces Professional Fee Laboratory Charge																																									
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Member Information Surname Given Name Address Telephone Number						Member's Signature: I hereby declare this claim is for a legitimate dependent and the information is the best of my knowledge. Signature: _____																																			
Patient Information Patient DOB: Relationship to Patient: Was treatment the result of an accident? <input type="checkbox"/> Yes <input type="checkbox"/> No Address: Name of Insured: Do you have any other coverage? <input type="checkbox"/> Yes <input type="checkbox"/> No Place of Employment: Policy ID Number: Member Signature: _____																																									



Monitoring Other Risk Areas

Some other risk areas a dental practice could monitor may include:

- Unnecessary pulpotomies
- Too many or too few X-rays
- Inappropriate use of protective stabilization devices

This is not an exhaustive or comprehensive list.



Monitoring—Issues in Recent Cases

Review issues identified in recent settlements and prosecutions. Some examples are:

- Unnecessary services
 - FORBA
- Upcoding
 - Children's Dental Group
- Patient Recruiting
 - Brooklyn dentist



Monitoring—Other Recent Cases

Additional issues detected in recent cases include:

- Services not rendered
 - Heartland Dental
 - James Crow
- Unbundling
 - Baker Victory Health Services Dental Center
- Lack of documentation
 - All Smiles Dental Center



Enforcing Disciplinary Standards

Disciplinary standards should be enforced through:

- Simple and available disciplinary guidelines
- Timely and consistent disciplinary action

There should be an expectation that compliance concerns will be reported.





Prompt Responses and Corrective Action

- Examine the issue
- Collect relevant documentation
- Identify the standard that applies





Prompt Responses and Corrective Action

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



Program Integrity Landscape— Federal Agencies

- Centers for Medicare & Medicaid Services (CMS)
 - Payment Error Rate Measurement (PERM) program
 - Medicaid Integrity Contractors (MICs)
- HHS-OIG
- Federal Bureau of Investigation (FBI)
- Federal prosecutors' offices

Program Integrity Landscape— State Agencies

- SMAs
- Medicaid Recovery Audit Contractors (RACs)
- Medicaid Fraud Control Units (MFCUs)
- State prosecutors' offices



Reporting

Report suspect practices by other providers to:

- SMA
- MFCU
 - Contact information for SMAs and Medicaid Fraud Control Units is available at <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/downloads//smafraudcontacts.pdf> on the CMS website
- HHS-OIG
 - 1-800-HHS-TIPS



A compliance program can protect your practice by:

- Ensuring that patients receive high quality care
- Finding and correcting problems before the government does
- Having well-documented files in the event of a government investigation
- Resolving employee concerns before those concerns result in:
 - A complaint to a government agency
 - A whistleblower lawsuit

Questions



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August 2013

For More Information

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