PSR's Medicare Compliance Review Findings

Reading time:
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The Professional Services Review 2019-20 Annual Report reiterated the seriousness of any healthcare practitioner being referred to the authority for their Medicare billing. Of the 96 cases reviewed and completed by the PSR during the year, every case revealed some form of non-compliance with Medicare Benefits Schedule (MBS) item numbers or Pharmaceutical Benefits Scheme (PBS).

The PSR ordered repayments of over $21M the highest of which was $1.4M. Over 50% of repayments were in excess of $200,000 and the smallest repayment was $10,000.

There were 126 cases (a 45% increase) referred to the PSR by Medicare (the yearly average in the last five years was 87 cases) and a further 155 cases are still under consideration. Medicare monitoring and reporting has become increasingly sophisticated and refinement in computer algorithms to monitor and compare the claiming profiles of health professionals has led to identifying inconsistencies that may be mistakes or fraud.

In MIPS' experience the PSR remains a powerful institution that can severely restrict your ability to practice. Ideally, you should be notifying MIPS before a matter is escalated to the PSR. Early intervention and paying back amounts where there have been errors is favourable to any restriction to practise or bill through Medicare.

The PSR safeguards the integrity of Medicare and the Pharmaceutical Benefits Scheme and is chiefly concerned with inappropriate billing practices. Additionally, there is a focus on patient safety. In addition to repayment orders or other actions, the PSR referred 14 practitioners to a regulatory body for possible patient safety concerns and 20 were referred for concerns over major non-compliance with professional standards. Of the 96 cases resolved in the year, there were only five cases where the PSR decided to take no further action.

The chief means by which the PSR resolves inappropriate billing is by 'negotiated agreement'. An agreement generally states the amount of money to be repaid and may include a partial amount, a total amount and even disqualification from participating in the MBS and PBS. In 2019-20 the PSR partially disqualified 59 practitioners and made full disqualifications of two practitioners.

MIPS can assist with legal advice and legal representation in many cases. No insurance policy can cover fraud, as this is criminal. MIPS' Indemnity Insurance Policy does not cover repayments to Medicare, which are your responsibility.

Lessons for members

Whenever your provider number is used, you are responsible, so do not allow others to use your number inappropriately. Be mindful of:

- If your provider number is used incorrectly, you are still personally responsible and liable thus could be ordered to make repayments.
- Ensure you are aware and approve of how your practice or hospital use your provider number.
- In all cases, items or services claimed to Medicare must:
- not be an excluded service

- have been medically necessary
- show evidence in the notes of sufficient medical input
- demonstrate notes that are contemporaneous and adequate
- show evidence of notes and demonstrate that the conditions of the item number were met.

When billing through the MBS, be mindful not to:

- **Over-service**. For example, the 80/20 rule - you may have practised inappropriately if you rendered 80 or more professional attendances on each of 20 or more days in a 12-month period. Nowadays, sophisticated computer reporting means patterns can be detected and while this simple rule may hold true, Medicare can look for many other things.
- **Bill incorrectly**. For example, wrong item number, descriptor not met, no Medicare benefit.
- **Note an inadequate history**.
- **Fail to address the medical problem**.
- Provide treatment unacceptable to your peers.

If a practitioner is billing beyond the norm, then it is likely that he/she will come to the attention of the PSR at some stage.

In MIPS' experience members with Medicare issues generally fall into four groups:

1. Specialist interest groups
2. Genuinely unaware of transgression
3. Healthcare practitioners 'working the system'
4. Fraudulent

Notify MIPS immediately if contacted by Medicare. Their compliance checks are common and increasing. MIPS can assist you to explain your practice and method of claiming.

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