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IN THIS ISSUE

Many State Medicaid Agencies Require Providers to Perform Monthly Exclusion Checks

Accrediation of Advanced Diagnostice Imaging Suppliers Must be Completed by January 1, 2012

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Many State Medicaid Agencies Require Providers to Perform Monthly Exclusion Checks

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Many State Medicaid Agencies are now requiring enrolled providers to perform monthly exclusion checks to determine if their employees or contractors are excluded from receiving payments from federal health care programs.

In an effort to strengthen the integrity of the Medicaid program and help States reduce improper payments to providers and suppliers, effective March 25, 2011, CMS implemented final regulations [PDF] that require State Medicaid Agencies to screen all providers, suppliers, and persons with ownership and/or controlling interests, by checking the Office of Inspector General List of Excluded Individuals and Entities (Exclusion List) and the General Services Administration's Excluded Parties List System (EPLS). This screening is required upon initial enrollment and monthly thereafter for as long as that provider is enrolled in the Medicaid program. In the preamble discussion, CMS recommends that States "consider making this a requirement for all providers and contractors, including managed care contractors in their Medicaid programs and CHIP." According to CMS, many State agencies already made it their policy to require enrolled providers to do monthly exclusion checks based on prior CMS guidance.

Since implementing program safeguard policies for Medicare-enrolled providers and suppliers, CMS has recommended that State Medicaid Agencies perform monthly exclusion checks to verify whether an individual or entity is excluded and therefore should not be receiving payment. On June 12, 2008, CMS issued Medicaid Director Letter #08-003 [PDF], recommending that States search either the OIG's Exclusion List or the Medicare Exclusion Database (MED) upon enrolling a provider and on a monthly basis thereafter. Six months later, on January 16,

2009, CMS issued State Medicaid Director Letter #09-001 [PDF], notifying States of their obligation to direct providers to search the OIG's Exclusion List and all State exclusion databases on a monthly basis for the names of the providers' employees and contractors, and to immediately report any exclusion information discovered. In an August 2010 publication by CMS's Medicaid Integrity Group, entitled "Best Practices for Medicaid Program Integrity Units' Collection of Disclosures in Provider Enrollment [PDF]," State Medicaid Agencies were reminded of their obligation to perform exclusion checks on a monthly basis and to notify providers to do the same. Now, in its final regulations, CMS requires that State Medicaid Agencies perform monthly exclusion checks.

Ober|Kaler's Comments

In order to avoid making improper payments to excluded providers or suppliers, or to enrolled entities that billed for services provided by excluded individuals, many states are taking CMS's recommendation and are requiring providers and suppliers to conduct their own monthly exclusion checks. Providers and suppliers need to closely monitor State Medicaid policies. Should a state decide to impose monthly exclusion checks as a condition of participation, implementing procedures will need to be adopted quickly. Consequences of employing, contracting with, or accepting orders or referrals from excluded individuals or entities include: overpayment demands and recoupment, civil money penalties of up to three times the claims amount, and program exclusion or termination from all federal health care programs, including Medicaid.