



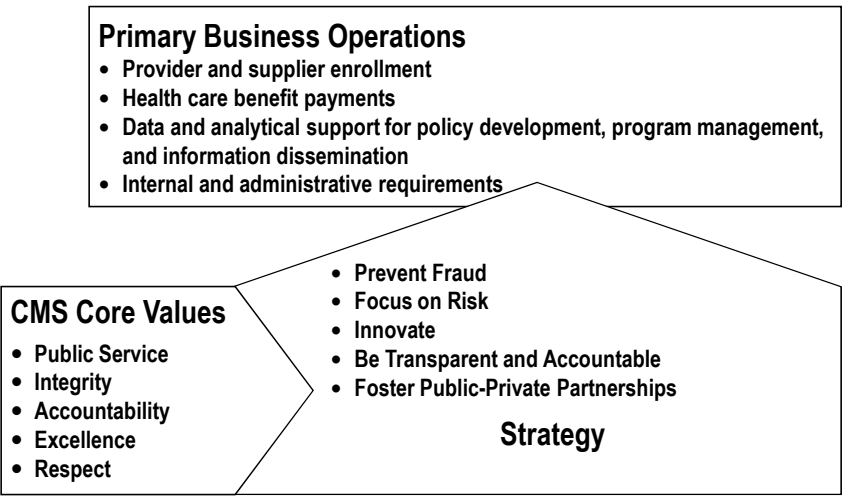
Compliance Programs in Medicaid

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Center for Program Integrity Strategy



Primary Business Operations

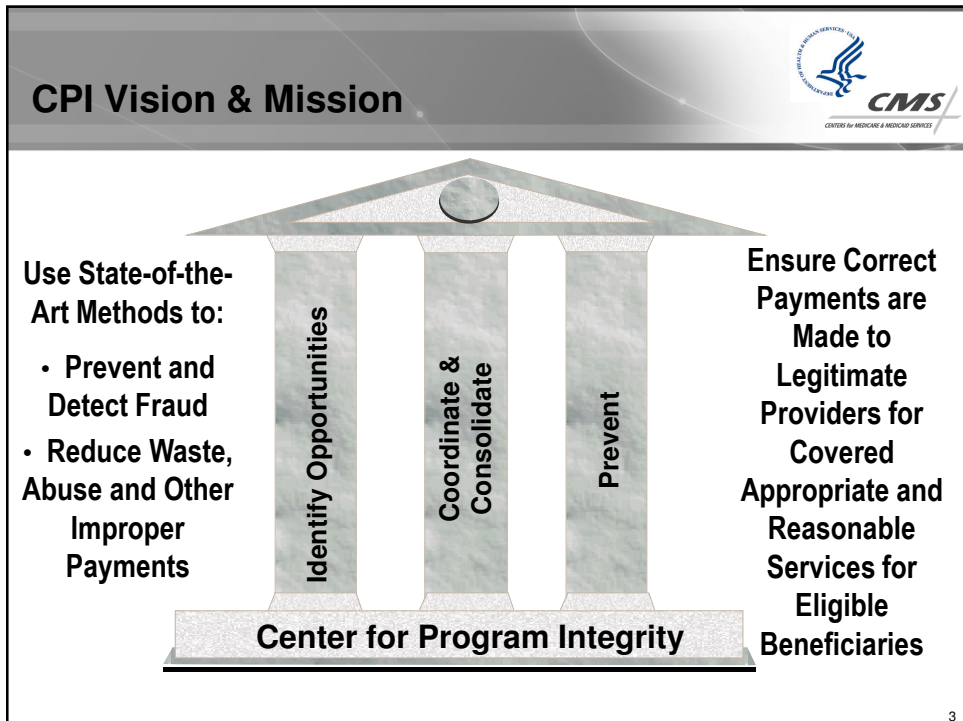
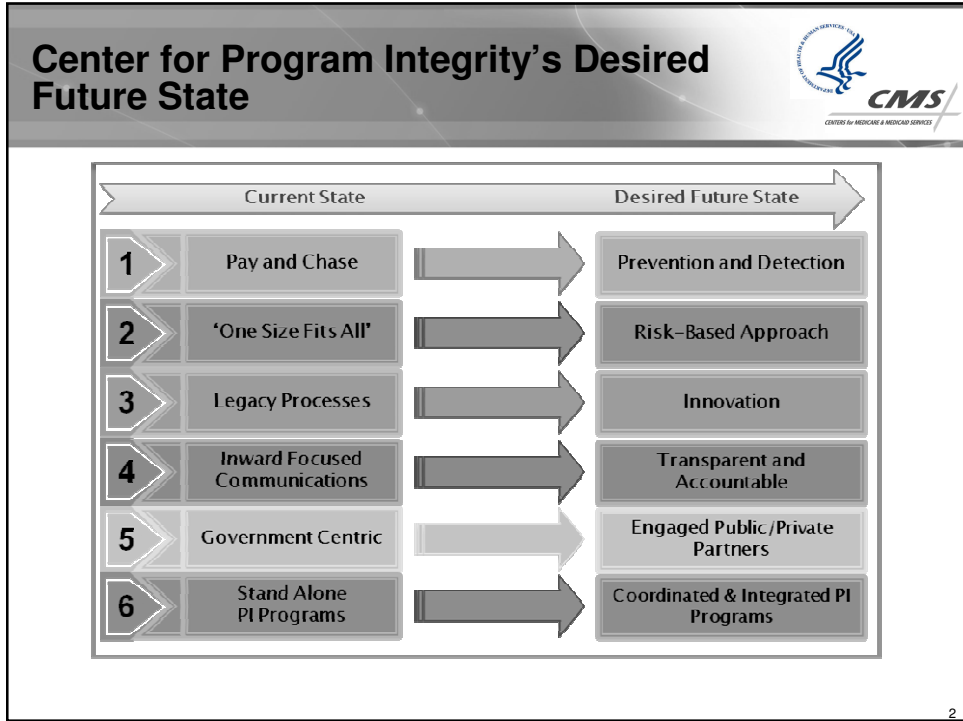
- Provider and supplier enrollment
- Health care benefit payments
- Data and analytical support for policy development, program management, and information dissemination
- Internal and administrative requirements

CMS Core Values

- Public Service
- Integrity
- Accountability
- Excellence
- Respect

Strategy

- Prevent Fraud
- Focus on Risk
- Innovate
- Be Transparent and Accountable
- Foster Public-Private Partnerships



Compliance Programs & Medicaid



- **Section 6102 of the Affordable Care Act requires a nursing facility or skilled nursing facility to have in operation a compliance and ethics program**
- **Section 6401(a) of the Affordable Care Act requires that providers and suppliers, as a condition of enrollment in Medicare, Medicaid or CHIP establish a compliance program that contains certain “core elements”**
 - The Secretary, in consultation with the HHS OIG, must establish core elements
 - The Secretary may determine the date that providers and suppliers must establish the required core elements
 - The Secretary must consider the extent to which adoption of compliance programs by providers or suppliers is widespread

4

Implementation Activities to Date



- **CMS issued a solicitation of comments for Sections 6102 and 6401(a) of the Affordable Care Act – Ethics and Compliance Program on September 22, 2010**
- **Will be developing a Notice of Proposed Rule Making (NPRM) in the future**

5

Medicaid Basics



- **State-Federal partnership**
- **Administered at the State level**
- **Provide health insurance coverage to certain low-income individuals and families**
- **Mandatory eligibility groups include:**
 - Limited income families with children
 - Individuals who receive Supplemental Security Income (SSI)
 - Certain people with Medicare
 - Other individuals who meet the income level

6


Overview of the Medicaid Integrity Group



- **Deficit Reduction Act (DRA) of 2005 established the Medicaid Integrity Program – Social Security Act § 1936**
 - 100 Federal FTEs
 - \$75M annual appropriation
 - Provide effective support and assistance to States
 - Contract with entities to:
 - Review provider claims
 - Audit providers
 - Identify overpayments
 - Educate

7

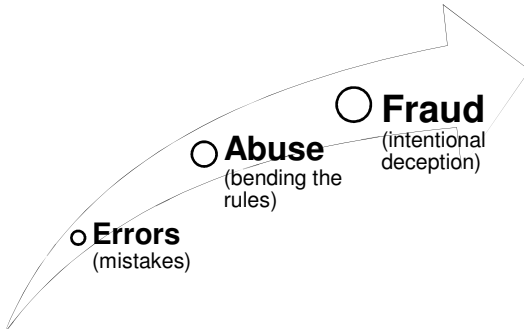

Overview of the Medicaid Integrity Group



- **Oversight and Technical Assistance to States**
 - Boots on the Ground
 - State Reviews
 - Medicaid Integrity Institute
- **National Medicaid Audit Program**
 - Medicaid Integrity Contractors
 - Traditional “Federal” audits
 - Collaborative audit projects with States
- **Data Analysis**
 - Use of algorithms and other analytics to detect and identify improper payments – provider level and State system level

8

Medicaid



○ **Errors**
(mistakes)

○ **Abuse**
(bending the rules)


○ **Fraud**
(intentional deception)

Improper payments – not Fraud = 9.4% (approximately \$22.5 billion)

Source: www.paymentaccuracy.gov

9


Pursuing Overpayments in Medicaid



| | Medicaid | Medicare |
|--------------------------|--|--|
| Relationship to Provider | <ul style="list-style-type: none"> • Federal relationship is with State • State has relationship with provider | Direct relationship to provider |
| Data Sources | CMS relies on States to provide Medicaid claims data | CMS contractors supply Medicare claims data. |
| Overpayment Recovery | CMS collects the overpayment (Federal share) from the State, the State must collect from provider. | CMS collects overpayments directly from Medicare provider. |
| Appeals | Two systems of appeal: <ul style="list-style-type: none"> • Provider appeals to State • State appeals to CMS | One appeal system |

10


Recovery Audit Contractor (RAC) expansion to Medicaid



- **Section 6411 of the Affordable Care Act authorizes the expansion of the Recovery Audit Contractor (RAC) program to both Medicaid and Medicare Parts C & D.**
 - Requires States to contract with one or more RAC contractors for Medicaid.
 - Medicaid RACs are State-administered.
 - States must have established a Medicaid RAC program no later than December 31, 2010.

11


Medicaid RAC Program Characteristics



- **Must identify and recover overpayments and identify underpayments.**
- **States must pay Medicaid RACs on a contingency fee basis for the identification of overpayments.**
- **States will determine the contingency fee rate.**
- **States have flexibility to establish a contingency fee or other fee structure for the identification of underpayments.**
- **Payments to Medicaid RACs will be made only from amounts recovered.**
- **Secretary may grant States exceptions on a case-by-case basis.**

12

Medicaid RAC Program Characteristics (cont.)



- **States must have an adequate appeals process.**
 - May use current appeals process, as long as providers are ensured due process
- **Medicaid RACs must coordinate with other auditing entities, including Federal and State law enforcement agencies.**

13

Implementation Activities To Date



- **State Medicaid Director Letter (#10-010) issued 10/1/2010.**
- **Notice of Proposed Rulemaking 6034-P, “Medicaid Program; Recovery Audit Contractors,” published on 11/10/2010; comment period closed 1/10/2011.**
- **Outreach efforts to provide guidance to assist States with their RAC implementation efforts:**
 - Educational DVD: *Medicaid RACs: Are You Ready?*
 - Webinar for States: *Medicaid RACs: Procurement Tips*
 - State Call: *Lessons Learned from the Medicare RAC Implementation*

14

Medicaid RACs and managed care



- **A significant percent of Medicaid is provided in managed care setting.**
 - 71.73% of Medicaid beneficiaries were enrolled in some form of managed care as of June 30, 2009
- **Intersection of Medicaid RACs and managed care is an issue that CMS continues to develop.**
 - CMS has consulted with States and met with vendors.
 - To date, there is no prior RAC experience under Medicare managed care.
 - There is no prior experience from the Medicaid National Audit Program.
 - The NPRM is silent on this issue.

15

Keeping Providers Informed



- **CMS is encouraging States to consider the provider community as they develop their RAC programs and to keep providers informed about the program.**
- **The Medicare Lessons Learned session emphasized the importance of**
 - keeping providers informed of changes to the program, and
 - keeping States informed of individual audits.

16

For More Information...



- **State Medicaid Director Letter can be accessed at:**
<http://www.cms.gov/SMDL/SMD/list.asp#TopOfPage>
- **Direct Inquiries to:**
- **Medicaid Integrity Program@cms.hhs.gov**
- **CMS Website will contain additional information on Medicaid RACs. Look for the “What’s New” section of the Medicaid Integrity Program site:**
<http://www.cms.gov/MedicaidIntegrityProgram/>

17

Contact Information



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