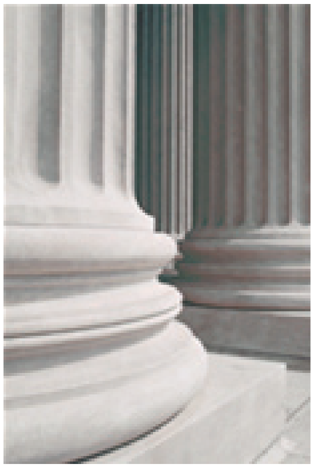
Gates Moore & Company

PHYSICIAN PRACTICE MANAGEMENT

PUTTING EFFECTIVE MANAGEMENT INTO PRACTICE

Volume 26, Number 2 | Update Newsletter | July 2008

How to Handle a Surprise Visit from Government Agents



Increasingly, there have been a number of surprise visits conducted at medical practices from a variety of government agencies including the Office of the Inspector General of HHS (OIG), the Department of Justice (DOJ), the state Medicaid fraud control units, and even the FBI. For this reason, it is important that your practice have a proactive policy in place to minimize potential risks when any of these government agents come knocking. Understand that you do have certain rights, even in situations involving a subpoena or search warrant that authorizes document seizure.

Two specific documents provide guidance in these areas. These are:

• The Federal Prosecution of Business Organizations, also known as the “McNulty Memorandum” published in December, 2006

• The United States Attorney’s Manual.

Anytime an incident occurs involving the serving of a subpoena or search warrant, there is cause for concern. If there is not a game plan on how to respond appropriately, the concern can lead to a panic situation that may end up portraying your practice in a very unfavorable light to the investigators. Accordingly, if this situation occurs it is important that the staff have easily referenced, written guidance on which they have been trained. The steps that we recommend are as follows:

• **Immediately notify the office manager, the administrator, or other senior staff member or the managing physician partner, if available.**

• **Request identity cards and credentials from the agents.** Determine who all members of the party are (there is usually more than one, in fact, often several) and make photocopies of their ID cards.

• **Immediately call your attorney** and report the presence of the agents, their names and agencies. This will enable your attorney to assess the scope of the problem. The attorney may request that the investigation be delayed until he/she can be on-site.

• **Identify the primary contact point among the agents,** since often several agencies will be represented simultaneously, such as a state Medicaid fraud unit, the FBI, and the state bureau of investigation. Determine who the lead agent is among all the agencies so that you don’t have to duplicate medical records and other information for each agency. By determining the specific documents that will be the most helpful for the agents to resolve the issue, identifying what your potential defenses are, and what the government’s next steps will be, you can potentially minimize or maybe even alleviate the entire problem.

• **Physicians and employees should remain calm and not be confrontational.** Understand that these are government agents and they are just doing their job. Failing to remain calm and nonconfrontational may result in the agents becoming extreme in their investigation. This will only create additional problems and escalate the issue.

Continued on Page 2

Inside This Edition

Continued from Page 1

HOW TO HANDLE A SURPRISE VISIT FROM GOVERNMENT AGENTS

• **Cooperation and collaboration are the essential elements in resolving whatever issue brought the agents to your practice.** It will be helpful to the investigative process and be much more efficient for the practice by having the investigators explain what records are relevant. You should provide only the records that are relevant. Make sure that you document everything that is removed by the government from your practice.

• **If the records being seized are electronic**, provide them to the government in CD or similar formats. Failure to do this will result in the agency potentially removing your computer server.

• **Don't assume that because the investigators have shown up at your practice that you will be accused of a crime.** Remember that the CMS is currently in the process of implementing the Medicare Recovery Audit Program (RAC). This means that potentially many more physician practices can expect those unwanted visitors in their waiting rooms.

It has often been said that a little paranoia is not such a bad thing. Certainly at this point in time, with many government agencies recouping what they believe are inappropriate reimbursements, it's a good idea to be a little paranoid and have a plan in place. Take some time to communicate these policies to your staff to make certain that everybody has an understanding of what to do if and when the government agents show up.

One key to preventing such unpleasant audits is to implement a formal compliance plan in your practice. Call your Gates, Moore & Company contact to discuss our coding and compliance services and how they can be tailored to fit your needs and potential risk exposure.

A DRESS POLICY TO ADDRESS MRSA

In Great Britain, the National Health Service (NHS) has recently barred physicians and other health workers from wearing neckties, jewelry, long fake fingernails, and long sleeves. This is NHS' attempt to control MRSA (Methicillin-Resistance Staphylococcus Aureus) and other contagions.

While hand washing has become an absolute standard of care for infection control programs in the United States, many experts in the area of preventive medicine and infectious disease view the move by the NHS with a certain level of amusement. Some hospitals in the U.S, however, have succumbed to the increasing level of paranoia related to germ transmission. For example, a hospital in central Connecticut actually suggests to male practitioners during an orientation that each wear a lab coat and keep their tie tucked in while examining patients.

In an article published in the New Scientist in May 2004, data was presented that nearly half of the neckties worn by 42 doctors at the New York Hospital Medical Center of Queens contained bacteria which could potentially cause dangerous conditions like pneumonia and blood infections. The authors concluded that "while there is no direct evidence to implicate neckties in the transmission of infection to patients, the link between a contaminated necktie and the potential for transmission must be considered" (Steven Nurkin).

The study also indicated that neckties aren't the only culprit. Doctor's stethoscopes and cell phones are also germ reservoirs. However, Ed Mangini, one of the experts who conducted this study, concluded that the antibiotic sensitive germs found on the ties "do not pose a serious problem".

IRS' RESPONSE TO HIGHER GAS PRICES-INCREASED MILEAGE RATES

Effective for business travel from July 1, 2008 to December 31, 2008 the IRS has raised the optional mileage allowance by 8¢ to 58.5¢ per mile to compensate for the rapidly increasing price of gasoline. The previous optional mileage allowance was 50.5¢ per mile.

The mileage rate for automobile transportation for medical care or a qualified move will also increase by 8¢ (from 19¢ to 27¢ per mile) from July 1, 2008 to December 31, 2008.

BACKGROUND CHECKS BECOME MORE CRUCIAL

A study recently published from Kroll Background Screening, a worldwide risk consulting company, indicates that there has been a significant increase in the number of criminal record results and discrepancies in credentials on background checks within the healthcare industry. This study, conducted in 2007, indicated that applicants to all healthcare entities had a criminal record hit ratio of 11.7%. More than 50% of employment histories of these applicants could not be verified or were materially different from what the applicant stated versus what the former employer reported.

Perhaps the most disturbing figure was that professional license verification could not be determined on 8.6% of the applicants to healthcare entities. Obviously this survey is industry wide and not just focused on physician practices. However, we believe that it is something that you should note. Specifically, background checks should be done on all employees, including newly recruited physicians and mid-level providers. License verification for professionals is fairly easy and generally done on the Secretary of State's website in most states.

It is also critical to perform a check of all individuals hired to determine if they have ever been excluded from any federal payment programs. The website for this is http://exclusions.oig.hhs.gov/. This is a free service and only takes seconds to perform.

For additional information regarding any personnel or human resources issue, contact Lori Foley, Principal, or Allison Wilson, Consultant. Lori and Allison are Certified as Professionals in Human Resources and are members of the Society of Human Resource Managers.

CAN THE NPI GET MORE COMPLICATED?

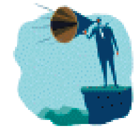
On June 11, 2008 CMS announced that doctors will have to reconcile their NPI data with their IRS legal data (name and Employer Identification Number) in order to get paid. Industry billing experts, including our own Randy Penberg of MRG Medical Solutions, view this as a disaster waiting to happen.

Every specific aspect of the data must match. This includes the exact spelling of names, the use of initials or abbreviations, such as Jr., and even blank spaces in the data. Failure to comply completely could cause Medicare claims to be rejected and the NPI number to be terminated.

The NPI requirements went into effect May 23, 2008. Before and after the deadline, many of our clients have had difficulties getting paid due to numerous complications with CMS and the clearinghouses.

Unfortunately, the answer that many practices are hearing from CMS is to start over with new NPI enrollment. Even doctors in practices who have had their claims successfully paid under the NPI could be forced to start over if their IRS data doesn't match. Accordingly, be aware of any slow downs in Medicare payments. The inconsistencies in data may be the root of your problem.

Company News



BRIANA GORDON PROMOTED

We are proud to announce that Briana Gordon has been promoted from Consulting Coordinator to Staff Consultant. In a relatively short period of time Briana has done a great job growing into her new role and is a wonderful asset to our company and our clients, working primarily in the areas of medical staff development plans and physician need analysis, as well as assisting senior staff with valuations. Please join us in congratulating Briana on her achievement!

NEFF VELEZ PROMOTED

Gates, Moore & Company is proud to announce the promotion of Neff Velez, CPA from the position of Senior Accountant to that of Tax Manager. Neff has been with the company for little over one year and has continued to demonstrate a high level of expertise in individual and corporate taxation, as well as providing our clients with a great deal of support on various accounting software packages. Congratulations Neff!

ALLISON WILSON ADVANCES WITHIN HFMA

We are excited to announce that Allison Wilson, Staff Consultant, recently passed the Healthcare Financial Management Association's (HFMA) core test. This is the first step toward Allison becoming a Certified Healthcare Financial Professional (CHFP).

Please join us in congratulating Allison on this significant accomplishment!

Happy 4th of July!!

~ Gates, Moore & Company

Update: Practice Management
is published quarterly for clients by
Gates, Moore & Company
Your questions and comments may be directed to:
Gates, Moore & Company
Tower Place 100, Suite 600
3340 Peachtree Road, N.E.
Atlanta, GA 30326
Phone: (404) 266-9876
Fax: (404) 266-2669
Email: postmaster@gatesmoore.com
www.gatesmoore.com

PUTTING EFFECTIVE MANAGEMENT INTO PRACTICE

Gates, Moore & Company
3340 Peachtree Road, N.E.
Tower Place 100, Suite 600
Atlanta, GA 30326