



## Weekly Auditing and Compliance Tip



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November 17, 2017

### Fear Factor: "The Unethical Business of Medicine"

I want this story that I am about to share with you to fit with the majority of clients that I represent and work with because I have represented clients with refund demands as small as \$1,000 and clients who had demands greater than \$30 million. This year has been absolutely mind-blowing as our firm is engaged in handling more than \$156 million in audit refund demands by the payers.

The client is a solo practitioner that was audited by a ZPIC (I will not give the name of the company to protect the guilty) that requested 30 encounters from this provider from a 2-year (2013 & 2014) period. The reason for the demand was as detailed as the denial reasons provided on a remittance... The letter stated they were reopening the case for "Good Cause" but failed to state what that "Good Cause" was. Here is what the ZPIC said in their form letter, "The re-opening is based on credible evidence regarding data analysis findings." These ZPICs use generic form letters that contain identical language seen in almost every client letter I have reviewed over the past year. Thus, it was my opinion they failed to establish "Good Cause" in this matter as it was nothing more than another fishing expedition on the part of ZPIC. Subsection 10.11 states - Good Cause for Reopening (Rev. 3568, Issued: 07-29-16, Effective: 09-30-16, Implementation: 09-30-16) "a contractor may reopen an initial determination or redetermination within 4 years from the date of the initial determination or redetermination when good



We'd like to wish everyone a Happy Thanksgiving!  
The NAMAS office will be CLOSED  
on Thursday, November 23 & Friday, November 24



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initial determination or redetermination when good cause exists." Under 42 CFR 405.986, good cause exists when:

- There is new and material evidence that was not available or known at the time of the determination or decision and may result in a different conclusion; or
- The evidence that was considered in making the determination or decision clearly shows on its face that an obvious error was made at the time of the determination or decision.

This all sounds reasonable right? Hardly, because to really understand what "Good Cause" means you have to dig deeper... Subsection 10.11 states that, *"Third party payer error in making a primary payment determination does not constitute good cause for the purposes of reopening an initial determination or redetermination when Medicare processed the claim in accordance with the information in its system of records or on the claim form. Contractors may only reopen for third party payer error under the "within one year for any reason" standard. This is true for both contractor initiated reopenings as well as reopenings requested by a party. All providers and suppliers have a legal obligation to determine the correct primary payer when billing Medicare. Failure to do so, regardless of third party payer error, does not constitute "good cause" that will permit reopening beyond one year. Information regarding such error does not constitute "new and material evidence."*

Additionally, the ZPIC violated Chapter 3 of the Medicare Program Integrity Manual; specifically 3.2.3.2 - Time - Frames for Submission (Rev. 628, Issued: 12-04-15, Effective: 11-16-15, Implementation: 01-06-16). In their letter, they indicated that our client must submit all of the documentation requested within 15 days. However, the guidelines in Section 3.2.3.2 state *"ZPIC, RAC and UPIC shall notify providers that requested documents are to be submitted within 30 calendar days of the request."* Additionally, it is important to know that you have the right to request an extension and given that they were failing to comply with Medicare Guidelines, I felt an extension was warranted. Section 3.2.3.2 goes on to state that *"Because there are no statutory provisions requiring that postpayment review of the documentation be completed within a certain timeframe, MACs, CERT, UPICs and ZPICs have the discretion to grant extensions to providers who need more time to comply with the request."*

Because this provider was a subspecialist (Geriatric Psychiatry), I felt that as part of our diligence we

and of MA CEOs!), a subscription to DC Advantage magazine, discounts on products and NAMAS training events, and much, much more!

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For added convenience, NAMAS accepts PayPal, PayPal Credit, quarterly and monthly payments of membership dues.



Our **Medical Auditing Bootcamp** will train you to become a medial auditor. Learn the principles of auditing, compliance regulations, and how to perform the daily duties of an auditor.

Our next online session, scheduled as a **5 week LIVE ONLINE Saturday Course** is scheduled to begin on March 10, 2018!

**[Click Here to Learn More & View Our Medical Auditing BootCamp Schedule](#)**



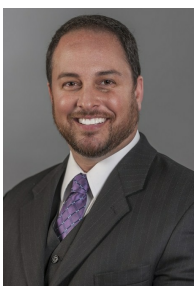
Our **2- Day E&M Auditing Bootcamp** is an accelerated auditing training specific to E&M auditing. Learn about audit policies, get clarity on documentation guidelines, medical decision making, medical necessity and more. Plus, during this training program you will have the opportunity **earn our NEW CREDENTIAL - Certified Evaluation and Management Auditor (CEMA)!**

Our 2-Day E&M BootCamps are scheduled as follows:



needed to request, pursuant to subsection 4.3 - Medical Review for Program Integrity Purposes (Rev. 675, Issued: 09-0916, Effective: 12-12-16) Section D. Quality Assurance documentation to demonstrate that each aspect of this review is being performed consistently and accurately throughout the ZPIC's MR for PI program, specifically item #4: *The ZPIC, RAC or UPIC shall have an objective process to assign staff to review projects, ensuring that the correct level of expertise is available. For example, situations dealing with therapy issues may include review by an appropriate therapist or use of a therapist as a consultant to develop internal guidelines. Situations with complicated or questionable medical issues, or where no policy exists, may require a physician consultant (medical director or outside consultant).* Under Section 3.1.1.1 of the Medicare Program Integrity Manual, *"Requires that coverage determinations be made only by RNs, LPNs or physicians, unless the task can be delegated to another licensed health care professionals. Reviews of coding determinations, likewise, must be made by certified coders, but should also be made by those who possess the requisite skills in the specialty they are reviewing. Upon receipt of disclosure of the identity and qualifications of the auditors, a request for the disclosure of the identity and qualifications of the auditors should be made,"* which we requested to ensure that only those proficient and holding certification/credentials and actual experience in Geriatric Psychiatry for those in Skilled Nursing Homes, Nursing Homes, and/or Domiciliary Rest Homes were reviewing our client's documentation.

So, I am sure you are wondering what the outcome was given the arguments laid out above and the fact the ZPIC failed to maintain compliance with Medicare guidelines... Simple, the demand for \$9,000.00 was deemed inappropriate and the case was closed. This is not an isolated case nor is it an anomaly. This happens more than you can imagine and if you do not choose the right team to protect you, you might as well just send them the money the day you get the letter.



**This Week's Audit Tip  
Written By:**

**Sean M. Weiss, CHC, CEMA, CMCO, CPMA, CPC-P, CMPE, CPC**  
Sean is a Partner and the Vice President of Compliance for our parent organization.

scheduled as follows:  
December 5-6: Orlando, FL  
January 23 & 24: Knoxville, TN  
February 6 & 7: Atlanta, GA  
February 13, 15, 20 & 22: Online Evenings (6pm - 9pm EST each session)

**[Click Here to Learn More & View Our E&M Auditing BootCamp schedule](#)**

**Join NAMAS for the 9th Annual Auditing & Compliance Conference  
December 2017 in Orlando, FL!**



**Conference Information**

Pre-Conference: Tuesday, December 5  
Conference: Wednesday, December 6 - Friday, December 8  
Venue: Loews Sapphire Falls Resort  
Orlando, FL

**[Click Here to View the Conference Agenda](#)**

Learn from the best in the industry, network with your peers and visit with our hand picked group of industry relevant exhibitors all in the gorgeous Caribbean inspired backdrop of the Loews Sapphire Falls Resort

**Conference Pricing**

NAMAS Member

Conference Only: \$1195  
Pre-Conference & Conference: \$1445

Non Member

Conference Only: \$1295  
Pre-Conference & Conference: \$1645

**Can't attend the full conference? Day passes available! Attend conference sessions on Tuesday, December 5 OR Thursday, December 8 for only \$399!**

## NAMAS 9th Annual Auditing & Compliance Conference Speaker Spotlight



## Speaker Spotlight

During the NAMAS 9th Annual Auditing & Compliance Conference, Charles James, Jr. will be presenting the following sessions:



Charles James, Jr.

President & CEO, North American Healthcare Management Services

- 2018 CMS Updates for FQHCs/Rural Health
- Incident-to Service Requirements for FQHCs/Rural Health
- Medicare Preventive Services & Other Medicare Benefits for FQHCs/Rural Health

Each week, we will spotlight a conference speaker and the session(s) he/she will be presenting.

Join us for this year's conference **December 6-8, 2017** in **Orlando, FL** at the Loews Sapphire Falls Resort! Click the image above to learn more about conference

## Weekly Tip Sponsor



This week's tip sponsor is the **Association for Rural and Community Health Professional Coding**

The goal of the Association for Rural Health Professional Coding (ARHPC) is to provide the rural, school-based, and federally qualified health community including clinicians, coders, revenue cycle staff, and other financial reimbursement professionals with access to low-cost, high quality education related to healthcare business operations

**Association for Rural & Community Health Professional Coding** will be an exhibitor at the NAMAS 9th Annual Auditing & Compliance

## Plus, Don't Miss Your Opportunity to Be a Conference VIP!

This year, we are proud to offer a limited number of VIP package add-ons available to all attendees at the nominal rate of \$129. Add on the VIP experience to your conference registration today!

### As a Conference VIP, you'll receive:

- A VIP registration line for faster check-in
- A VIP branded name badge to wear during conference sessions
- Registration to our EXCLUSIVE VIP Brunch & Session occurring the morning of Wednesday, December 6 before general session begins. This exclusive training will be presented by Frank Cohen
- Admission to our VIP ONLY EVENT - occurring the evening of Thursday, December 7. Enjoy a relaxing evening of entertainment, dancing, food and networking in the Caribbean inspired Sapphire Falls Resort
- Bonus NAMAS Swag
- Additional \$500 in NAMAS Bucks! Use NAMAS Bucks to bid on a variety of prizes available in our exhibit hall

And, as a special added bonus, all VIP attendees will receive a book of printed handouts for all NAMAS pre-conference & conference sessions. As a VIP, there's no need to print handouts before you arrive- Your book will be waiting for you upon your arrival!

There are only a limited number of VIP packages available to be issued on a first come, first served basis. Add on the VIP experience to your conference registration today!

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## NAMAS Calendar of Events



Conference.

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Complimentary  
Tip of the Week

Our weekly auditing & compliance tip emails are available to anyone who could benefit from this information.

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NAMAS is proud to offer the following webinars in November:

**The 2018 OIG Target List Update  
(Compliance Webinar Series)**

Speaker: Robert Liles  
November 21, 2017  
2pm EST

**Hands On: Auditing Urgent Care Services  
(Hands-on Webinar Series)**

Speaker: Scott Kraft  
November 28, 2017  
2pm EST

If you are interested in registering for the webinar above, please email us at [namas@namas.co](mailto:namas@namas.co)