



NAMAS Weekly Auditing & Compliance Tips

August 12, 2016

When the Government Tries to Change the Rules

We all know that the government doesn't fight fair. This is why it is so critical for healthcare professionals to understand their recourse when the government does not follow their own guidelines. Providing audit appeal defense services to clients all over the country, we are seeing MACs and ZPICs making determinations that lead to significant error rates that turn into demands for refund requests that are significant.

The biggest issue we are finding with a lot of these audit performed retroactively is that they are applying guidelines that were not in affect at the time the services were rendered. For practices that are not aware of when and how to use Local Coverage Determinations (LCDs) this leads to significant loss. Most practices that receive a letter from a ZPIC realize the purpose of a ZPIC is to seek out fraud, waste and abuse and then make demands for refunds that are overwhelming. Lots of practices simply make the refunds or establish offsets, which should be the last thing you do.

In a recent case, I came across this very situation whereby the MAC and ZPIC audited a specific type service for "Medical Necessity" however, they were using an LCD for dates of service prior to the implementation of the policy and as a result, determined a 100% error rate that led to a demand for refund of more than \$1.9 million from the client.

[Click Here to Listen to This Week's Audit Tip](#)



not a member yet?

JOIN NOW!

As a NAMAS member, you'll receive access to monthly webinars for CEUs (including those hard to find CPMA CEUs!), a subscription to BC Advantage magazine, discounts on products and NAMAS training events, and much, much more!

We offer 4 membership levels- choose the one that best suits your needs!

[Click Here to View NAMAS Membership Levels and Benefits](#)

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

REGISTER FOR OUR UPCOMING COMPLIMENTARY WEBINARS

FREE

In addition, because of the findings by the ZPIC, more than \$1.2 million was withheld from payment to the practice. This is devastating not only from a repayment standpoint but from a lack of revenue coming through the door. The sad reality of this situation is the practice had to shut their doors, but are still responsible for repayment and are out of the monies for services they rendered their patients. DoctorsManagement was brought into the fold to perform clinical documentation review, specifically focusing on the findings of services not meeting "Medical Necessity" and to validate the extrapolation deployed by the MAC. While we had a very strong case to get the extrapolation thrown out using Frank Cohen's work on Post Audit Extrapolation, we had an equally strong case based on the pure negligence of the ZPIC and MAC to adhere to their own guidelines. With the help of noted healthcare attorney Robert Liles from LilesParker based in Washington, D.C., I was able to track down specific information to ensure our position was substantiated thus ensuring our client's ultimate success in not having to repay the demand and affording then now, the ability to demand payment from the carrier.

Below are specific guidelines related to LCDs that can be used in defending your practice when the government fails to follow their own rules.

13.7.3 - LCDs That Do Not Require a Comment and Notice Period (Rev. 71, 04-09-04)

When a comment and notice period is unnecessary, contractors may immediately publish a revised LCD electronically (e.g., Medicare coverage database, contractor Web site, email). In the following situations, the comment and notice processes are unnecessary:

* Revised LCD that Liberalizes an Existing LCD - For example, a revised LCD expands the list of covered indications/diagnoses. The revision effective date may be retroactive.

* Revised LCD that Makes a Non-Substantive Correction - For example, typographical or grammatical errors that do not substantially change the LCD. The revision effective date may be retroactive.

* Revised LCD that makes a Clarification - For example, adding information that clarifies the LCD but does not restrict the LCD. The revision effective date may be retroactive.

* Revised LCD that Makes a Non-discretionary Coverage/Payment/Coding Updates - Contractors shall update LCDs to reflect changes in NCDs, coverage provisions in interpretive manuals, payment systems, HCPCS, ICD -9 or other standard coding systems within the timeframes listed in §13.4C. The revision effective date may be retroactive depending on the effective date of the

FREE Webinars

We are pleased to present you the following complimentary webinars in August:

ZPICS: Know Your Rights & How to Respond Properly

Thursday, August 25, 2016
2pm EST

Speakers: Andrew Feldman & Sean Weiss
[Click Here to Register for This Webinar](#)

Predicing Like a Pro: Critical Skills for Professional Development

Tuesday, August 30, 2016
2pm EST

Speaker: Frank Cohen
[Click Here to Register for This Webinar](#)

Become a Medical Auditor with a NAMAS Medical Auditing BootCamp!

**Become
a
CPMA**



NAMAS Medical Auditing BootCamp®

Our onsite or online training program will not only prepare you to sit for the medical auditing certification test, but will prepare you for a career as a medical auditor.

As a bootcamp attendee, you will receive the NAMAS Auditor's Resource & Prep Guide, 16 AAPC CEUs, AND a 1 year NAMAS membership!

Our **onsite** schedule is as follows:

August 24-25: Atlanta, GA
September 15-16: Nashville, TN

NCD, etc.

* Revised LCD to Make Discretionary Coding Updates That Do Not Restrict - adding revisions that explain a coding issue so long as the revision does not restrict the LCD. The revision effective date may be retroactive

13.7.4 - LCD Comment and Notice Process (Rev. 71, 04-09-04)

When a new or revised LCD requires comment and notice (See §13.7.2) contractors shall provide a minimum comment period of 45 calendar days on the draft LCD. After the contractor considers all comments and revises the LCD as needed, the contractor shall provide a minimum notice period of 45 calendar days on the final LCD.

Contractors shall solicit comments from the medical community. Carriers solicit comments from the Carrier Advisory Committee (CAC.) DMERCs solicit comments through the DMERC Advisory Process (DAP.) Contractors respond to comments either individually or via a comment/response document (see §13.7.4.2). Where appropriate, the contractor shall incorporate the comments into the final LCD. Contractors notify providers of the LCD effective date. ***New LCDs may not be implemented retroactively.***

This Week's Audit Tip Provided by:

Sean M. Weiss, CMCO, CPMA, CPC, CPC-P, CCP-P, ACS-EM



Sean M. Weiss is a Partner and Vice President of Compliance with DoctorsManagement, LLC, a full service medical management consultancy and regulatory compliance firm based in Knoxville, TN. Sean has more than 20 years of experience working on regulatory compliance and health law related issues, ensuring proper support and representation for clients across the country. For more information, or to request assistance with your audit and compliance issues, contact him at sweiss@drsmgmt.com or 800.635.4040

October 6-7: Birmingham, AL

November 3-4: Charlotte, NC

December 5-6: Orlando, FL

Our next **online** session begins
September 10!

**Click Here to Learn More About The
NAMAS Medical Auditing BootCamp**

Take Your Auditing Skills to the Next Level at an E/M Auditing BootCamp

NAMAS E/M Auditing BootCamp



For those with a basic foundation of E&M auditing, or experienced E&M auditors just looking for a refresher, our 1-day E&M Auditing BootCamp is for you!

MDM? Medical Necessity? Guidelines? Audit Policies? We'll cover all of this AND more in this training program

Attend one of our upcoming **ONLINE** or **ONSITE** sessions:

We have 3 **online** series options to choose from:

1. Online Tues/Thurs evening courses- beginning August 9th (only 1 spot left!)
2. Live online 1-day session: October 24
3. Live online lunch & learns: August 22 & 24 OR September 27 & 28

We Want to See You In Orlando!



8TH ANNUAL
Auditing & Compliance
CONFERENCE 2016

You're Invited to Join us at the 8th Annual Auditing & Compliance Conference

Dates: Pre-Conference: Tuesday, December 6, 2016
Conference: Wednesday, December 7- Friday
December 9, 2016

Venue: Loews Portofino Bay Hotel, Orlando, FL

This is the ONLY conference designed for medical auditors and compliance professionals!

Earn Up to 21.5 AAPC CEUs good toward Core A, CPMA, CPCO & CEMC certifications



Where better to be in December than in beautiful Orlando, Florida learning from the best in the business, networking with your peers, and **earning up to 21.5 AAPC CEUs?**

Get into the holiday spirit NOW- during our exhibitor reception (Wednesday evening during conference), we will be hosting our first ever Ugly Holiday Sweater contest! Don your ugliest holiday attire - our exhibitors will vote for the ugliest apparel and the winner will receive a scholarship to attend our 2017 conference for free! Start putting together your outfits now!

There's more good news! **NEW FOR 2016-** we've partnered with RACmonitor to provide a **FACILITY AUDITING track** during both pre-conference and conference! Attendees can select their pre-conference and conference sessions from any one of the following tracks: Physician-Based Auditing, E&M Auditing, Facility-Based Auditing, and Physician- Based Compliance! **Don't delay in registering- Lock in your conference rate**

with only a \$50 deposit!

[Click Here to View the](#)

Or, attend one of our 1-day **onsite** sessions:

- August 30, 2016: Tampa, FL
- September 8, 2016: Knoxville, TN
- September 14, 2016: San Antonio, TX
- October 6, 2016: Covington, LA
- November 15, 2016: Columbus, OH

[Click Here to Learn More About The NAMAS E&M Auditing BootCamp](#)

Weekly Tip Sponsor



NAMAS Calendar of Events



[Click the image above to view our monthly calendar](#)

Upcoming Webinars

NAMAS is proud to present the following webinars in August



E/M Encounter Review
Speaker: Kathy Pride
August 16, 2016
2pm EST

[Register Now](#)

NAMAS Conference Speaker Spotlight

Speaker Spotlight

Meet our speakers for the



Betty Stump

RHIT, CPC, CCS-P, CPMA

Senior Auditor & Consultant
DoctorsManagement, LLC

Conference Sessions:

- Split Claim Auditing
- Auditor vs. Auditor
- You Be the Judge!
- The Auditor, The Doctor & The Attorney: Proving the Medical Necessity
- Stump the Healthcare Provider

NAMAS 8th Annual Auditing & Compliance Conference

December 6-9, 2016
Orlando, FL
Loews Portofino Bay Hotel

View the full conference
agenda & register today
at www.namasconference.com



8TH ANNUAL
Auditing & Compliance
CONFERENCE 2016

HIPAA Compliance for the Auditor

Speaker: Kelly Ogle

August 23, 2016

2pm EST

ZPICS - Know Your Rights & How to Respond

Speakers: Andrew Feldman & Sean Weiss

August 25, 2016

2pm EST

Predicting Like a Pro: Critical Skills for Professional Development

Speaker: Frank Cohen

August 30, 2016

2pm EST

NAMAS Members: Watch your Email for
Registration Links

Non-Members: Email namas@namas.co to
learn how to attend these webinars

Save With PowerBuying



Limited Time Offer!

Buy a PC, Get a Free TV through Dell's
Member Purchase Program, available
through our PowerBuying Program

Conditions apply, click the image
above for details

A Note From Our Tip Sponsor

LILES PARKER
ATTORNEYS & COUNSELORS AT LAW

At Liles Parker, we understand that extraordinary legal representation begins with talented, committed attorneys. Our attorneys apply decades of focused experience and expertise in the representation of firm clients. In doing so, our attorneys have established national reputations in the areas of regulatory compliance, corporate transactions and health law. Our philosophy is simple -

Complimentary
Tip of the Week

Your success is our success.

Click the image above to learn more about LilesParker



NAMAS is a division of DoctorsManagement, a full service healthcare consulting firm in business since 1956. Click the DoctorsManagement logo to learn more and request your free consultation today

In This Issue

[When the Government Tries to Change the Rules](#)

[NAMAS 8th Annual Conference](#)

[LilesParker](#)

[Become a NAMAS Member](#)

[Complimentary Webinars](#)

[Medical Auditing BootCamp](#)

[E&M Auditing BootCamp](#)

[Calendar of Events](#)

[Upcoming Webinars](#)

[Receive These Tips](#)

[Follow NAMAS](#)

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

If you know someone who would like to receive these emails, invite them to sign.

Click the image above to be added to our email list!

Do You Want to be Published?

Are you a professional in the healthcare industry who would like to be featured in our weekly auditing and compliance tips?

Submit your 500-1000 word tip to NAMAS via email to namas@namas.co

If your tip is used in one of our weekly emails, we will provide you with a Visa Gift Card for use of your tip.

Stay Infomed

Stay up to date with important news and announcements from NAMAS. Follow our social media pages to ensure you don't miss a beat!

