



By Electronic Mail

November 10, 2011

Standards Subcommittee
National Committee on Vital and Health Statistics (NCVHS)
Centers for Medicare and Medicaid Services
Attention: Lorraine Doo, Lead Staff

Re: November 17-18 Meeting of the Standards Subcommittee

Dear Ms. Doo:

In the October 27, 2011, issue of the Federal Register, the National Committee on Vital and Health Statistics (NCVHS) Standards Subcommittee announced a meeting to be held on November 18th to receive industry input on the standardization of financial and administrative activities and items as described in Section 10109 of the Affordable Care Act (ACA). The National Health Care Anti-Fraud Association (NHCAA) understands that one of the questions to which NCVHS is seeking input is whether standardized forms could apply to financial audits required by health plans, Federal and State agencies and other relevant entities. NHCAA would like to provide the following comments in response to this question regarding the negative potential impact of standardization on anti-fraud efforts.

Founded in 1985, the National Health Care Anti-Fraud Association (NHCAA) is the only national organization focused exclusively on the fight against health care fraud. NHCAA is uncommon among associations in that we are a private-public partnership—our members comprise more than 85 of the nation's most prominent private health insurers, along with nearly 90 federal, state and local government law enforcement and regulatory agencies that have jurisdiction over health care fraud who participate in NHCAA as law enforcement liaisons.

It has been the experience of several of our members that quite often what was initially thought to be a "financial audit" with seemingly no fraud implications becomes a potential fraud issue or leads to a fraud investigation as a result of the information derived from the audit. The identification of facts and circumstances that lead to the determination that a potential health care fraud case exists is often the result of astute and resourceful auditing, together with factual analysis by the investigator. Guidelines or rules that would seek, through standardization, to limit the manner and scope of how these initial reviews or audits are to be performed could potentially limit or impair a complete and effective review that could have otherwise uncovered fraud. Allowing flexibility with respect to the manners of inquiry, based upon reasonable and justified auditing techniques, is essential to promoting effective anti-fraud operations.

Standardizing, and thus arguably narrowing, the focus of financial audits could impede the fraud fighting ability of those performing integrity functions in both the private and public sectors. By its very

nature, fraud is something that the perpetrator does not intend to be identified. As a result, it is not something that would be detected without close examination. The nature of this crime is precisely why review staff (whether fraud investigators or auditors) should be enabled to employ any reasonable and accepted method of inquiry to fully investigate factual questions and identify issues of potential fraud. If constraints are in place which prevent a thorough review or investigation, fraud will go undetected.

Flexibility in the application of auditing methods to detect potential fraud also is consistent with the high priority the deployment of effective anti-fraud tools in Medicare and Medicaid has been given by both Secretary Sebelius and Attorney General Holder. The Secretary and the Attorney General implemented the HEAT initiative in 2009, and personally have hosted numerous Fraud Prevention Summits around the country in the last two years to raise national awareness and to highlight the many anti-fraud initiatives being undertaken by CMS to address this serious national problem. For example, this past July, CMS began applying predictive modeling techniques to all Medicare fee-for-service claims as a means to identify fraud. The current national priority clearly is to utilize the most effective techniques available to detect and prevent fraud.

In our view, the sheer complexity of our health care system demands that auditors not be constrained unnecessarily by standardized auditing forms, and that they be given the flexibility to apply accepted and reasonable methods to uncover potential fraud. Allowing flexible approaches to address complex and varied auditing scenarios will help to better insure the integrity of the system.

Thank you for allowing NHCAA the opportunity to comment on the topic of standardization of financial audits as the NCVHS develops its recommendations for the Secretary. If we can be of additional assistance, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Louis Saccoccio', is written over a light gray rectangular background.

Louis Saccoccio
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