Compliance Quarterly

From the Compliance Office...

From the Compliance Office

It's been more than a year since COVID-19 was declared a worldwide pandemic and we all entered an unfamiliar world, filled with change and the unknown. Toilet paper, hand sanitizer and disinfectant disappeared from store shelves as smiles disappeared behind our masks. Offices became ghost towns. For many, our homes became our offices, and our pets became our coworkers. We've adjusted to the Brady Bunch style meeting setting with Zoom. There likely isn't anyone not personally affected by COVID in some way, either themselves, a family member or a friend; some more than others. Our thoughts go out to everyone who lost loved ones to this horrible virus.

Through all of this, our frontline healthcare workers somehow kept going, treating those who were most affected. They became heroes in the eyes of the world. To all of them, we say THANK YOU! And to all of you, thank you for hanging in there, and doing your part to keep UBMD and our practices going. Hopefully, with all that has been learned, and with vaccine availability rising, we are approaching the light at the end of the tunnel. And hopefully, one day soon, we can say good-bye to the "new normal" and welcome back the normal we once new, or at least something more comparable to it.

Newsletter Topics

In the *Compliance Quarterly,* we focus on currently relevant Compliance & HIPAA topics, regulatory updates, compliance training and helpful tips. If anyone has a topic you would like to see covered, general or practice-focused, in a future edition of *Compliance Quarterly,* please contact Sue Marasi (smmarasi@buffalo.edu).

Compliance Training Update

New Provider E/M & Documentation Training

New Provider E/M & Documentation Training is now available online by visiting the Education & Training page on the UBMD Compliance website.

https://ubmd.com/about-ubmd/Compliance/Education-training.html

You may also schedule a Zoom meeting with Bev Welshans if you have questions, or would like to discuss anything with her.

Lunch-n-Learn

Due to the COVID-19 pandemic, Lunch-n-Learn sessions are currently on hold, but will be rescheduled once a new methodology for the training can be developed. At that time, an email will be sent to those on the contact list.

Training Questions

If you have questions on any training, please contact Bev Welshans by telephone: 888-4702 or e-mail:
welshans@buffalo.edu

If you would like to be added to the Lunch-n-Learn session contact list, please contact Bev as noted above.

Properly Billing E/M Office Encounters by Time - 2021

By: Beverly Welshans, CHC, CPMA, CPC, COC, CPCI, CCSP
Director of Audit & Education

The Coding Corner

Outpatient CPT Codes 99202-99215 underwent significant revisions for 2021 as part of an Administrative Burden Reduction effort embarked on by the Trump Administration. These changes eliminated the need to meet extensive "bullets" to support evaluation and management outpatient codes. The basis for code selection now is dependent on **either** medical decision making OR time.

Of note, the AMA recently announced that these new coding guidelines would be applied to all evaluation and management codes effective January 1, 2023. That change will align inpatient, outpatient, SNF, emergency room and all other codes.

For now, let us take a deeper look at the billing by time option.

Summary of changes

- Time is based on the total time spent on the date of the face-to-face encounter, including both face-to-face *and non-face-to-face* time.
  - ⇒ Time spent on a date prior to or after the face-to-face encounter is not included in total time for the encounter.
  - ⇒ Time spent related to the encounter on another date of service is billable with CPT 99358, provided that at least 30 minutes of documented time have been devoted to that activity.
  - ⇒ Prolonged service codes 99354-99359 are not billable on the same DOS of E/M codes 99202-99215.
- There no longer are "typical times" but defined ranges (see Table 1).
- Time is not limited to time spent in counseling or care coordination.
- Time is not used in selecting **99211.**
- There are new prolonged services add-on code (+**99417 or G2212 for Medicare)**
- You may only add prolonged services (+**99417)** when choosing your code level based on time and only when time required for **99205** or **99215** have been exceeded (see Table 1).
- Prolonged services are added "per 15 minutes" of extended time.

Services included under "time"

- Preparing to see the patient (e.g., review of tests)
- Obtaining and/or reviewing separately obtained history
- Performing a medically appropriate examination and/or evaluation
- Counseling and educating the patient/family/caregiver
- Ordering medications, tests or procedures
- Communicating with other health care professionals (not separately reported)
- Documenting clinical information in the electronic or other health record
- Independently interpreting results (not separately reported) and communicating results to the patient/family/caregiver
- Care coordination (not separately reported)

Billing Considerations

- Time may *not* include clinical staff time or time spent the previous day or next day.
- Time should be documented clearly in the note indicating the total time spent on the day.
- Can refer to notes earlier in the day to support how time was spent.
- At this time, neither CPT nor the Centers for Medicare & Medicaid Services have specific rules on this.

Billing Considerations

CPT and CMS have different interpretations of "prolonged care" thus different codes based on the payer. CPT allows adding the prolonged care 99417 once the **minimum** time for a level 5 visit has been met while CMS requires meeting the **maximum** amount of time for a level 5 visit prior to adding G2212 (see table 2).

Table 1 Time ranges for 2021

New patient codes	Total time range	Established patient codes	Total time range
99202	15-29 mins	99212	10-19 mins
99203	30-44 mins	99213	20-29 mins
99204	45-59 mins	99214	30-39 mins
99205	60-74 mins	99215	40-54 mins

Table 2 Prolonged services

Code	Time range	To add 99417	To add 99417 (x2)
99205	60-74 mins	75-89 mins	90-104 mins
99215	40-54 mins	55-69 mins	70-84 mins

If you have any questions on this or other coding concerns, please email: welshans@buffalo.edu.

HHS OCR Continues Enforcement of Patient Access to Records

By: Sue Marasi, CHC, CPCA, Compliance Administrator

You may have noticed that we have repeatedly written on this topic in various formats over the past several months. We are doing so again because the Health and Human Services Office of Civil Rights (OCR) has been putting such a great emphasis on it since the first settlement back in September 2019.

Recently, in February and March 2021, the 15th, 16th, 17th and 18th enforcement actions involving patient access to medical records were settled by the OCR. This, along with the fact that those 18 settlements have resulted in total fines of $1,147,500 and corrective action plans that include 1-2 years of monitoring for each, should serve as a wake up call for providers and their staff.

As a reminder, if a patient requests a copy of their medical records, always proceed as follows:

- Requested records MUST be provided within 30 days. It is important to note that there has been a proposed change to this rule that the required response time be shortened to 15 days. We will continue to monitor this proposal, and provide you with any necessary updates.

- Records must be provided to the patient in the format requested, paper or electronically (thumb drive).

- Charge patient no more than $10.

We cannot stress enough the importance of adhering strictly to HIPAA rules when we receive requests for records from patients. Patients have a right to their records and, if they are not provided in a timely manner, there will be consequences. This was a priority for OCR enforcement in 2020, and will continue to be a priority in 2021.

Contact our compliance team if you ever have any questions on this, or any other compliance related topic.
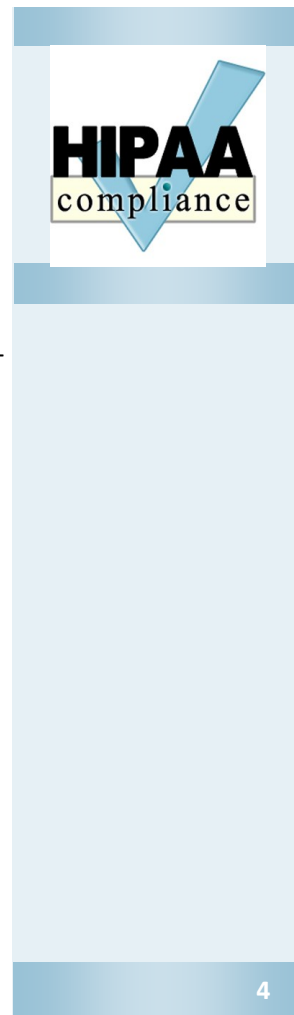
General Compliance: UBMD Compliance Plan

By: Sue Marasi, CHC, CPCA, Compliance Administrator

Our newly updated UBMD Compliance Plan is now an official document. It has been unanimously approved by the UBA Executive Committee and FPMP Governing Board, and signed by the Presidents of both. While we have introduced you to the updated UBMD Compliance Plan previously, this marks the official rollout of the Plan.

A Compliance Plan is an integral part of an effective compliance program. It is not a document to be put in a binder and placed on a shelf to collect dust, or tucked away in an electronic file and forgotten. It is a system of checks and balances to assist providers and staff in understanding applicable federal and state requirements in healthcare programs. The policies and procedures within the Compliance Plan promote and support a culture in which adherence to those requirements are a regular part of our work day.

It is imperative that all UBMD employees take the time to read through the UBMD Compliance Plan, understand the contents, and adhere to all policies and procedures. With that in mind, the rest of this article will briefly explain the various sections of the Compliance Plan, with the expectation that everyone will read the Plan in full at their earliest convenience. All employees, current and new hires, are required to sign an Employee Acknowledgement form stating they received a copy of the Plan, and that they are responsible for reading, understanding and abiding by all policies and procedures set forth in this Compliance Plan.

The signed forms should be kept on file within the individual practices. Should a practice ever be investigated, internally or externally, they may be asked to provide proof that all employees have signed the Acknowledgement. The UBMD Compliance Plan and Employee Acknowledgement Form are available on the UBMD Compliance Office website.

Section I: Introduction
The Introduction is a statement of UBMD's commitment to ethics and integrity, and encourages UBMD employees to use the Compliance Plan as guidance in their daily work activities and services. This section includes the approval and signatures of the FPMP Governing Board and UBA Executive Committee presidents.

Section II: UBMD Affiliated Practice Corporations & Compliance Office Staff
This section includes a listing of the legal names of all UBMD Practice Corporations, and the contact information for the UBMD Compliance Office staff. The Compliance Office has an open-door policy; we welcome and encourage interaction and open communication will all UBMD personnel.

Section III: Elements of an Effective Compliance Program
The Department of Health and Human Services , Office of the Inspector General has stated that every effective compliance program should include the following 8 elements, which are based on Federal Sentencing Guidelines: Code of Conduct, Designated Compliance Officer, Training & Education, Internal Monitoring & Auditing, Communication, Enforcement of Disciplinary Standards, Responding to Detected Violations, and Non-Retaliation.

Each of the elements is briefly explained in this section. The UBMD Compliance Plan was carefully written based on these elements, in an effort to make our compliance program an effective one.

Section IV: Code of Conduct
UBMD is committed to providing quality health care to our patients. While doing so, it is important that everyone stay in compliance with all applicable laws and regulations. Our Code of Conduct is a statement of UBMD's dedication to upholding the ethical, professional and legal standards we use as a basis for our daily and long term decisions and actions. This section outlines and briefly explains each of the following aspects of our Code of Conduct: Compliance with Laws, Regulations, Policies and Procedures; Patient Referrals; Claims for Reimbursement; Confidential Information; Conflict

Continued on next page

"Example is not the main thing in influencing others. It is the only thing."

~Albert Schweitzer

Conflict of Interest; Business Information and Relationships, including Acceptance of Business Courtesies, Competitor Information and Contract Negotiation; and Violations.

Section V: Policies

This section fully describes each of our policies and procedures, which address identified areas of risk, and which all UBMD executives, providers and staff are expected to follow throughout their day to day operations. It is, understandably, the most substantial section of the Compliance Plan. This also serves as an excellent resource to refresh your knowledge on various coding, billing and general compliance topics.

A. **Education & Training**
1. Mandatory New Hire Training
2. Mandatory Annual Training
3. Other Educational Services

B. **Coding & Documentation**
1. Overview
2. PATH Requirements
3. Student Documentation of E/M Services
4. Non-Physician Practitioners: Incident-to Services, Direct Billing, Shared Billing, Scribes

C. **Electronic Medical Records**
1. The Medical Record
2. Templates
3. Cloning
4. EHR Records

D. **Record Retention**

E. **Audit & Monitoring**
1. Periodic Audits
2. Investigational Audits
3. Parallel Audits
4. Requested Audits

F. **Overpayments**

G. **Monitoring Exclusionary Databases**
1. Monthly: OIG-LEIE, GSA-SAM, OMIG List
2. When Credentialed/Re-credentialed: SDN List, NPPES, Death Master

H. **Reporting Misconduct**
1. Examples of Misconduct
2. Procedure for Reporting Misconduct
3. Compliance Hotline
4. Compliance Issue Reporting Form

I. **Diversity**

J. **Language Access Service**

K. **Social Media**

L. **Harassment**

M. **Sexual Harassment**

N. **Non-Retaliation/Whistleblowers**

O. **Internal Investigations**

P. **Corrective Action**

Q. **Appeals**

R. **Government Investigations**

Section VI: Summary of Pertinent Laws, Rules & Regulations

All UBMD employees are expected to work in compliance with all applicable laws, rules and regulations. Failure to do so may result in civil and/or criminal violations leading to exclusion, monetary fines and/or imprisonment. This section briefly explains the following:

- HIPAA Privacy & Security Rules , and Breach Notification Rule
- Stark Law
- Antikickback Statute
- False Claims Act
- Deficit Reduction Act of 2005

Section VII: Revisions to the Compliance Plan

To ensure that the UBMD Compliance Plan remains viable, and maintains high standards of practice in the ever-changing regulatory environment of healthcare, we monitor the Plan on a regular basis. When updates need to be made, there are certain processes that need to be followed. Those processes, which depend on whether the changes are material or technical, are explained in this section.

Attachments

The final section of the Plan includes various documents referred to within the Compliance Plan, including Policy on Conflicts of Interest and Disclosure of Certain Interests, Scribe Agreement, Compliance Hotline Flier, Compliance Issue Report Form, Compliance Plan and Code of Conduct Employee Acknowledgement, and the Language Identification Tool.

Please keep in mind that this article is only an outline, briefly summarizing what each section of the UBMD Compliance Plan includes. It is the responsibility of every UBMD employee, provider and staff, to read, understand and abide by all policies and procedures set forth in the UBMD Compliance Plan.

UBMD Compliance Office Website: https://ubmd.com/about-ubmd/Compliance.html

CONTACT US:

77 Goodell St., Suite 310
Buffalo, NY 14203

Fax: 716.849.5620

Lawrence C. DiGiulio, Esq.
Chief Compliance Officer
716.888.4705
larryd@buffalo.edu

Beverly A. Welshans, CHC, CPMC, CPC, CPCI, COC, CCSP
Director of Audit & Education
716.888.4702
welshans@buffalo.edu

Suzanne M. Marasi, CHC, CPC-A
Compliance Administrator
716.888.4708
smmarasi@buffalo.edu

UBMD COMPLIANCE HOTLINE: 716.888.4752

Report suspect fraud/abuse, potential problems,

or HIPAA concerns.

Ask questions or request guidance | Provide relevant information.

Remain anonymous if you wish | Non-retaliation policy will be adhered to.

(This is a voice mail box monitored during working hours. If there is an immediate threat to person or property, do not leave message; contact direct supervisor immediately!)

Compliance Quarterly Quiz

To submit your quiz answers, please click link below:

2021 First Quarter Quiz

---

1. When billing E/M office encounters by time, time is based on the total time spent on the date of the face-to-face encounter, including both face-to-face and non-face-to-face time.

   A. True
   B. False

2. Which of the following statements is/are true?

   A. Time may not include clinical staff time or time spent the previous day or next day.
   B. Time should be documented clearly in the note indicating the total time spent on the day.
   C. You can refer to notes earlier in the day to support how time was spent.
   D. All of the above are true.

3. If a patient requests a copy of their medical records, the records currently MUST be provided within how many days?

   A. 60
   B. 45
   C. 30
   D. 15

4. When a patient requests their records, we must provide them in the format they request, paper or electronic (thumb drive).

   A. True
   B. False

5. All employees are required to sign an Employee Acknowledgement Form, to be kept in personnel files within the practice plans, stating that they received a copy of the UBMD Compliance Plan, and that they are responsible for reading, understanding and abiding by all policies and procedures set forth in the Plan.

   A. True
   B. False