Ignite Session: Commingling for RHC/FQHC

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Commingling - Definitions

Commingling *Combining things into one body.*

The term *commingling* is most often applied to funds or assets. When a fiduciary, a person entrusted with the management of funds other than his or her own in trust, mixes trust money with that of others, the fiduciary is commingling funds and thereby breaching his or her fiduciary duty.

A member of a corporation's board of directors commingles funds when he or she mixes personal funds with the funds of the corporation. An attorney who commingles his or her money with money belonging to a client is violating the ethics of the legal profession.

Section 100: Commingling

“Commingling refers to the sharing of RHC or FQHC space, staff (employed or contracted), supplies, equipment, and/or other resources with an onsite Medicare Part B or Medicaid fee-for-service practice operated by the same RHC or FQHC physician(s) and/or non-physician(s) practitioners.

“RHCs and FQHCs must maintain and provide adequate cost data based on financial and statistical records that can be verified by qualified auditors.”

RHCs and FQHCs must identify and remove from allowable costs on the Medicare cost report all costs associated with the provision of non-RHC/FQHC services such as space, equipment, supplies, facility overhead, and personnel.”

Section 100: Duplicate Medicare/Medicaid Reimbursement

Duplicate Medicare or Medicaid reimbursement (including situations where the RHC or FQHC is unable to distinguish its actual costs from those that are reimbursed on a fee-for-service basis),

Selectively choosing a higher or lower re-imbursement rate for the services.

Section 100: Treatment Space

"RHC and FQHC practitioners may not furnish or separately bill for RHC or FQHC- covered professional services as a Part B provider in the RHC or FQHC, or in an area outside of the certified RHC or FQHC space such as a treatment room adjacent to the RHC or FQHC, during RHC or FQHC hours of operation."

Section 60: Non RHC/FQHC Services

RHCs and FQHCs ***must be primarily engaged in furnishing primary care services****, but may also furnish certain services beyond the scope of the RHC or FQHC benefit. [such as laboratory services or the technical component of an RHC or FQHC service.]

- ✓ [Non-RHC] services ***must be billed separately*** (not by the RHC or FQHC) to the appropriate A/B MAC under the payment rules that apply to the service.
- ✓ RHCs and FQHCs must identify and remove allowable costs on the Medicare cost report all costs associated with the provision of non-RHC/FQHC services such as space, equipment, supplies, facility overhead, and personnel.

Main Point: Non-RHC services are NOT commingling.

RHC Hours vs Non-RHC Hours

Non-RHC hours ***may*** be established to provide professional or other services which will NOT be billed as RHC (UB04/AIR Payment).

- ✓ The entire RHC must be non-Rural Health during these hours.
- ✓ Non-RHC hours must be “carved-out” of the cost report.
- ✓ Non-RHC hours must be posted on the front door, and in the RHC manual.
- ✓ State Agency notification is recommended. Most states will say it is required.

Non-RHC Hours:
Questions to Ask BEFORE Implementation

- ✓ Why? What is your goal? Is it because these are paid better under non-RHC?
- ✓ Is the carve-out being used to bill services that are incident-to RHC encounters?
- ✓ What is the actual volume and reimbursement of the services that you are seeking to carve-out? Are you comparing clinic charge amounts with the AIR or actual payments?
- ✓ Can these be billed under RHC and eliminate the compliance risk?

Take Away: Are you sure you want to do that?

Two Options for Specialists

Totally Separate Providers

- ✓ Providers Rent space, bring staff, Perform their own billing.
- ✓ RHC carves out space and overhead from the cost report.
- ✓ Provider-based: signage MUST indicate these are NOT RHC providers, but are visiting from an outside practice.

Integrated into RHC/FQHC

- ✓ Any qualified provider (MD, DO, NP, PA) can see patients in an RHC.
- ✓ Specialists provide E/M services in an RHC.
- ✓ Bill as RHC providers.
- ✓ No carve-out or physical service separation.
- ✓ No Compliance Risk.
- ✓ What ARE Primary Care services?

Separate RHC, BH, and Specialty Clinic(s): Floor Plan Example

- ~~The RHC shares waiting space and reception areas with Behavioral Health and Specialty Clinics.~~
- The patient treatment areas are totally separate from one another.
- Each clinic has their own patient registration and check-out personnel, indicated by signage.
- The clinics function operationally as separate practices, other than sharing waiting and reception space.

Floor Plan

Cost Allocation Methods!!

- The A/B MAC has the authority to determine acceptable accounting methods for allocation of costs between the RHC or FQHC and another entity.

- *In some situations, the practitioner's employment agreement will provide a useful tool to help determine appropriate accounting.*

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