ORGANIZATIONAL ETHICS SERIES

Special Learning, Inc.

Audit Proofing Your Organization

Dr. Jon Bailey, PhD, BCBA-D
Karen Chung

May 29, 2019

© 2019 Special Learning Inc. All Rights Reserved

Housekeeping

1. Post your questions in the Questions Box. If we have time, one of our moderators will select a few to present to our panelists.
2. If you experience technical issues during the webinar, contact GotoWebinar directly by calling (877) 582-7011.
3. There will be a 5-minute break near the half way point.
4. A recorded version of this webinar will be available for purchase approximately 7 to 10 days after the live event.
5. This webinar is eligible for the following CEs:
    1. BACB: 2 Ethics or Type II
    2. APA: 2 General -- **for RECORDED WEBINAR**
    3. QABA: 2 General
6. Please complete the survey after the webinar to receive a Certificate of Completion and CEU Certification.
7. If you have any post webinar questions or comments, please send an email to kchung@special-learning.com.

© 2019 Special Learning Inc. All Rights Reserved

Presenter

Jon Bailey, PhD, BCBA-D

Jon Bailey, PhD, BCAB-D received his PhD from the University of Kansas and is currently Professor Emeritus of Psychology at Florida State University, where he was a member of the graduate faculty for 38-years and produced a record 63 PhDs.

He is currently Director of the FSU Panama City Masters Program in Applied Behavior Analysis. Dr. Bailey is a Board Certified Behavior Analyst. He is Secretary/Treasurer and Media Coordinator of the Florida Association for Behavior Analysis (FABA), which he founded in 1980.

Often considered the "father" of the topic of Ethics for the field of behavior analysis, Dr. Bailey has published over 100 peer-reviewed research articles, is a past editor of the *Journal of Applied Behavior Analysis,* and is co-author of *Research Methods in Applied Behavior Analysis*, *How Dogs Learn*, *Ethics for Behavior Analysts, 3rd Edition*, *How to Think Like a Behavior Analyst*, and *25 Essential Skills and Strategies for Professional Behavior Analysts*, all co-authored with Dr. Mary Burch.

In 2014, Dr. Bailey co-authored with Aubrey Daniels, the 5th Edition of *Performance Management: Changing Behavior That Drives Organizational Effectiveness*, a seminal book on performance management.

© 2019 Special Learning Inc. All Rights Reserved

Presenter

Karen Chung

Karen is the Founder and CEO of Special Learning. She started the company in 2010 after learning about the effectiveness of Applied Behavior Analysis (ABA) juxtaposed against the reality that over 95% of the world did not have access to ABA. As an entrepreneur with over 20 years of corporate experience, she started Special Learning to leverage existing and emerging technology to make quality ABA resources and services available to parents, educators and professionals around the world.

Karen's entrepreneurial experience includes starting and growing a diversity retained executive search firm specializing in placing women and minority executives in leadership positions of Fortune 1,000 companies. Her investment banking background includes working with various venture capital and private equity companies to facilitate deal flow while representing CEOs of rapidly growing companies seeking to raise equity and debt capital for various middle market businesses and commercial real estate developers. Her corporate background includes various leadership and functional roles in Fortune 1,000 and middle market companies. Her additional entrepreneurial activities include owning and operating high end boutique

She graduated with a Masters of Management degree from Kellogg Graduate School of Management of Northwestern University. She is a Certified Public Accountant and a recipient of the Elijah Watts Sells Award from the American Institute of Certified Public Accounts (AICPA), an award granted to less than top 5% of all CPA exam candidates.

© 2019 Special Learning Inc. All Rights Reserved

Downloadable Tools and Resources

- Office of Inspector General (OIG) Measuring Compliance Program Effectiveness: A Resource Guide
- Office of Inspector General (OIG) Compliance Guide for Third Party Medical Billers
- Professional and Ethical Compliance Code for Behavior Analysts
- Medicare Overpayments Brochure (Medicare Learning Network)
- ABA Audit Checklist (Magellan Insurance)

© 2019 Special Learning Inc. All Rights Reserved

Outcomes

- List common exit strategies for private healthcare organizations
- Identify the purpose of the Professional and Ethical Compliance Code for Behavior Analysts
- List areas of the Professional and Ethical Compliance Code for Behavior Analysts that pertain to organizational billing practices
- Describe common audit "triggers"
- Identify antecedent strategies to mitigate audit risk

© 2019 Special Learning Inc. All Rights Reserved

Contingency of Money

**ABA REGULATION OF CONTINGENCY FEES:
MONEY TALKS, ETHICS WALKS**

*Lester Brickman**

"I'm certain I speak for the entire legal profession when I say that the fee is reasonable and just."

Drawing by Leo Cullum; © 1995
The New Yorker Magazine, Inc.

Ethical vs. Unethical

Your Destination Will Shape Your Path…

To walk ethically (the hard way)

OR

To walk unethically (the easy way)

© 2019 Special Learning Inc. All Rights Reserved

Common Destinations

- Clinical Outcomes
  Metric: Client independence

- Financial Outcomes
  Metrics:
    Operating cash flow
    Cash: Upon exit

- Clinical Outcomes with Financial

- Financial Outcomes with Clinical

© 2019 Special Learning Inc. All Rights Reserved

Destination: Exits

In the field of ABA, ***billing*** (i.e. ready access to billions of dollars in funding) is what makes ABA businesses so attractive to financial buyers. Due to this factor, billing is an area that offers the ***greatest*** risk to buyers.

Type	Minimum Revenue	Control	Staff Protection	Client Protection	Level of Due Diligence (Billing)
Liquidation and Shutdown	N/A	High	N/A	N/A	N/A
Pass Down to Family	N/A	High	High	High	Low
Financial Buyer	$2 to 3 million	Low	Low	Low	HIGH
Private Equity (PE) Backed Financial Buyer	$15 million and above	Low	Low	Low	HIGH
Strategic Buyer	$5 million and above	Low	Low	Low	HIGH
Employee Stock Option Plan (ESOP)	$4 to $6 million	Low	High	Medium	HIGH

© 2019 Special Learning Inc. All Rights Reserved

The Purpose of an Ethics Code

Most people think that an Ethics Code is something that tells you what you ***should not*** to do

The true purpose of an Ethics Code is to provide a roadmap to show what you ***should*** do… to help clients achieve best health outcomes.

An Ethics Code isn't just for BCBAs. It's also a blueprint for ABA organizations.

© 2019 Special Learning Inc. All Rights Reserved

Ethics Code = Best Practices in Billing

MAINTAINING INTEGRITY (1.04)
PROMOTING AN ETHICAL CULTURE (7.01)

UPON INCEPTION

2.0 Behavior Analysts' Responsibility to Clients

2.12 Contracts, Fees and Financial Arrangements

SERVICE DELIVERY PROCESS

2.04 Third-Party Involvement in Services

2.09 Treatment Efficacy

3.0 Assessing Behavior

4.0 Behavior Analysts and the Behavior Change Program

5.0 Behavior Analysts as

CONSENT / COMMUNICATION

2.05 Rights and Prerogatives of Clients

2.06 Maintaining Confidentiality

3.03 Behavior-Analytic Assessment Consent

3.04 Explaining Assessment Results

3.05 Consent-Client Records

4.02 Involving Clients in Planning and Consent

DOCUMENTATION

2.10 Documenting Professional Work

2.11 Records and Data

2.13 Accuracy in Billing Reports

2.06 Maintaining Confidentiality

2.07 Maintaining Records

2.08 Disclosure

PROFESSIONALISM

1.04 Integrity

7.02 Ethical Violations of Others and Risk of Harm

© 2019 Special Learning Inc. All Rights Reserved

5-Minute Break

© 2019 Special Learning Inc. All Rights Reserved

Problem: Questionable Billing Practice Scenario

"… company policy with my current employer. … all client receiving ABA services will be required to receive a minimum of 12 hours per week… …Is it possible to require a minimum number of service hours… and advocate for the appropriate amount and level of service provision? "

BACB Ethics Code Violations

2.0 Behavior Analysts' Responsibility to Clients

Behavior analysts have a responsibility to operate in the best interest of clients.

2.09 (a) Clients have a right to effective treatment (i.e. based on the research literature and adapted to the individual client).

2.09 (b) Behavior analysts have the responsibility to advocate for the appropriate amount and level of service provision and oversight required to meet the defined behavior-change program goals.

4.03 (a) Behavior Analysts must tailor behavior-change programs to the unique behaviors, environmental variables, assessment results, and goals of each client.

© 2019 Special Learning Inc. All Rights Reserved

Solution: Questionable Billing Practice

BACB Ethics Code

1.04 (e) If a behavior analysts' ethical responsibilities conflict with *(positive client outcomes)*, law or any policy of an organization with which they are affiliated, behavior analysts make known their commitment to this Code and take steps to resolve the conflict in a responsible manner in accordance with law.

© 2019 Special Learning Inc. All Rights Reserved

Mitigating Billing Risk

- Understand audit “triggers”
- Know what to do in an insurance audit
- Understand possible outcomes of insurance audits

- **Implement Antecedent Strategies**
    - Embed the Ethics Code into company policies and procedures
    - Implement a Compliance Program
    - Conduct regularly scheduled internal audits
    - Conduct periodic external audits
    - Conduct periodic Ethics Code audits
    - Implement funding source documentation requirements into workflow

© 2019 Special Learning Inc. All Rights Reserved

Mitigating Billing Risk

Antecedent Strategy: Embed the Ethics Code into company policies and procedures

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: Documentation and Standards

Code 2.0
Behavior Analysts' Responsibility to Clients

Code 3.0
Assessing Behavior

Code 4.0 Behavior Analysts and Behavior-Change Program

ABA Record Audit Tool

Provider Last Name and/or Group Name:
Reviewer Name:
Date of Review:
Patient ID:

General Documentation Standards:

		Y	N	N/A
1.	Each client has a separate record clearly identified with name and DOB.			
2.	Each record includes the client's address, contact information, and guardianship information.			
3.	There is evidence of a Consent for Treatment that addresses the potential risks and benefits of treatment in the record that is signed by the client and/or legal guardian.			
4.	If the member is their own legal guardian, appropriate release of information documents are present.			
5.	A diagnostic report is present in the record that indicates the member has a diagnosis of Autism Spectrum Disorder, as evaluated under DSM-5 guidelines. The diagnostic report must be signed by a Physician (MD) or Clinical Psychologist (PhD or PsyD).			
6.	As of 10/1/16- There is documentation that providers of direct service have the RBT credential (Registered Behavior Technician).			
7.	For CA providers only- There is documentation that supervision meets the 3 tier service delivery model.			
8.	There is documentation that at least 80% of billed supervision is spent on the direct supervision of staff.			
9.	All assessments include all required dated signatures.			

3.03 Behavior Analytic Assessment Consent

3.05 Consent-Client Records

RBT Competency

5.0 Behavior Analysts as Supervisors

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: FBA

Code 2.0
Behavior Analysts' Responsibility to Clients

Code 3.0
Assessing Behavior

Code 4.0 Behavior Analysts and Behavior-Change Program

Functional Behavioral Assessment (FBA)/Initial Treatment Plan requirements

1.	There is evidence of a FBA in the record and that the FBA was reviewed with the family prior to the start of treatment.			
2.	A complete developmental, medical, and treatment history is documented.			
3.	There is documentation of any legal issues, spiritual needs, and/or cultural variables that may impact treatment.			
4.	A developmental assessment has been completed and documented (Vineland or ABAS) as baseline scores.			
5.	Was the member and/or parent/legal guardian present during the assessment?			
6.	There is evidence that the course of treatment is individualized to the client.			
7.	The course of treatment is linked to clear, quantitative and developmentally appropriate goals/objectives with targeted timelines for achieving them			
8.	Treatment Record reflects continuity and coordination of care between primary behavioral health clinician and (note all that apply under comments): Occupational Therapy, Speech Therapy, Physical Therapy, physician, therapist or school personnel.			
8a.	Accuracy: Communication matched information in chart			
8b.	Timeliness: Communication within 30 days of initial assessment			
8c.	Sufficiency: Communication appropriate to condition/ treatment			
8d.	Frequency: Occurred after initial assessment			
8e.	Clarity: reviewer understands communication			
9.	Depression screening- For clients age 13 and older, there is documentation that the PHQ-A was completed every 6 months or rationale as to why it wasn't completed[1]			

2.03 Consultation
2.04 Third-Party Involvement in Services

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: FBA

Code 3.0
Assessing Behavior

Code 4.0 Behavior Analysts and Behavior-Change Program

10.	Current medical conditions and treatment are noted including the following information: known medical conditions, dates and providers of treatment, medications, and current therapeutic interventions and responses.				3.02 Medical Consultation
11.	The presence or absence of drug and/or food allergies is clearly documented.				
12.	There are at least 2 behavior reduction goals with all of the following:				
12a.	Detailed definition				
12b.	Topography				
12c.	Proposed function				
12d.	Intervention				
12e.	Baseline data				
12f.	Mastery Criteria				
13.	There are at least 2 skill acquisition goals with all of the following:				
13a.	Detailed definition				
13b.	Topography				
13c.	Baseline Data				
13d.	Mastery criteria				
14.	There are at least 2 Caregiver Training goals with baseline and mastery criteria. Please note, attendance at staff meetings is not considered Caregiver Training (S5110).				
15.	There is evidence that caregivers were educated about the importance of their role and trained in supporting the behavioral health treatments provided.				
16.	There are clearly outlined discharged criteria in the FBA/Initial Treatment Plan.				

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: Treatment Plan

Code 3.0
Assessing Behavior

Code 4.0 Behavior Analysts and Behavior-Change Program

Treatment Plan requirements

1.	There is evidence that an updated treatment plan was reviewed with the family at least every 6 months.			
2.	A complete developmental, medical, and treatment history is documented.			
3.	There is documentation of any legal issues, spiritual needs, and/or cultural variables that may impact treatment.			
4.	An updated developmental assessment has been completed; baseline and current scores are documented (Vineland or ABAS) at least every 6 months.			
5.	Treatment Record reflects continuity and coordination of care between primary behavioral health clinician and (note all that apply under comments): Occupational Therapy, Speech Therapy, Physical Therapy, physician, therapist or school personnel.			
5a.	Accuracy: Communication matched information in chart			
5b.	Timeliness: Communication within 30 days of initial assessment			
5c.	Sufficiency: Communication appropriate to condition/ treatment			
5d.	Frequency: Occurred after initial assessment			
5e.	Frequency: Occurred after change in treatment			
5f.	Frequency: Occurred after termination of treatment			
5g.	Clarity: reviewer understands communication			
6.	Depression screening- For clients age 13 and older, there is documentation that the PHQ-A was completed every 6 months or documented rationale as to why it wasn't completed[1]			
7.	Current medical conditions and treatment are noted including the following information:			
7a.	Known medical conditions			
7b.	Dates and providers of treatment			
7c.	Medications			
7d.	Current therapeutic interventions and responses			
8.	The presence or absence of drug and/or food allergies is clearly documented.			

2.03 Consultation
2.04 Third-Party Involvement in Services

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: Treatment Plan

Code 3.0
Assessing Behavior

Code 4.0 Behavior Analysts and Behavior-Change Program

9.	There are at least 2 behavior reduction goals with all of the following:			
9a.	Detailed definition			
9b.	Topography			
9c.	Proposed function			
9d.	Intervention			
9e.	Baseline data			
9f.	Mastery criteria			
9g.	Current frequency or graph of progress			
10.	There are at least 2 skill acquisition goals with all of the following:			
10a.	Detailed definition			
10b.	Topography			
10c.	Baseline data			
10d.	Mastery criteria			
10e.	Current progress			
11.	There are at least 2 Caregiver Training goals with all of the following: *Please note, attendance at staff meetings is not considered Caregiver Training (S5110).*			
11a.	Baseline			
11b.	Mastery criteria			
11c.	Current progress			
12.	There is evidence that if the member is not making progress on behavior reduction or skill acquisition goals, that the intervention has been changed for that goal.			
13.	Evidence that required data was collected in order to adequately track treatment progress			
14.	There are clearly outlined discharged criteria in the treatment plan.			

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: Notes

Code 3.0
Assessing Behavior

Code 4.0 Behavior Analysts and Behavior-Change Program

Service Delivery Notes

1.	There is a separate entry in the record for each service billed that is legible to someone other than the writer.			
2.	Each record documents the following information for each visit:			
2a.	Start and end times			
2b.	Who is present during the visit			
2c.	Who performed the visit (provider's name, provider's credential/license and signature)			
2d.	Behaviors tracked during the visit (including any monitoring/ data collection of targeted risk behaviors)			
2e.	Clinical note on the recipient's behavior			
2f.	Visit setting			
2g.	Any communication with guardians/ caregivers			
3.	Where applicable, case supervision standards are followed:			
3a.	Direct case supervision: • Observation • Instruction • Modeling • Performance-based feedback to front-line treatment providers and parents on the fidelity of delivery • Data collection for the purpose of inter-observer agreement on patients' response to treatment • Collecting baseline data with reliability on new targets/ objectives as patients master current targets			
3b.	Indirect case supervision: • Development of individualized patient response forms • Development of token economic stimuli • Development of behavioral contracts or stimulus generalization materials • Summarizing, reviewing and analyzing data			

© 2019 Special Learning Inc. All Rights Reserved

Magellan's ABA Record Checklist: Discharge

Code 2.15
Interrupting or Discontinuing Services

Discharge of Client

1.	If the client was transferred to another ABA agency, there is documentation of a discharge summary (consisting of: goal status and discharge plan that was also made available to the parent/caregiver).			
2.	If the client was discharged, there is documentation that appropriate referrals for ongoing behavioral health services were given to the member and/or family.			
3.	A discharge plan is present in the record that summarized the reason for discharge from treatment, the progress/mastery of treatment goals, and an aftercare plan.			
4.	All clinical records are completed within 30 days following discharge.			

© 2019 Special Learning Inc. All Rights Reserved

Mitigating Billing Risk

Antecedent Strategy: Implement a Compliance Program

© 2019 Special Learning Inc. All Rights Reserved

Antecedent Strategy: Implement a Compliance Program

Measuring Compliance Program Effectiveness: A Resource Guide

ISSUE DATE: MARCH 27, 2017

HCCA-OIG Compliance Effectiveness Roundtable Meeting: January 17, 2017 | Washington, DC

Elements of a Compliance Program:

1. Standards, Policies and Procedures
2. Compliance Program Administration
3. Screening and Evaluation of Employees, Physicians, Vendors and other Agents
4. Communication, Education, and Training on Compliance Issues
5. Monitoring, Auditing, and Internal Reporting System
6. Discipline for Non-Compliance
7. Investigations and Remedial Measures

** Office of Inspector General (OIG) Measuring Compliance Program Effectiveness

© 2019 Special Learning Inc. All Rights Reserved

1.0: Standards, Policies, and Procedures

- A. Conduct periodic reviews of policies, procedures, and controls.
- B. Consult with legal resources.
- C. Verify that appropriate coding policies and procedures exist.
- D. Verify that appropriate overpayment policies and procedures exist.
- E. Integrate mission, vision, values, and ethical principles with code of conduct
- F. Maintain compliance plan and program.
- G. Assure that a nonretribution/nonretaliation policy exists.
- H. Maintain policies and procedures for internal and external compliance audits.
- I. Verify maintenance of a record retention policy.
- J. Maintain a code of conduct
- K. Verify maintenance of:
  - A conflict of interest policy
  - Appropriate confidentiality policies
  - Appropriate privacy policies
  - Policies and procedures to address regulatory requirements (e.g., the Emergency Medical Treatment and Labor Act (EMTALA), Clinical Laboratory Improvement Amendments (CLIA), Anti-Kickback, research, labor laws, Stark law).

** Office of Inspector General (OIG) Measuring Compliance Program Effectiveness

© 2019 Special Learning Inc. All Rights Reserved

1.0: Standards, Policies, and Procedures

- L. Verify appropriate policies on interactions with other healthcare industry stakeholders (e.g., hospitals/physicians, pharma/device representatives, vendors).
- M. Assure policies and procedures address the compliance role in quality of care issues.
- N. Verify maintenance of a policy on gifts and gratuities.
- O. Verify maintenance of standards of accountability (e.g., incentives, sanctions, disciplinary policies) for employees at all levels.
- P. Maintain a Compliance Department operations manual.
- Q. Verify maintenance of policies on waivers of co-payments and deductibles.
- R. Assure governance policies related to compliance are appropriately maintained.

** Office of Inspector General (OIG) Measuring Compliance Program Effectiveness

© 2019 Special Learning Inc. All Rights Reserved

© 2019 Special Learning Inc. All Rights Reserved

Insurance Audit "Triggers"

Commercial Plan Audits: What Triggers a Commercial Plan Audit?

- Reports or internal analyses suggesting that an clinician or organization is an outlier
- Repeated perceived claims submission errors, or atypical billing and coding patterns
- Plan contract negotiations or renegotiations, or
- Internal changes in payer bundling or claims management policies (which payers sometimes attempt to apply retroactively), or
- Reports from individuals (e.g., patient complaints, employer requests, or whistle blowers)
- And sometimes, audits just randomly occur.

© 2019 Special Learning Inc. All Rights Reserved

Recoupment: Process for Collecting Overpayments

Health insurance payers monitor the billing, coding and documentation practices of health care providers in order to prevent fraud and abuse within the health payment system. A common process that insurers utilize is the post-payment audit or retroactive review of claims.

1. Request medical records from the provider.
2. Compare documentation with the codes on the claim forms that were previously submitted and paid.
3. If there is any deficiencies in the documentation or if the documentation does not satisfy the insurers' policies for payment (e.g. medical necessity requirements), the insurer will calculate an overpayment demand.
4. The insurer will request repayment of the overpayment from the provider.
5. If the provider fails to re-pay the amount alleged to be due, then the insurer will often use the self-help remedy of offsetting the amounts due from the provider's current claim submissions.

© 2019 Special Learning Inc. All Rights Reserved

Abuse describes practices that may directly or indirectly result in unnecessary costs to the Medicare Program. Abuse includes any practice that does not provide patients with medically necessary services or meet professionally recognized standards of care. The difference between “fraud” and “abuse” depends on specific facts, circumstances, intent, and knowledge.

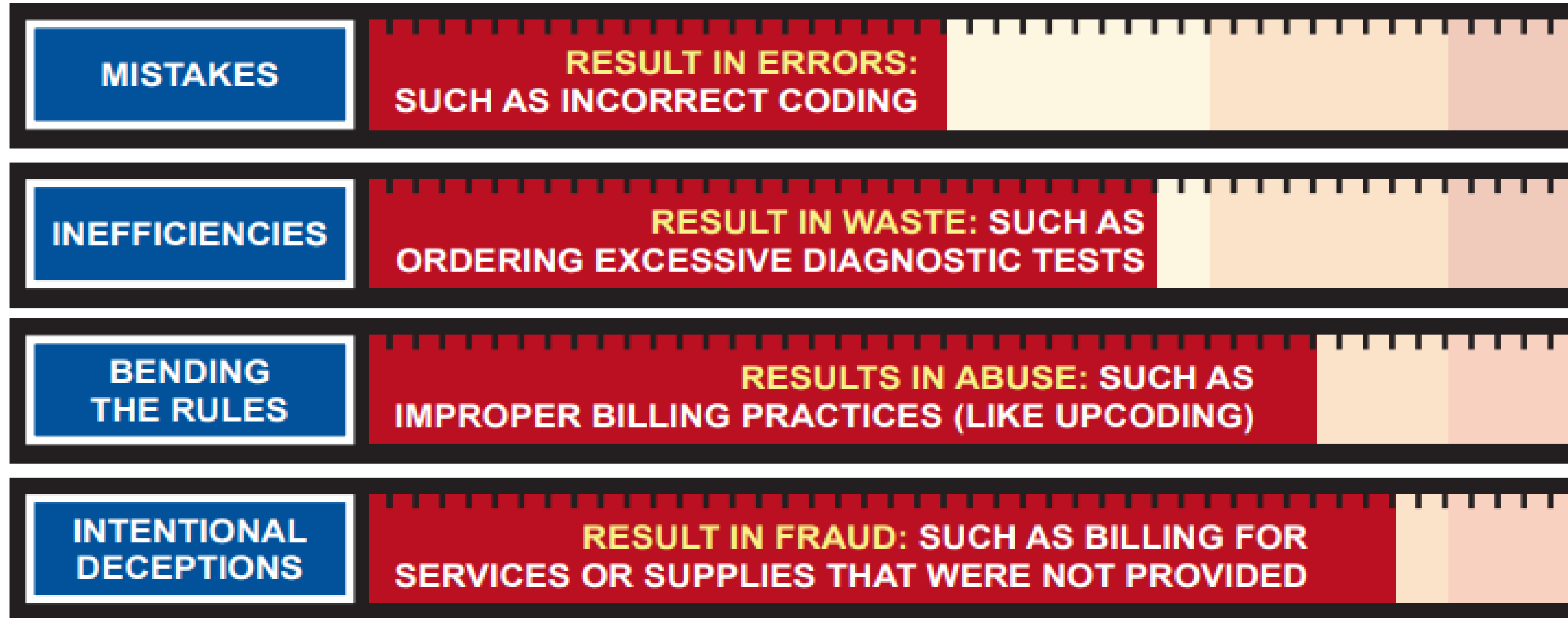
Examples of Medicare abuse include:

- Billing for unnecessary medical services
- Charging excessively for services or supplies
- Misusing codes on a claim, such as upcoding or unbundling codes. Upcoding is when a provider assigns an inaccurate billing code to a medical procedure or treatment to increase reimbursement.

https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Fraud-Abuse-MLN4649244.pdf

© 2019 Special Learning Inc. All Rights Reserved

Improper Payments



Consequences of Medicare fraud include:

- Criminal liability (may lead to imprisonment, fines, and penalties)
- Civil liability
- Clawback
- Exclusion from participating in all Federal health care programs and losing professional licenses

https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Fraud-Abuse-MLN4649244.pdf

© 2019 Special Learning Inc. All Rights Reserved

Common Audit Risk Items

- **Failure to comply with medical policies**. All insurers create medical policies that require strict compliance. Medical policies set forth the insurers' requirements for documentation to support the claims that are submitted for payment. Providers should download and review all insurance payer medical policies and implement office policies and procedures for training, educating and complying with those policies.
- **Medical Necessity v. Maintenance**. Insurance payers often pay particular attention to prolonged care to the patient without documenting functional improvement or the need for the particular services. Failure to properly document the medically necessary services properly often leads to overpayment determinations.
- **Time Based Codes.** Physical medicine codes require documentation of one-on-one time between the provider and the patient. Any circumvention by the provider of the rules for billing time based codes will cause an overpayment determination.
- **Individual Therapy v. Group Therapy.** Providers must accurately report a one-on-one therapy session versus a session with two or more patients.
- **Using the wrong code.** Providers are required to submit claims using codes that best describe the services being provided to the patient. Using the wrong code will cause an overpayment determination and in some cases it will lead to a fraud claim, when the payer believes it was intentionally done.

© 2019 Special Learning Inc. All Rights Reserved

Common Audit Risk Items

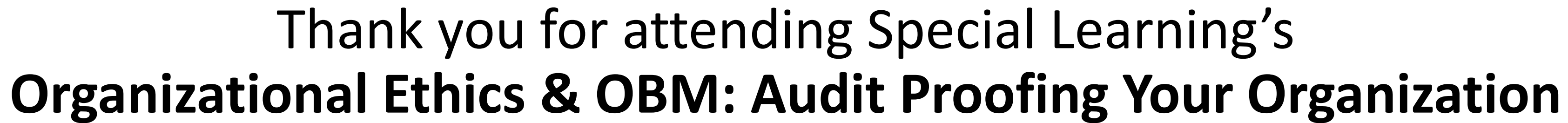
- **Up-coding.** This occurs when an inappropriate code is used to gain a higher level of reimbursement, e.g. reporting CPT 99203 when CPT 99201 more aptly describes the services.
- **Overutilization of Evaluation and Management**. An evaluation and management service must only be reported when the service is medically necessary. When providers routinely use the evaluation and management codes, payers will audit the practice to determine whether the exams are necessary.
- **Delegation of Services to Unlicensed Personnel.** Payer policies and state law often prohibits unlicensed personnel from providing services to patients, even under the supervision of the licensed provider. If claims are submitted for services improperly provided by unlicensed personnel, the payers will recoup those payments.
- **Improper Supervision.** In certain instances, procedures and diagnostic testing can be performed by individuals so long as they are properly supervised. Improper supervision will cause an overpayment determination.
- **Improper Use of Modifiers:** Improper use of modifiers can easily trigger an audit or cause issues with reimbursement.

© 2019 Special Learning Inc. All Rights Reserved

References

- *ABA Record Audit Tool* [PDF]. (2016). Magellan Healthcare, Inc.
- Behavior Analyst Certification Board. (2014). Professional and ethical compliance code for behavior analysts. Littleton, CO: Author.
- Bailey, J., Chung, K., Katori, J., & Serel, M. (2019, March). Organizational ethics & OBM series. In J. Bailey (Chair), *Module 3- Best Practices in Billing.* Symposium conducted at the Special Learning, Inc. CEU LIVE event, Virtual.
- Bailey, J., Postma, N., Torsiello,K., Molko, N., (2018, August). Ethics in Medicaid and Insurance Fraud Series. In J. Bailey (Chair), *Ethics of Medicaid Fraud.* Symposium conducted at the Special Learning, Inc. CEU LIVE event, Virtual.
- Bailey, J., & Silcox, M., (2018, October). Ethics in Medicaid and Insurance Fraud Series. In J. Bailey (Chair), *Ethics of Medicaid Fraud: Scenarios and Q&A.* Symposium conducted at the Special Learning, Inc. CEU LIVE event, Virtual.
- Court, E. (2018, June 20). American Medical Association to investigate whether private-equity-owned practices put profits over patients. Retrieved May 20, 2019, from https://www.marketwatch.com/story/responding-to-doctors-concerns-american-medical-association-will-investigate-role-of-private-equity-and-other-companies-2018-06-18?fbclid=IwAR0idSdwfL39b8DOYR2bpID6gourd79hy-OwPOvjH0ylTlyOOT7RKn9srzA
- Dedicated to Independent Ethics Consultation and Guidance. (n.d.). Retrieved from https://www.abaethicshotline.com/
- *Measuring Compliance Program Effectiveness: A Resource Guide* [PDF]. (2017, January 17). Washington: Department of Health and Human Services, Office of Inspector General (OIG).
- *MEDICARE FRAUD & ABUSE: PREVENT, DETECT, REPORT* [PDF]. (2019, February). Centers for Medicare and Medicaid Services and Medicare Learning Center.

© 2019 Special Learning Inc. All Rights Reserved



Thank you for attending Special Learning's
Organizational Ethics & OBM: Audit Proofing Your Organization

Next in the in Series:
Module 5: Best Practices (June 26, 2019)

Thank you to Special Learning Staff who made this event seamless:

Krystal Larsen, BCaBA, VP of Operations and Clinical Solutions
Ann Beirne, BCBA ACE Coordinator
Pia Agsao, Manager of Operations
Stephanie Lutz, Executive Assistant to CEO
Michelle Capulong, Manger of Client Support
Sasho Gachev, Creative Director

Please reference this presentation as the following:
Bailey, J., & Chung, K. (2019, May). Organizational ethics & OBM series. In J. Bailey (Chair), *Audit Proofing Your Organization.* Symposium conducted at the Special Learning, Inc. CEU LIVE event, Virtual.

© 2019 Special Learning Inc. All Rights Reserved