Setting Up an Effective Personnel Incentive Program That Doesn’t Break the Law
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abc360 Compliance Sessions

SETTING UP AN EFFECTIVE PERSONNEL INCENTIVE PROGRAM THAT DOESN’T BREAK THE LAW

Our employees work hard…
What’s wrong with rewarding them?

Incentive Programs
• When structured properly incentive programs can
  ▪ Improve operations
  ▪ Reward high performing staff
  ▪ Increase employee morale

Problematic Incentive Programs

Example: Crew Call Bonus
• “Call Bonus” incentive programs typically reward crews for running more than the average number of calls per shift

Anti-Kickback Statute
• Call bonus incentives can raise kickback concerns
  “offers or pays remuneration…to refer an individual…for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program”
Anti-Kickback Statute

- Could be seen as a way to artificially inflate call volume
  - Induce crews to transport patients who might not otherwise require transport
  - Create incentive to refer patients to ambulance service as a way to increase calls per shift

Other Concerns

- Could create incentive for crews to rush through transports to be available for another call
  - Patient care could suffer
  - Negative impact on documentation

Example: Billable PCR Bonus

- Crew members paid bonuses based on turning in “billable” PCRs
- Not paid a bonus if they turn in PCRs that are not billable

Again...

- This is impermissible under the AKS
- Tying compensation to whether or not a trip is billable would create incentives to misrepresent medical necessity and other documentation on the PCR

Example: Biller Productivity Bonus

- Productivity bonuses reward billers for billing more Medicare claims than the average number of claims per day

False Claims Act

- In addition to the AKS, productivity bonuses could lead to FCA violations
  “Knowingly makes, uses or causes to be made a false record or statement to get a false or fraudulent claim paid”
False Claims Act
- Could be seen as a way to encourage billers to submit claims even when coverage criteria is not met
- Create an incentive to submit claims without verifying signature, valid PCS, etc.

Other Concerns
- Even if no bonus is offered, billers who have to report number of claims coded per day may believe that quantity matters more than quality
- Make sure productivity expectations are realistic

Example: Revenue Based Rewards
- Aligning billing staff bonuses or raises with the amount of revenue collected or billed

Upcoding
- Revenue based incentives could encourage upcoding
  "Using a billing code that provides a higher level of reimbursement rate than the billing code that actually reflects the services furnished to the patient"

Upcoding
- Could be seen to encourage billers to submit claims to generate the most amount of revenue regardless of whether the level of service billed was supported by the documentation

Even if you don’t intend to violate the law
The appearance of an AKS or FCA violation can cause big problems for your agency
Incentive programs aren’t always a problem…

But they must be structured in a way that complies with federal laws…

Determine What To Measure
• Find straightforward elements to measure
  ▪ Signature compliance
  ▪ All data elements completed
  ▪ Number of PCRs returned for missing information

CDI
• This is where a Clinical Documentation Improvement (CDI) program can be extremely helpful
  ▪ CDI checklists utilize objective documentation standards for specific conditions (e.g., chest pain)
  ▪ Establishes specific issues that must be addressed on each PCR with this complaint

CDI
• You can use these objective checklists to establish performance criteria
  • Example:
    ▪ “95% of the time or better, PCRs with a chief complaint of chest pain must document whether or not the patient had a prior MI…”
Establish Standards

• Establish standards - what is acceptable and not acceptable
• Must be objective and able to be applied consistently

Examples: Objective Criteria

• Patient signature present?
  • YES    NO
• If no, reason for inability to sign documented?
  • YES    NO
• Signature of authorized rep obtained?
  • YES    NO
• If no, contemporaneous signature of receiving facility and crew member?
  • YES    NO

Compliant Crew Incentives

• Incentives should not be tied to billable transports
• Can receive bonuses for refusals and non-billable transports as long as incentive criteria is met

Compliant Crew Incentives

• Complete and accurate PCRs
  • Reduce subjectivity by establishing clear standards for what “complete” means
  • Ensure that this isn’t a call bonus in disguise
  − Example: crew gets bonus as long as any paperwork is turned in

Compliant Crew Incentives

• Based on time on shift (OT) instead of number of transports
• Collection of signature on every transport
  • Or met one of the exceptions

Compliant Crew Incentives

• Incentives should not be based on
  • Procedures/interventions
  • Levels of service
  • Payer
  • Amount of reimbursement
  • Billable vs. non-billable calls
Compliant Biller Incentives

- Incentives should not be tied to billable claims
- Make sure that productivity expectations are realistic and allow for compliance to be the top priority

Compliant Biller Incentives

- Base “productivity” on number of claims reviewed
  - Based on making determination of if and who to bill
  - Include claims that are reviewed and held for more information

Compliant Biller Incentives

- Complete and accurate claim submission
  - Based on documentation
  - Establish clear standards for what constitutes a complete claim

Compliant Biller Incentives

- Incentives should not be tied to
  - Payer
  - Whether claim is ultimately paid
  - Level of service

Compliant Biller Incentives

- Billers are just as productive if they efficiently review a claim and determine it doesn’t meet coverage criteria as if they review a claim and determine it does

Your incentive program will look much better – and be more compliant – when it is tied to productivity and efficiency as opposed to revenue
Suggestion Programs

- Another type of incentive can reward employees for suggestions that improve operations, efficiency and compliance

Suggestion Programs

- Examples:
  - Crew member suggested that back injuries could be reduced with new stretchers
  - Supervisor made suggestion for restraint system that improved crew safety
  - Biller suggested that the billing software be reconfigured to eliminate inappropriate defaults

“Merit Badge” Rewards

- Incentivizing staff for obtaining additional training or credentials that can improve operations or compliance

“Merit Badge” Rewards

- Examples:
  - Crew member completes NAEMT “EMS Safety” course
  - Compliance officer becomes CACO certified
  - Coders become CAC certified
  - Privacy officer becomes CAPO certified

Benefits

- Suggestion and merit badge incentives recognize specific, objective accomplishments
- Minimal subjectivity involved
- Not tied to the volume or value of billable transport activity

Evaluate Your Program
Compliance Goals

• Make sure the message you send with your incentive program aligns with compliance program training and goals

Compliance Goals

• In a 2013 survey, 55% of compliance officers felt employee incentives ran contrary to compliance standards


Don’t make staff members choose between performance and compliance!

Ask Yourself

• Does your incentive program push employees to take undue risks?
  • Upcoding
  • Inaccurate documentation
  • Billing for transports that don’t meet coverage criteria

Include Safeguards

• Ensure staff who receive incentives have no role in deciding which transports are performed
• Involve the compliance officer in structuring and monitoring incentive programs

Include Safeguards

• Set realistic expectations for what can be achieved while maintaining a commitment to compliance
• Provide a mechanism for staff to ask questions and report concerns
Take it Further

- Consider general compliance measures in staff member evaluations
  - Uphold the Code of Conduct
  - Current with compliance training
  - Support compliance program objectives

Take it Further

- Tie bonuses and raises to overall compliance performance, not just completion of specific tasks

Summary

- Structure incentive programs to align with compliance objectives
- Even the appearance of FCA or AKS violations can cause problems
- Avoid incentives based on transports performed or claims billed