

# High-Tech Hostage Negotiations

## ENDING AUDITS SUCCESSFULLY WITH CLINIC TECHNOLOGY

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There's no way of getting around it: This column is about audits. And talking about audits is about as exciting and uplifting as talking about disaster preparedness. That means I have a challenge ahead of me. Because for all their hard work, those volunteers at the Red Cross have a hard time convincing us that we need a working flashlight with a couple of jugs of water in case the river rises or a tornado touches down. We may admit that a family emergency plan is a good idea. But we also know that if bad things do happen, they'll probably happen to somebody else. That's why we usually bet that if a chiropractor is going to get audited, it's probably going to be the DC down the street, not us.

If you have an "it isn't going to happen to me" attitude, I'm here to challenge your assumptions and provide you with some information about what's at stake in the growing movement toward auditing chiropractic practices. You deserve to know what your risk factors are, and the kinds of solutions out there to help you overcome an audit and decrease the likelihood that one may arrive at your door. The key is coming to realize that the possibility is real. Once you've admitted this, embracing the clinic advancements that will protect your practice will be a natural end- solution for the clinic of the future.

### Less Sloppy Doesn't Mean Immunity

If you think your clinic records are decent in comparison to your colleague, don't be fooled into thinking you're already safe from an audit. Your sloppy colleague is no guarantee for you against outside scrutiny. There are probably chiropractors in your area who had never considered themselves a candidate for an audit. Nonetheless, they found their practices being held hostage by a third-party payer reviewing their records. If you were to ask many of these practitioners to rank their documentation standards and the overall quality of their care, none would place themselves at the very bottom of the stack. While many assume it's those mythical guys on the bottom rung who will get audited first, that's just not how it happens. The assumption that your poorly documented neighbor is going to get the attention is as silly as assuming the car speeding faster than you on the highway is going to get the ticket. You're both still speeding, even if you're not speeding as much. Even worse than the speeding analogy, you can still get audited without being at fault. Some of the most ethical DCs - the ones with good records and great service - still get audited. If one small flaw is present in their documentation, then refunded monies are extracted from future payments. Anyone is a candidate for an audit, which is why you need to know what's at stake if that time comes for your practice.

### What's the Worst That Could Happen?

First off, let's cover who has the right to request your records. While many chiropractors think audits only happen under Medicare, claims reviewers from any third-party pay program that gets a bill from you can request to see your records. In addition, your state licensing board has the right to review your records if they suspect an inconsistency in your documentation standards.

So, what's the worst that could happen? Of course, getting nailed for conspiring to defraud a pay program or the government is going to end in prison time, a loss of licensure and other life-changing events. But that's not the kind of audit we're talking about for the most part. The kind of audit we fear is the audit that ends in recoupment.

### Understanding Recoupment

Recoupment is what happens when the federal government or a third-party pay program determines that you've failed to justify your patient care in your documentation in a process called "post-payment review." The most famous is the Medicare CERT review. This is a so-called friendly audit. No monies requested, as yet. But most monies requested, as yet. But most third-party pay audits are all about the money. It means that those programs now have the prerogative to collect all of those payouts they've made to your practice over the past several years. Sometimes these recoupment amounts only total in the thousands of dollars, but sometimes they can total in the hundreds of thousands of dollars. What is most troubling about the recoupment process is that the pay program has no legal responsibility to disclose the total amount of the recoupment at once, and they don't technically have to tell you where they found the problem. Then there's the issue of extrapolation.

Extrapolation is based on the idea that the pay program can't find every place where they have paid you for unjustified care; so they're going to estimate that number for themselves. They will extrapolate those data to increase the recoupment amount to their satisfaction, based on a sampling of your total records for collection. If that sounds like a nightmare to you, it can be. Practice growth is put at a standstill until recoupment is paid or some other legal arrangement is made.

### Post-Audit Annoyances

Beyond the monetary losses, failing an audit can also start a host of administrative annoyances that eat up your time. For example, practices that fail a Medicare CERT review often have to spend months in a probationary program, where the doctor has to review all of their records with a Medicare reviewer over the telephone, often an RN. Other programs may require the doctor to submit a SOAP note for every visit on a claim; otherwise, no payment will be made. I can't emphasize enough how long this process can drag out - sometimes for years - and how debilitating it can be for the chiropractor to be able to manage a growing practice. In addition, if you fail documentation standards as defined by your state licensing board, they may impose additional education in documentation standards and place a sanction on your license. This is something you now have as a stigma on your license forever. Every time you're credentialed with an MCO, you will have to designate this mark on your license, which could "red flag" you for participation in the MCO.

### Post-Audit Embarrassment

Beyond the money, and beyond the added stress of having to prove yourself over and over again until your practice is cleared, there's also the issue of the blemish that a bad audit can place on your practice. First, there are the explanations to the patients who share the offended pay program, whose authorization for care may not be as forthcoming. Then there are the future provider panels that you will want to participate in that may be interested in previous audits with negative outcomes.

### Meeting the Challenge

So, the question remains: What can be done? Can we avoid the possibility of an audit altogether? Or

should we just simply cross our fingers and hope that what is going on in our offices is ready for audit? The answer is no, and again, no.

Whether we like it or not, the audit environment has descended upon us, and we've only just begun to feel the heat generated by the OIG report from the Department of Health and Human Services. The report actually stated that recoupment should be explored more fully in chiropractic. There is no rock-solid way to permanently avoid an audit, period. While the risks can be reduced, you need to know that there is no such thing as an audit-proof practice. As anyone can guarantee, no one will want to review your records. What is possible is an audit-ready practice; one that anticipates what record reviewers want to see and prepares for that event in everyday documentation practices.

### The Advantages of Electronic Health Records

I don't believe there is a paper-based practice out there that is as audit-ready as any practice that has been converted to digital-based records. I have plenty of stories of doctors with impeccable notes being picked apart by auditors because their own handwritten abbreviations have been misunderstood by a non-chiropractic claims reviewer. Even in the best of situations, handwriting leaves more room for misinterpretation and confusion than do computer-based printouts. If an auditor can't read your writing, that may be basis enough to judge the record as being insufficient and qualify you to fail the audit.

The threshold for errors is significantly higher for handwritten notes, in which the doctor's spelling, penmanship and fatigue all factor into the clarity of the note. At the end of a long work day, the desire to cut a few corners is hard to resist, and whole sentences can be dropped when the doctor figures no one else is going to see the note anyway. Once the billings department translates the encounter into treatment or diagnosis code, there's a good chance an innocent mistake can set the doctor up for more scrutiny than anticipated in the event of an audit.

Digital documentation, on the other hand, has these unique advantages when compared to our traditional note-taking processes:

- The doctor is always in control of the central database of patient records. In the event of an audit, there's no costly reproduction of patient files or loss of control because a claims reviewer has part of a record.
- No handwritten notes and electronic-record transfers mean that the auditing process and its resolution can be completed in a fraction of the time.
- Digital note-taking has shortcuts, making the daily SOAP a thing of seconds, rather than minutes. This allows more opportunity to justify your involvement with the patient, according to their pay program.
- Electronic health records can come with an instantaneous editor in the form of software options that read your SOAP notes, ensuring that what is meant matches with what your staff is coding for billings.
- Digital records can mean a digital analysis of practice trends so that you can identify if you are moving outside of average practice parameters that may raise red flags.

### The Audit-Ready Practice

In some ways, it's almost a shame that we have to talk about audits and chiropractic practice. On the other hand, disaster preparedness always seems worthless until the day comes when the necessity of that pre-preparation becomes acutely obvious. While talking about an audit seems about as remote as

a tornado or an earthquake, talk to someone who has lived through one, and you will understand the stress - emotional and financial - that it can bring to the practice, especially when the doctor fails the audit. I've spoken with dozens of DCs who survived, and some who did not. For those kinds of situations, many of those going through an audit have seen the necessity of updating their clinic record systems to go beyond reacting to what's imposed by an outside party. They are achieving a plan that's audit-ready, saying, "I hope I never have one, but just in case." The world's best audit safety kit is found within the digital clinic of the future.

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