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Auditor Checking Meaningful Use Payments

TexasMedicine

Practice Management Feature – June 2013

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By [Crystal Zuzek](#)
Associate Editor

Little Elm internist Jill Wolf, MD, never imagined the \$18,000 payment she earned for meeting Stage 1 meaningful use measures in the Medicare electronic health record (EHR) incentive program could be taken away.

But she learned her payment was in jeopardy when she received a letter from the New York-based accounting firm Figliozi & Company in December telling her the Centers for Medicare & Medicaid Services (CMS) selected her for an EHR meaningful use audit.

"Because the letter pertained to the Medicare program and didn't come from CMS but from a private company, I didn't think it was real. My office manager did some research and discovered it was legitimate. We learned that CMS contracted with Figliozi and Company to perform meaningful use audits," Dr. Wolf said.

Managing partner Peter Figliozi said he isn't allowed to discuss audits and didn't comment on this story.

As the gravity of the situation set in, Dr. Wolf says she had only 10 days to gather documentation that could prove she properly attested to achieving Stage 1 meaningful use criteria. Figliozi will extend the deadline if asked. To contact Figliozi, call (516) 745-6400.

The auditor requested what Dr. Wolf describes as general information, including the EHR vendor licensing agreement, screenshots from the EHR system that support attestation, and documentation displaying the EHR vendor logo. At press time, the audit had not been completed.

Besides the \$18,000 it already paid, CMS is holding Dr. Wolf's \$12,000 incentive payment for attesting to year two of Stage 1 meaningful use pending the audit's outcome; thus, she stands to lose \$30,000.

"It's appalling to me that we spent two years making sure we implemented the EHR system properly and attested correctly, only to be told someone needs to review everything all over again," Dr. Wolf said.

She's not alone in the scramble to navigate the auditing process and defend her meaningful use documentation. The Texas Medical Association has received calls from members seeking assistance responding to audit requests for documentation. Dr. Wolf's practice partner and husband, John Flores, MD, contacted TMA after Dr. Wolf received the audit letter in December. Dr. Flores says the association helped him and Dr. Wolf determine the required documentation and reviewed the materials before submitting them to Figliozi.

For information about meaningful use or other health information technology (HIT) issues, email TMA's [HIT Department](#) or call (800) 880-5720, or visit the [TMA EHR Incentive Program Resource Center](#).

The North Texas Regional Extension Center (REC), which helped Drs. Flores and Wolf achieve meaningful use, also is helping the physicians respond to the audit. A map of REC service regions and contact information for each center is on the [TMA website](#).

Texas' RECs educate clients on the potential for audits and the need to maintain documentation, according to Yvonne Sanchez, CentrEast REC program manager.

"We also help them post-attestation to review their audit support. We would assist a practice undergoing an audit if they were not our client. We have an hourly rate that is based on the service needed and how many hours of support they need, which is negotiated on a client-by-client basis," Ms. Sanchez said.

Any physician who has received a meaningful use incentive payment is fair game for an audit. If Figliozi's efforts are fruitful, the government could potentially recoup a substantial amount of money from physicians nationwide. CMS paid \$12.65 billion through February in meaningful use incentive payments to Medicare- and Medicaid-eligible professionals and hospitals.

"The government will try to take the money back any way it can. It's disheartening to be accused of fraud, and the audit experience has left a sour taste in our mouth," Dr. Flores said.

At press time, CMS hadn't recouped meaningful use incentive payments from any Texas physicians. CMS has an appeal process for physicians found ineligible for payment following an audit. Contact the CMS EHR Information Center at (888) 734-6433, Monday through Friday, for information on filing appeals.

Robert Anthony, deputy director of the HIT Initiatives Group at CMS, said the agency expects to audit about 5 percent of participants in the Medicare and Medicaid EHR incentive payment programs. Without being specific, he added that a few health professionals had received adverse-finding letters from CMS that indicated they were ineligible for meaningful use payments and had begun the appeal process.

Additionally, the Texas Health and Human Services Commission (HHSC) hired the accounting firm Davila, Buschhorn & Associates, PC, to conduct meaningful use audits in the Medicaid EHR incentive program. At press time, TMA hadn't heard from any Medicaid-participating physicians selected for an audit. For information on Medicaid meaningful use audits, contact Texas Medicaid & Healthcare Partnership at (800) 925-9126, option 4.

Audits, Round Two

After Dr. Wolf submitted the necessary documentation to Figliozi in December, the firm sent her another letter in March informing her that, upon review, she hadn't met meaningful use criteria and had seven days to submit additional documentation. Dr. Wolf called the auditing

firm and received a two-week extension.

"The second time I had to submit documentation required a lot more work. The auditor wanted more specific information like audit trails that showed how I determined the numerators and denominators used to attest and specific diagnostic codes used in a certain time period," she said.

She encourages physicians attesting to meaningful use to save all documentation related to the attestation process, including emails.

Atul Sachdev, MD, a Baytown solo family physician, attested to Stage 1 meaningful use under the Medicare incentive program in February 2012 and received \$18,000 for doing so. Ten months later, however, the audit notification email he received from Figliozi shocked him.

"My initial reaction was that I had done something wrong. Being notified of an audit of any nature doesn't leave you with a pleasant feeling," Dr. Sachdev said.

Initially, Figliozi gave Dr. Sachdev two weeks to submit the following documentation to prove he had met Stage 1 meaningful use criteria:

- Proof that he had a certified EHR technology (CEHRT) system via copies of licensing agreements or vendor invoices;
- Answers to questions on the number of facilities used to see patients and the CEHRT system used at those facilities;
- Proof that more than 50 percent of patient encounters occurred where the CEHRT system is used;
- Proof that more than 80 percent of patient encounters are maintained in a CEHRT system; and
- Supporting documentation for all core set and menu set objectives, ensuring the EHR logo is shown in generated reports or step-by-step screenshots show the EHR logo.

Dr. Sachdev quickly gathered the documentation and turned it in to Figliozi two days after the request. He says he didn't hear from the auditor for three months, when he received a follow-up email in March notifying him that the company found his documentation inadequate. This time the auditor gave the physician seven days to provide the following documentation:

- Meaningful use reports for various attested measures with the EHR vendor logo on them to confirm they came from the indicated CEHRT system;
- Audit trails to prove certain functionality, such as drug interaction, clinical rules, and drug formulary checking, was enabled during the attestation period;
- Additional information on core measure 14, electronic exchange of clinical information, that confirms the date of exchange, the name of the sending and receiving providers, and success or failure of the exchange; and
- Additional information on core measure 15, security risk analysis, that helps to determine the analysis completion date, notation of risks or deficiencies during the analysis, and the presence of an implementation plan to deal with identified deficiencies.

The second email from Figliozi concluded by warning "if the aforementioned meaningful use criteria are not met, the incentive payment will be recouped."

Dr. Sachdev says some of the documentation requested was impossible to provide. His EHR vendor, eMDs, gives him and other users an audit guide he says Figliozi reviewed and approved.

"Despite this, they went on to request additional information that they knew eMDs software could not provide, specifically, the audit trails and meaningful use reports with the eMDs logo on them," he said. "I supplemented this information instead with step-by-step screenshots showing how the reports are generated through the EHR. I am hoping that this will satisfy their requirement to demonstrate that the reports did indeed originate from my EHR. It remains to be seen whether Figliozi will accept this."

Dr. Sachdev believes Figliozi selected him at random. He has since attested to year two of Stage 1 meaningful use in the Medicare EHR incentive program but hasn't yet received his \$12,000 payment.

"After going through the stress and frustration involved with gathering the requested additional information, which was barely done within the seven-day time frame, I find myself once again in limbo. During this lengthy waiting period, as a doctor, you're wondering if you'll be asked to write them a check for \$18,000 at some point," he said.

Documentation Critical

Given his experience, Dr. Sachdev urges physicians who have attested to meaningful use or who plan to attest to document the process carefully.

"As you prepare to attest to each objective, consider not only the numerators and denominators; think of how you will prove that you met each objective during the reporting period. You must anticipate and prepare for an audit. Not only could you be required to return the incentive money you earned, but failing an audit could expose you to future penalties for not successfully attesting," he said.

Health professionals in the Medicare incentive program can earn up to \$44,000 over five years for meeting meaningful use criteria from 2011 to 2016. Eligible Medicare physicians in a health professional shortage area can receive a 10-percent increase in incentives.

Eligible non-hospital-based physicians with at least 30-percent Medicaid patient volume can receive up to \$63,750 over six years in incentive payments from 2011 to 2021. Eligible non-hospital-based pediatricians with at least 20-percent Medicaid patient volume could receive up to \$42,500 during the same period.

Medicare-eligible physicians who don't meet meaningful use requirements by 2015 and in each subsequent year are subject to Medicare reimbursement penalties that start at 1 percent per year and grow to a maximum 5-percent annual reduction. There are no penalties for not participating in the Medicaid EHR incentive program.

When being audited, Dr. Sachdev says it's also a good idea to seek guidance from EHR vendors, IT professionals, the RECs, TMA, and CMS.

"Make sure you fully understand how to meet each objective. If you were an early adopter, be aware that some objectives have changed. Follow up with your contacts each year to ensure you continue to successfully perform all the steps of each objective," Dr. Sachdev said.

Physicians should maintain, for at least six years, documentation supporting the meaningful use measures, calculations, and data submitted during attestation.

CMS prepared "[EHR Incentive Programs Supporting Documentation for Audits](#)" to help practices better understand the documentation needed in an audit. CMS instructs physicians to save the electronic or paper documentation that supports attestation, as well as documentation of the values entered in the attestation module for clinical quality measures.

Ana I. Rodriguez, MD, a San Antonio internist, says Figliozi notified her 10-physician group that it is auditing three of the nine physicians who attested to meeting Stage 1 Medicare EHR meaningful use measures. They are internist Brian Senger, MD, and family physicians Joseph Wysoki, DO, and Mark Smith, MD. Each physician attested to achieving meaningful use in 2011 and each received \$18,000 incentive payments. Dr. Rodriguez is the chair of the practice's EHR committee and oversaw staff and physician training on meaningful use

attestation.

Like Drs. Wolf and Sachdev, the three physicians received initial audit letters in December and follow-up requests for additional documentation in March. They requested an extension in March, and the auditor granted the practice two weeks to gather and submit information.

Dr. Rodriguez says her group took an organized, thorough approach to adopting and implementing the EHR system and to attestation of meaningful use.

"I was surprised some of our physicians were being audited. We worked to truly understand how to attest to meaningful use and kept comprehensive documentation of the attestation process," she said.

She adds that her EHR vendor, Allscripts, has helped the practice respond to the audit requests. Dr. Rodriguez advises other physicians who plan to attest to meaningful use to copy and save all the documentation used to attest. She recommends storing the information electronically and in hard copy.

"Physicians who get audited should ask for an extension, request help from their EHR vendors, and consult all the resources they have available," she said.

Crystal Zuzek can be reached at (800) 880-1300, ext. 1385, or (512) 370-1385; by fax at (512) 370-1629; or by [email](#).

SIDEBAR

Where to Get Help

Here's where you can get help and information if you're selected for a meaningful use audit.

[CMS EHR Incentive Programs Supporting Documentation for Audits](#)

TMA Health Information Technology Department
(800) 880-5720
Email: HIT@texmed.org

[TMA EHR Incentive Program Resource Center](#)

[Regional Extension Center Service Regions Map and Contacts](#)



Texas' RECs educate clients on the potential for audits and the need to maintain documentation.

[Texas Medicaid & Healthcare Partnership](#)
(800) 925-9126, option 4

[Figliozzi & Company](#)
(516) 745-6400

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