

Expert Offers Strategies to Cope With Red Flags Rule

BY JOYCE FRIEDEN

WASHINGTON — The federal Red Flags Rule that requires creditors to check for identity theft may mean a few new procedures for office-based physicians, Patricia King said at the American Health Lawyers Association's annual meeting.

"Do health care providers have to comply with the Red Flags Rule? Yes, if they're [considered] creditors," said Ms. King, assistant general counsel at Swedish Covenant Hospital in Chicago.

The rule requires creditors to establish formal identify theft prevention programs to protect consumers. Aimed primarily at the financial industry, the regulation was originally scheduled to go into effect on Nov. 1, 2008. However, to give small businesses more time to prepare for compliance, the Federal Trade Commission (FTC) delayed enforcement until May 1, and then until Aug. 1, and most recently until Nov. 1.

Earlier this year, the AMA and physician specialty societies argued that physicians are not creditors because they bill insurance companies, not individual consumers, Ms. King said. "But the patient does get billed for copays, deductibles, and excluded services, so unless all those charges are collected up front, the health care provider is billing and possibly deferring payment for the cost of services."

To address health care providers' concerns, the FTC has published guidance and developed a template for identity theft prevention program for low-risk creditors. (The information is available at www.ftc.gov/bcp/edu/pubs/articles/art11.shtm.)

Low-risk providers who see the same patients regularly can adopt a simple identity theft program, she said, adding that personnel involved with front desk, medical records, and patient account functions should be involved in the program.

Physicians need to identify which patient accounts will be covered by the rule—such as those patients who need to make repeat payments—and develop appropriate policies and procedures, Ms. King said. "The final [Red Flags] rule had 26 examples of identity theft. Look through them and see which ones are most applicable to you."

Providers also need to look at what information they collect when patients register. "Many of us need to re-think our standard registration procedures and beef them up," said Ms. King. One example might be to ask for a photo ID.

Procedures for guarding against identity theft need to be approved by the organization's board of directors and overseen by senior management, according to the rule, "because this is intended to be a high-priority program, not something that's delegated to a lower-level manager."

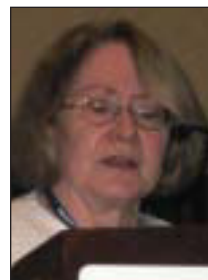
Typical "red flags" that practices should watch for include:

- ▶ No identification.

- ▶ Photo ID that doesn't match patient.
- ▶ Documents that appear to be altered or forged.
- ▶ Insurance information that cannot be verified.
- ▶ Information given that is different from information already on file.
- ▶ An invalid Social Security number.
- ▶ A patient who receives a bill or an explanation of benefits for services he or she didn't receive.
- ▶ A patient who finds inaccurate information on their credit report or on a medical record.

When a particular patient raises one or more red flags, the practice has two options, according to Ms. King.

It could refuse to provide service, although this might raise a problem under the Emergency Medical Treatment and Labor Act (EMTALA), a law that prohibits providers from not treating persons with questionable identification who require emergency care.



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MS. KING

Or the practice could provide the service, but ask the patient to bring in the correct information to his or her next visit. Ms. King cautioned providers about freely providing medical records to a patient suspected of identity theft, because it could lead to more identity theft.

Patients also will have to be educated about the rule, Ms. King said. "Providers are going to run into problems with patient expectations. Patients have gotten used to coming to their doctor ... with either no identifying documents or only their insurance card. They will need some education in advance by being informed when they call on the phone to schedule an appointment, or by signs in the waiting room, that you really need to have identifying documents with you."

She noted that under EMTALA, a hospital cannot delay performing the medical screening examination or stabilizing treatment to inquire about insurance or payment, "but it can follow reasonable registration processes as long as the medical screening exam is not delayed by the process. So after the patient has been triaged and is sitting in the waiting room waiting to be seen for the medical screening exam, you can ask them for identifying information. But if they don't have identifying information, you can't turn them away. You have to provide the [screening exam] and necessary stabilizing treatment." ■

Mary Ellen Schneider contributed to this report.

POLICY & PRACTICE



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Family Insurance Tops \$12K

Employer-sponsored insurance for a family of four in 2008 cost employers and workers an average of \$12,298, according to the Agency for Healthcare Research and Quality. The employees' contribution averaged \$3,394 for family-of-four plans and \$882 for single workers, the agency reported. Employers paid the entire premium for 22% of workers with single-coverage plans, for 11% of workers with family-of-four plans, and for 9% of employees with one covered family member. About 31 million of the more than 62 million workers enrolled in employer-based insurance in 2008 had single plans, while 20 million had family-of-four coverage.

Information Tech Is Growing

The electronic exchange of health information among physicians, hospitals, health plans, and patients has increased substantially in the past year, the nonprofit group eHealth Initiative (eHI) found in its annual survey of 150 community-based "health information electronically" initiatives. Respondents reported a nearly 40% increase in the number of initiatives that were advanced enough to be exchanging information. According to eHI, these groups said that information technology is cutting redundant tests, avoiding some medication errors, and reducing staff time spent handling lab results and doing clerical tasks. The federal government is to spend at least \$300 million on health information technology over the next 2 years as part of the Recovery Act. "We have a great opportunity to expand [health information technology] efforts with the new funding coming out in 2009 and 2010," said eHI chief operating officer Jennifer Covich in a statement.

HHS Allocates Training Funds

The Department of Health and Human Services has released \$200 million to support grants, loans, loan repayments, and scholarships for health care professionals focusing on primary care. According to HHS, the funds will train about 8,000 students and credentialed health professionals by the end of fiscal year 2010. More than \$47 million of the funds will support primary care training for residents, medical students, physician assistants, and dentists. Another \$10.5 million will support training of other public health workers. Meanwhile, about \$80 million will go toward scholarships, loans, and loan-repayment awards, while about \$50 million will help various primary care training programs purchase equipment needed to improve their quality and capacity, HHS said. The \$200 million is part of \$500 million that the federal

economic stimulus package allotted for the Health Resources and Services Administration to address health workforce shortages.

Free Rx Program Will Expand

AstraZeneca Pharmaceuticals LP has expanded its prescription drug savings program and will enable people who were recently laid off or have had their incomes reduced to receive free medications more quickly. Previously, some people with recent drops in income or increases in family size had problems applying for free medications because their W2 statements didn't indicate that they qualified. But AstraZeneca said it now will accept documentation showing current income and family size, enabling recently laid-off patients and others to enroll more easily. The AZ&Me Prescription Savings program provides AstraZeneca medicines at no cost to individuals who make up to \$30,000 per year and to families of four making up to \$60,000 per year, if they have no other prescription drug coverage.

Medicine in Big Easy Isn't

Federal funding has helped provide primary care in the hurricane-pummeled greater New Orleans area, but grant recipients continue to face significant challenges, the Government Accountability Office reported. Primary care providers in the area have had increasing trouble hiring and retaining staff, as well as referring patients outside their practices, the GAO said. In 2007, HHS awarded \$100 million in grants to restore primary care for low-income people in the New Orleans area. Grant recipients have used the funds to hire or retain health care providers and other staff and to open new delivery sites in underserved neighborhoods, but it's still not clear how many primary care organizations will survive, the GAO said.

Biosimilars Market: \$45 Million

A research firm pegs the U.S. market for generic versions of biotechnology products, called biosimilars or biogenerics, at \$45 million by 2015, if the federal government clears a regulatory path for such products. The major health reform bills now making their way through Congress would do so. Kalorama Information said that biosimilars of human growth hormone, insulin, and some protein- and recombinant DNA-based therapies would probably be the first generics available. Early sales aren't likely to be robust, partly because the brand name manufacturers will defend their turf, but a few capable generic makers "will hit the ground running" once approval of biosimilars is granted, said Kalorama's Bruce Carlson in a statement.

—Jane Anderson