

Audits: limiting direct access to electronic records in order to protect your data and system

Most Provider Agreements describe when your practice or facility might be audited or inspected. And in some cases there is a description of who has the right to access your records. The review might be part of a billing and coding review. It might be to evaluate utilization by one physician or the entire practice. It might be looking at compliance with quality assurance protocols. Or it could be for any other reason the payor, or its designee, or a sponsoring entity (e.g. a self-funded employer), or a regulator, or Medicare or Medicaid decides is necessary.

Here is language from an actual agreement. On the next page I'll show some suggested edits that I've negotiated.

***Audits:** <Name of payor> will have the right, from time to time, to conduct, or have conducted by a third party, audit and evaluation of Provider's records and facilities with respect to claim reimbursement and Covered Services provided to Members. Upon reasonable notice Provider will cooperate with, and provide all information necessary or appropriate for, such audits and evaluations. During reasonable office hours Provider will allow < name of payor> or a duly authorized third party to inspect the Member medical records maintained by Provider per <name of payor's> Administrative Guidelines and Provider Manual.*

The Issue: If these inspections are conducted on any paper charts or financial records there is always the risk that the person reviewing can disassemble them and might not put everything back together exactly as they were. If a staff person sits with the reviewer and disassembles and reassembles, then staff can assure paper charts and records do go back together properly.

But these days with most practices and facilities "all-in" with electronic charts and records an auditor/inspector may want to have his or her hands on a keyboard. Depending on your circumstances this could mean access to some/most/all of a computer system. And everyone should recognize the inherent danger in having "outsiders" unfamiliar with your system typing away at a keyboard and opening/closing files.

Now, for purposes of this discussion I'm assuming your practice or facility is doing everything electronically. And if you've "hardened" your system, locked it down so that only limited permissions are granted, **and saved everything, every day to an off-site data center**, then this may not be an issue of concern. But if your system is not secured to protect against an accidental compromise of critical data by way of a mistaken keystroke, then this surely will be useful.



Following is that same paragraph with suggested deletions shown in ~~red-strike-out~~ and additions in blue. In my somewhat paranoid opinion (YMMV of course) “outsiders” should not have hands on keyboards. And so I recommend that unless audit protocols provide otherwise only your staff should keystroke. Staff can and should sit with any auditor or inspector and, with hands on, pull and print whatever records are required.

Nevertheless, even if your system is “hardened” remember this one of many of “Murphy’s Laws.”

‘ Things will go wrong in any given situation if you give them a chance. ’

Note 1: The first suggested change in red and blue regarding advanced Notice speaks to another issue not related to the above discussion, but one which is conveniently addressed there and should need no explanation.

Note 2: My suggestion on limiting access to computers and office equipment may fly with your commercial payors. I’ve successfully negotiated the change with a couple of them. But the suggested language may not fly for Medicare Advantage or Medicaid audits.

Possible Solutions:

Audits: <Name of payor> will have the right, from time to time, to conduct, or have conducted by a third party, audit and evaluation of Provider’s records and facilities with respect to claim reimbursement and Covered Services provided to Members. Upon ~~reasonable~~ **at least seventy-two (72) hours advance notice or such shorter notice as may be imposed on <name of payor> by a federal or state regulatory agency or accreditation organization**, Provider will cooperate with, and provide all information necessary or appropriate for, such audits and evaluations. During reasonable office hours Provider will allow <name of payor> or a duly authorized third party to inspect the Member medical records maintained by Provider per <name of payor’s> Administrative Guidelines and Provider Manual. **The parties agree that such audits, evaluations, and inspections are not to include direct access to Provider’s computers and office equipment.**