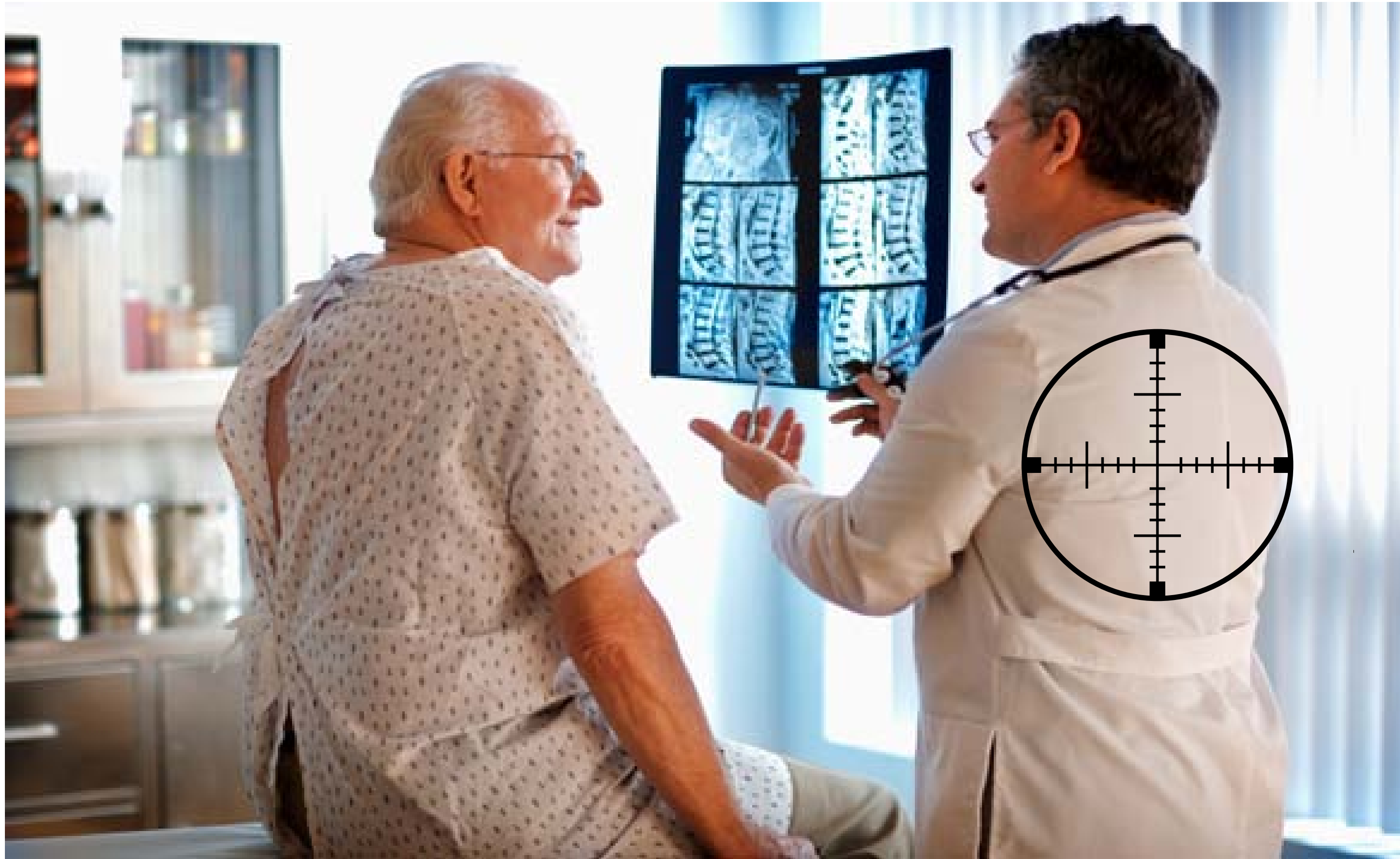
ZPICs and RACs: Doctors in the Crosshairs



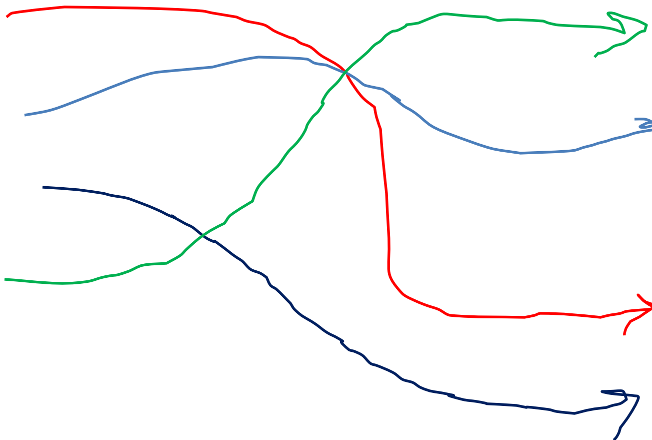
Remember when Malpractice was a doctor's main fear?

We are not in Kansas anymore

Who's Who Coming to Get You

Acronym

- RACs
- ZPICs
- CERTs
- OIG



What is it?

- Office of Inspector General
- Zone Program Integrity Contractor
- Recovery Audit Contractor
- Comprehensive Error Rate Testing

Why Now?

Senator Coburn, MD

What he said

50% of medical dollars lost to waste, fraud, and abuse

What they heard

50% of medical doctors are committing fraud

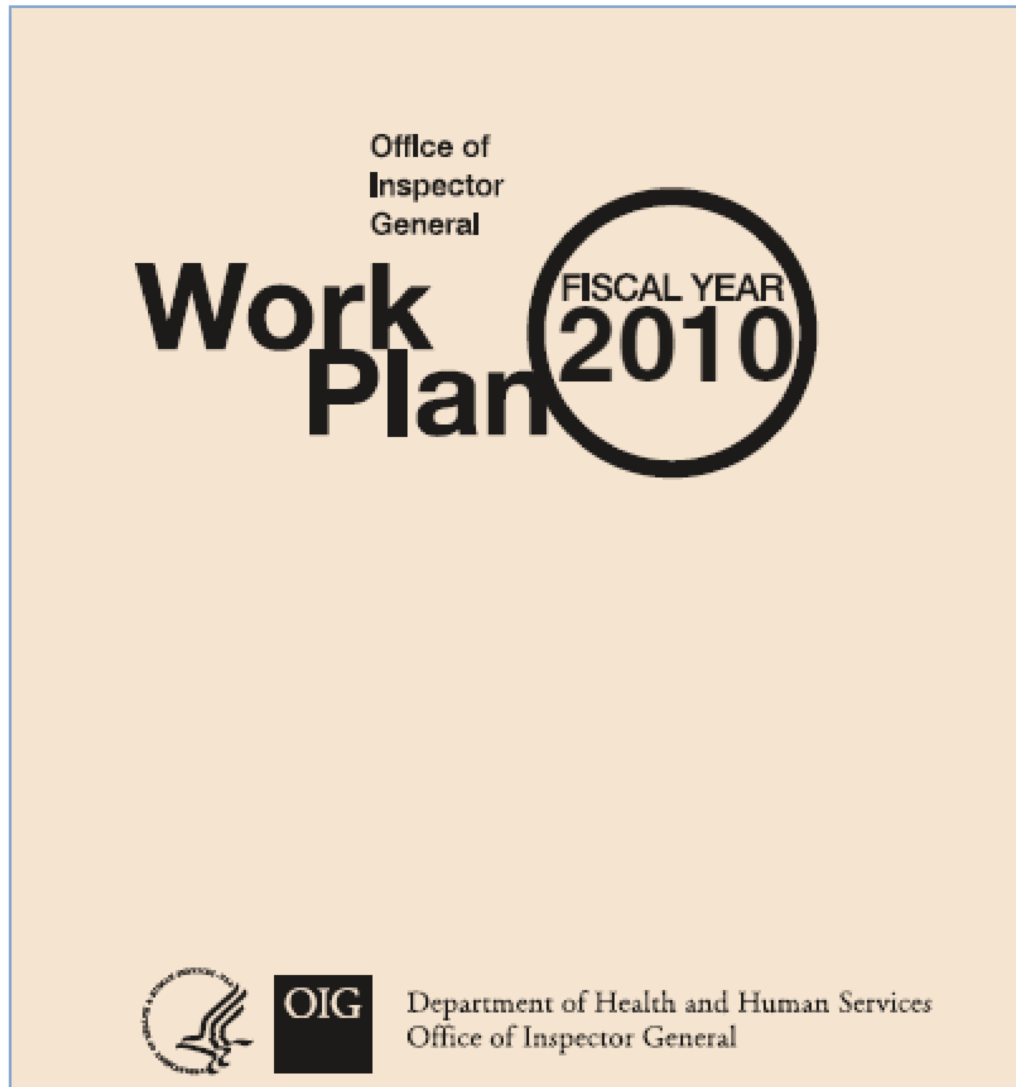
Why Now?

"In my career, there has never been a time where the government has been more intent on reducing improper payments. That's one of the ways the administration wants to pay for health care reform initiatives."

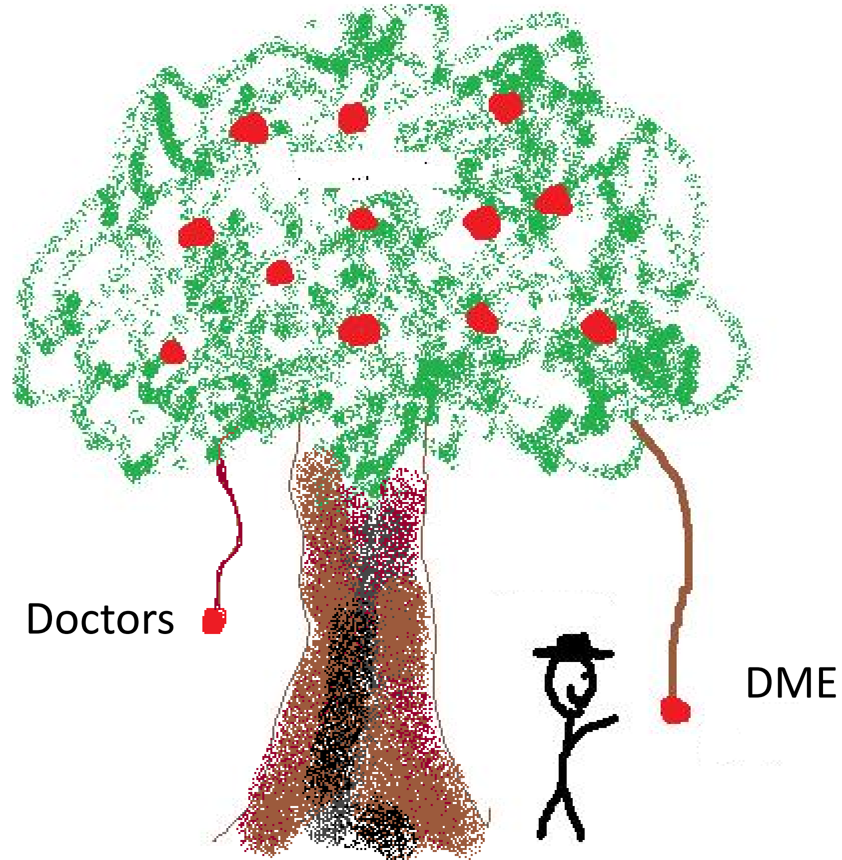
Wayne van Halem, The van Halem Group, an Atlanta-based consulting firm specializing in Medicare compliance, audits and appeals.

Doctors are a Big Target

Why didn't they come this year?



Low Hanging Fruit



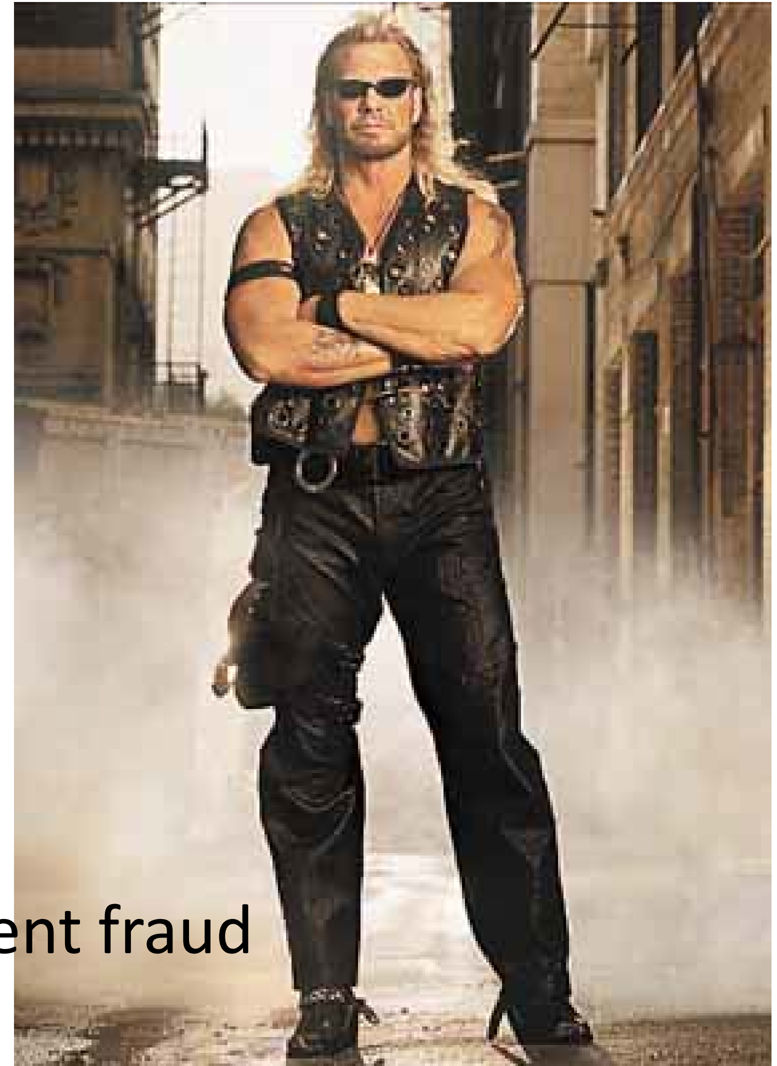
Recovery Audit Contractor "RAC"

- CMS implemented RAC Demonstration in 2007 (CA, FL, NY)
- Nearly $959,000,000 was returned to CMS during 3-year demonstration phase[1]
- Approximately 96% of improper payments were over-payments and 4% were under payments[1]
- RAC agreements with CMS were 15-38% contingency fee based[2] except for fraud
- RAC was rolled out to all 50 states in 2010

[1] *CMS RAC Evaluation Report 6/08*
[2] http://oig.hhs.gov/oei/reports/oei-03-09-00130.pdf

RAC – Recovery Audit Contractor

- Projected savings = $7.5 Billion
- Focus on highest billers first
- Post payment review
- Error types
  - Medical necessity,
  - correct code,
  - duplicate payment,
  - wrong insurance carrier
- Providers with DME suppliers
- Paid on contingency
- Implement procedures to prevent fraud



Comprehensive Error Rate Testing "CERT"

- The focus of the CERT program is to measure how well CMS contractors are meeting the goal of "Paying it Right";
- Use random selection of claims to review;
- Errors typically fall into four major categories:
    - No documentation
    - Insufficient documentation
    - Lack of medical necessity
    - Incorrect coding
- Has resulted in an improvement in the claims payment error rate from 14% in 1996 to 7.5% reported for 2009;

Improper Medicare Fee-For-Service Payments Report Nov 2009 Long Report

Comprehensive Error Rate Testing CERT

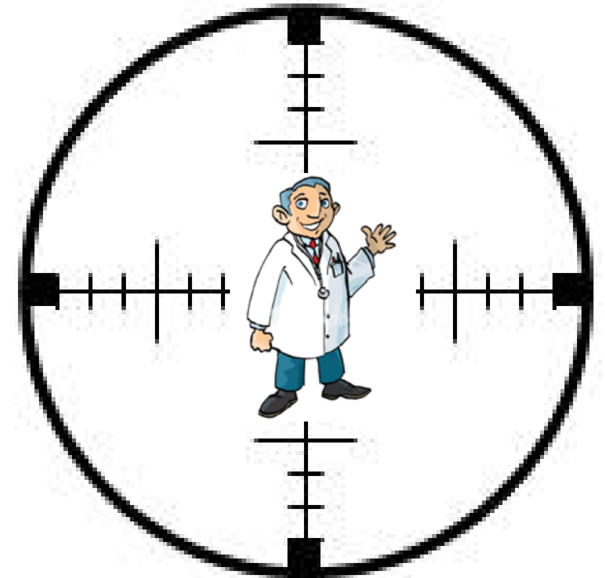
- Random audits
- Verification of proper documentation
- Billing patterns indicating fraud
- 4.2% Error rate = $10 Billion last year

Zone Program Integrity Contractors “ZPIC”

- Originally called “Program Safeguard Contractors”
- Identifying program vulnerabilities and incidents of potential fraud and takes appropriate action
- Investigates and explores fraud allegations by beneficiaries, providers, CMS, OIG, and other sources.
- Initiates appropriate denials or suspension of payments
- Refers cases to the Office of the Inspector General/Office of Investigations for consideration of civil and criminal prosecution and/or administrative sanctions
- Refer any necessary provider and beneficiary outreach to the Mac or AC provider outreach education staff

Pub 100-08; Medicare Program Integrity Manual; Chapter4

Zone Program Integrity Contractor



- Medicare data analysis
  - Discovery,
  - Detection,
  - Investigation,
  - Overpayment projection
- Medical Review
  - Coding determinations
  - Determine fraud cases
- IT Systems for decision tracking and data warehousing
- Medicare fraud investigation
- Referrals to law enforcement

RACs, CERTs, ZPICs & Bears, Oh My

	RAC	CERT	ZPIC
Audit Basis	Billing dollars	Random	Algorithms
How Paid	Contingency	Contract	Contract
Fraud Risk	Low	Medium	High

What do lawyers and Medicare have in common?

Not documented = Not done

Top Gun: Kelly Loya

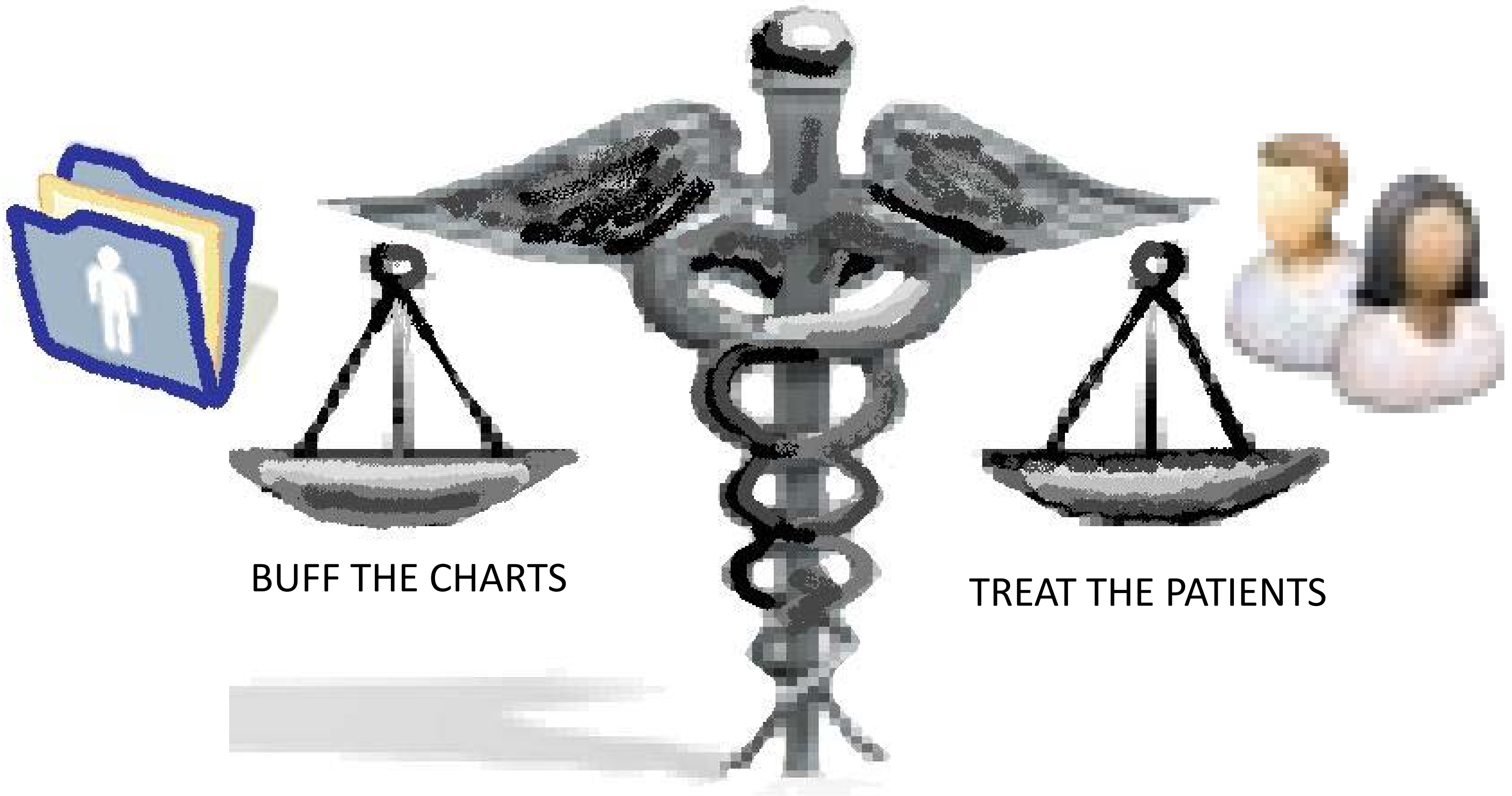
"Many physicians practice "defensive medicine" now more than ever to avoid malpractice issues. In this environment of increasingly aggressive CMS initiatives to identify and recover inappropriate payments, this same concept should be followed to mitigate potential regulatory exposure. Physicians should dedicate the appropriate due diligence to documentation and billing to ensure a positive result in the event of an audit."

Kelly C. Loya, CPC-I, CPhT

Sinaiko Healthcare Consulting, Inc.

A Los Angeles based consulting firm specializing in Medicare billing and compliance audits including litigation support.

Making the Hard Choice



How do you document properly and also treat the patient?

Re-engineer your practice

More to come

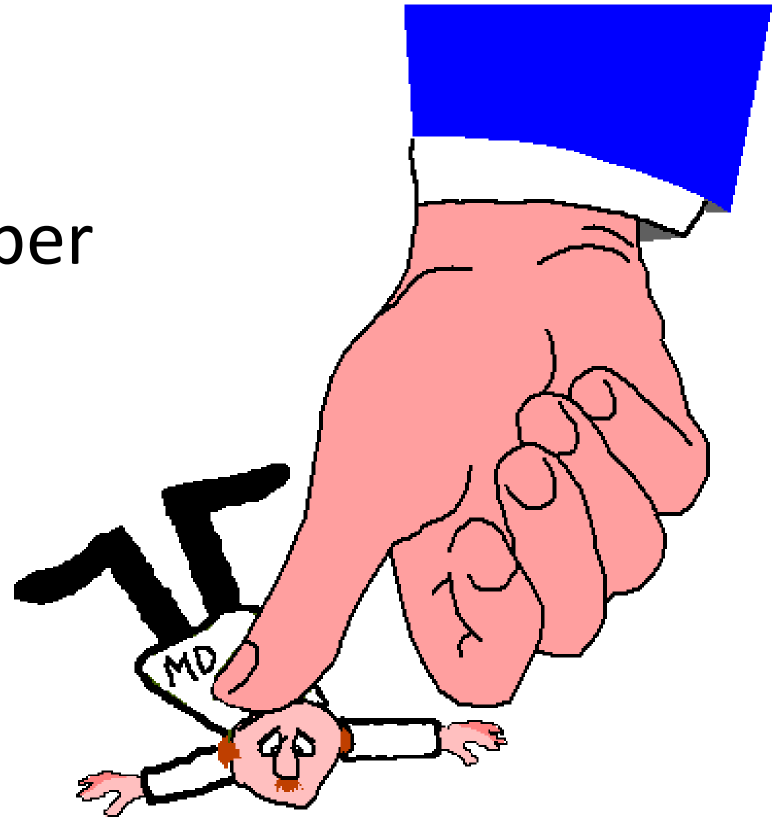
Getting an Audit

What you must do…

- Select Senior Personnel (simple mistakes=$$$)
- Send Cover sheet
- Copy of Audit Request
- Send everything requested
- Numbered pages of medical records
- Record of patient's name, Medicare no, DOS
- Additional supporting documentation
- Proof of delivery - Return receipt requested

The “Business Buster”

- 180 claims reviewed
- 7-15 pages per claim
- 1800 pages = 4 reams of paper
- Pull the chart
- Disassemble the chart
- 20 secs/page to copy
- Reassemble and refile chart
- 150 Man-hours = 4 weeks
- 30 days to respond



Penalties Are Serious

- Failure to Reply
- Accept the audit as valid
- All claims denied
- Send the check = $30,000
- Admit fraud
- Excluded from Medicare
- Public Relations Nightmare

Everyone is guilty…

- Numbers game – do enough, make an error
- Errors are always made because of complex regulations with difficult interpretation
- Rules keep changing

If you are audited…

- Punitive action occurs immediately
- 100% Pre-payment audit
- Interruption of cash flow for months
- Audit will impugn your integrity

Could it Really Happen?

Could it really happen?

- Demonstrations showed that *lots* of money can be recovered
- Saving taxpayers from fraud is good politics
- Government investigations of bad doctors make good headlines
- Department of Justice (DEA) had a 100% conviction rate of doctors accused of drug prescription diversion schemes based on record keeping errors

Getting Prepared

What To Do Now

1. Get an EMR or drop federally funded payers

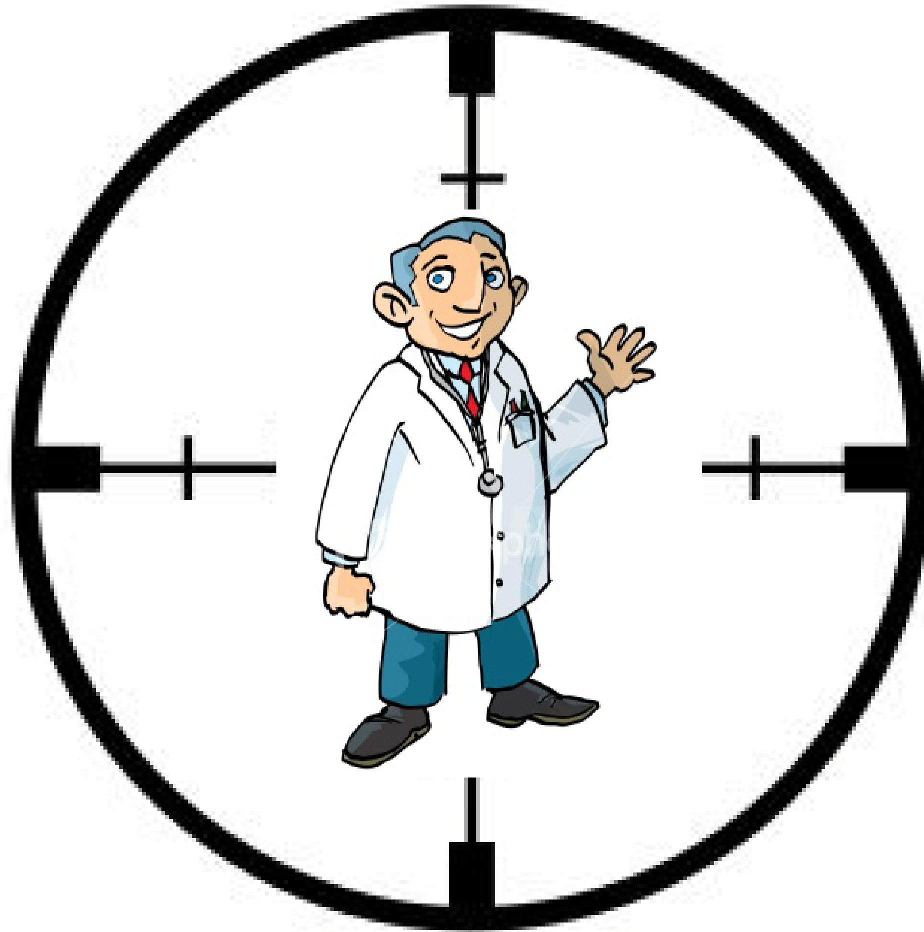
Why do you need an EMR?

- Don’t try to add a column of numbers using a pencil if your adversary has Excel
- “Let them eat paper” – document, document, document
- “Buffing the chart”– recording data to support care is easier
- Documentation can be voluminous but better supports billing codes
- Missing bullet points are easier to question by auditors than severity of illness determinations
- Caution: Avoid “rubber stamp” records

What To Do Now

1. Get an EMR or drop federally funded payers
2. Document to highest degree
3. *Require patients to enter medical history
4. Have your practice audited, and re-audited
5. Create an action plan
6. Practice for an audit –
   - Who will you call?
   - What employees will respond?
   - Are you familiar with defensive software systems?

When You Get Audited



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