

Optometry Coding & Billing Alert

Compliance: OIG Considers Expanding Civil Monetary Penalties

You could be subject to penalties for five additional reasons if the proposal is finalized.

From RACs to ZPICs and beyond, you may think you already have trouble keeping track of the laws and regulations governing Medicare compliance, but the OIG is prepared to add to the list. A May 12 Proposed Rule suggests allowing civil monetary penalties for several additional infractions.

Background: The government has the right to impose civil monetary penalties or exclusion for different types of Medicare and Medicaid fraud, and these penalties can be substantial. Depending on the infraction discovered at your practice, the penalties can vary widely.

New Proposal Would Expand Law

In its May 12 Federal Register posting, the OIG proposed changes to the Civil Monetary Penalties regulations to add penalties, assessments and exclusions for the following infractions:

- Failure to grant the OIG timely access to records
- Ordering or prescribing while excluded
- Making false statements, omissions or misrepresentations in an enrollment application
- Failure to report and return an overpayment
- Making or using a false record or statement that is material to a false or fraudulent claim

This means that you could potentially face financial penalties, or even exclusion, if the OIG requests your records and you don't submit them in a timely manner, among other reasons listed above.

Proposal Boosts Overpayment Penalties

The OIG's proposal also suggests increasing the amount that you'll be fined if you fail to report an overpayment within the later of A) 60 days after the date the overpayment is identified or B) the date of any corresponding cost report due. The proposed default penalty for this in the OIG's new document is listed as "up to \$10,000 for each day a person fails to report and return an overpayment by the deadline."

You have until July 11 to comment on the proposed rule. To read the complete proposal, visit <http://oig.hhs.gov/authorities/docs/2014/fr-79-91.pdf>.