

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: Corporate Integrity Agreements No Longer Apply to Self-Disclosers

Move could save millions for those who cooperate

Providers who self-disclose their offenses to the government are about to save a lot of time and money.

Corporate integrity agreements (CIAs) created a double-whammy effect for providers who disclosed their compliance gaffes to the OIG. Not only did they face penalties and fines, they also had to deal with CIAs--but not anymore.

According to an April 15 Open Letter from **Inspector General Daniel Levinson**, those who voluntarily -disclose in good faith, fully cooperate with OIG, and provide requested information in a timely manner will generally not be required to enter into Corporate Integrity or Certification of Compliance Agreements [CCAs] with OIG.-

-The elimination of the CIA is a huge change because CIAs are very expensive and very burdensome,- says **John B. Reiss, PhD, JD**, with **Saul Ewing, LLP**. -They put a huge additional cost on the enterprise and stress on those involved.-

Whether the disappearance of the CIA encourages more non-compliant practices to self-disclose their wrongdoings remains to be seen.

-One of the problems I perceive with the OIG's self-disclosure re-quirement is that they generally go for double-digit penalties, and that's a pretty strong disincentive,- Reiss says. -So I think that whether the change is enough to overcome the inevitability of the double penalty is the question that will remain.-

The self-disclosure process also entails other unpleasanties that many providers may prefer to avoid.

-I'm not sure that the likelihood of the imposition of a CIA or CCA is the tipping point in a provider's decision to make a self-disclosure protocol (SDP) disclosure,- says **William W. Horton, JD**, of **Haskell Slaughter Young & Rediker, LLC**. -Entering the SDP process means that the provider gives up the opportunity to assert any defenses against a claimed violation, perhaps at a time before the provider has completed its own investigation.-

-I think the position taken in the Open Letter is positive and will have some incremental impact on the likelihood of self-disclosures, but it would surprise me if the impact were a large one,- Horton says.

Levinson's letter is available on-line at www.oig.hhs.gov/fraud/docs/openletters/OpenLetter4-15-08.pdf.