

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: OIG Revisits Recommendation to Review Modifier 59 Claims

Modifier 59 misuse led to millions in overpayments.

When the OIG talks, not everyone listens, a new report indicates. The OIG makes hundreds of recommendations each year, advising practices and carriers to tighten up documentation, correct their modifier use, or implement additional programs.

On March 11, the OIG released its 202-page "Compendium of Unimplemented OIG Recommendations," which revealed that many OIG suggestions have been ignored.

Case in point: In 2003, the OIG found a 40 percent error rate on claims that contained modifier 59 when used to separate Correct Coding Initiative (CCI) edits, resulting in Medicare paying \$59 million in improper payments.

The OIG encouraged carriers to institute prepayment and postpayment reviews of the use of modifier 59, and suggested that CMS should update carriers' claims processing systems so they pay claims with modifier 59 "only when the modifier is billed with the correct code," the OIG report indicates. The OIG now says that CMS has not yet instituted such system edits, and notes that it will "continue to monitor CMS's efforts to implement edits to ensure correct coding."

What this means: "The OIG lists modifier 59 as a priority nearly every year, and it's possible that the agency feels that CMS should be looking more closely at its use," says **Randall Karpf** with East Billing in East Hartford, Conn. "The bottom line is that if all of these entities are watching modifier 59, make sure you're using it properly."

Plus: The OIG examined services billed using the incident to guidelines. As a result, CMS is revising its incident to policies to reflect the fact that "no one except licensed physicians perform the services or nonphysicians who have the necessary training, certification, and/or licensure, pursuant to state laws, state regulations, and Medicare regulations perform the services under the direct supervision of a licensed physician."

Although many practices already follow this rule, the OIG "wants an explicit rule rather than the current implicit rule," says **Quinten A. Buechner, MS, MDiv, CPC, ACSFP/ GI/PEDS, PCS, CCP, CMSCS**, president of ProActive Consultants in Cumberland, Wis. Turn the page to read more highlights from the OIG's report.