

Part B Insider (Multispecialty) Coding Alert

Compliance: Part B Lab Tests Remain a Fixture on the OIG Hit List

Plus: Medicare pay cuts for lab work may lead to reduced testing.

Clinical tests are a necessary part of medicine, often leading to more informed diagnoses and better treatment plans. Moreover, most providers and labs are on the up-and-up, but the OIG continues to monitor improper claims related to lab work, looking at false claims and kickbacks.

Background: Lab tests topped last year's Comprehensive Error Rate Testing (CERT) report's "Top 20 Service Types with Highest Improper Payments: Part B," highlighted in Table D1 of the report. The data that came out in January showed that lab tests accounted for 3.1 percent of the overall improper payment rate with a whopping \$1.12 billion improperly paid out, the CERT data indicated.

Review the CERT study at

www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/CERT/Downloads/2017-Medicare-FFS-Improper-Payment.pdf.

Consider These Recent Stats

In 2016, CMS paid \$6.8 billion for Part B lab tests, according to a recent report from the Health Care Fraud and Abuse Control (HCFAC) Program operated jointly by OIG and the Department of Justice (DOJ). What is more interesting than the sum the agency paid out is that "the top 25 tests ... totaled \$4.3 billion and represented 63 percent of all Medicare payments for lab tests in 2016," signaled the report. But the real catch - "more than half of [the] payments for the top 25 tests went to 1 percent of [the] labs," noted the HCFAC data.

Also, the 2018 Clinical Lab Fee Schedule (CLFS) hit labs hard this year and will account for nearly a 10 percent reduction in the \$7 billion that Medicare pays annually for lab tests. The feds will be watching this year to see if the Medicare payment changes, specifically for the 25 tests, factor into a need for future enforcement actions against fraudsters, the HCFAC report suggests.

Bad news: Unfortunately, experts argue that the reductions may lead to testing cutbacks as well. "One unintended consequence of the proposed CLFS is that it may force many laboratories to stop or significantly curtail their testing, particularly rural hospitals, small health clinics, and POLs," stated **Michael J. Bennett PhD, FRCPATH, FACB, DABCC** President, American Association for Clinical Chemistry (AACC), in a letter to CMS.

Result: Therefore, it should come as no surprise then that the OIG just added the subject, "Monitoring Medicare Payments for Clinical Diagnostic Laboratory Tests-Mandatory Review," to its list of active Work Plan items in May.

Warning: Whether providers willfully submit fraudulent claims or engage in kickback schemes related to lab work, the feds are watching and bringing significant penalties against both the clinicians and the labs they utilize. "Improper financial relationships between physicians and laboratories can distort a physicians' best judgment for their patients, in addition to undermining patient health and trust," said **Chad Readler**, Acting Assistant Attorney General for DOJ's Civil Division in a release. "Executives and other individuals who break the law will be held personally accountable for their actions."

Read the HCFAC report at <https://oig.hhs.gov/publications/docs/hcfac/FY2017-hcfac.pdf>.

Resource: For more information on the 2018 Clinical Lab Fee Schedule, visit

www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/PAMA-Regulations.html.

