

## Part B Insider (Multispecialty) Coding Alert

### Compliance: Take a Look at What's on the OIG Hit List

#### Home health, hospice, and children's health continue to be issues for the HHS.

Even with the best of intentions, recommendations often fall on deaf ears. Annually, the OIG calls out the HHS for not taking its quality and cost-savings advice into account in the Compendium of Unimplemented Recommendations. And this year's report suggests the HHS has a lot to work on.

**Background:** In the Compendium, the OIG covers a wide array of HHS programs, including Medicare, Medicaid, marketplaces, and health IT, says attorney **Connor Duffy, Esq.**, with Robinson & Cole LLP in Hartford, Conn. OIG highlights and details 25 unimplemented recommendations from its past reports. In addition to CMS programs, other organizations on the OIG's 2017 radar are the Food and Drug Administration (FDA), the Administration for Children and Families (ACF), and the Indian Health Service.

**Top issues:** "HHS has made progress in implementing many of the recommendations included in this Compendium," the OIG report says. "However, as of April 2017, OIG has reason to believe that more can and should be achieved. More broadly, OIG continues to focus on several priority areas that require HHS and State improvements." The federal watchdog pinpoints these top problem areas where it will continue to focus its attention:

- Safeguard beneficiaries from overall drug abuse with a spotlight on the opioid issue.
- Ensure children and children's health programs remain intact and are safe and secure.
- Curtail issues in the delivery of Medicaid services and reduce fraud.
- Reduce home health abuse and fraud.
- Revamp drug pricing and reimbursement.

#### OIG Homes In On Medicare

**Warning:** The OIG had a variety of unimplemented recommendations for Medicare Parts A and B. Specifically, the report said that CMS should:

- Exempt the reduced expenditures as a result of lower outpatient prospective payment system (OPPS) payment rates from budget neutrality adjustments for ambulatory surgical center (ASC) approved procedures;
- Set up a hospital transfer payment policy for early discharges to hospice care;
- Increase awareness of adverse events in rehabilitation hospitals and work to reduce harm to patients;
- Alter the payment system for hospice care in nursing facilities and monitor hospices that depend heavily on nursing facility residents; and
- Change how coinsurance is calculated for outpatient services received at Critical Access Hospitals (CAHs).

**Watch out:** Medicare Parts C and D didn't escape the OIG's center of interest either. For these programs, the OIG charged that CMS should:

- Implement policies and procedures to notify Medicare Advantage (MA) organizations of unlawful presence information;
- Restrict certain beneficiaries to a limited number of pharmacies or prescribers; and
- Require Part D plan sponsors to report all potential fraud and abuse to CMS.

#### SNFs Come Under Fire

One of the more significant bombshells in the OIG's report for Medicare Parts A and B impacts skilled nursing facilities (SNFs). In the Compendium, the OIG once again charges that CMS should change the way Medicare pays SNFs for

therapy services. Also, the OIG wants CMS to reduce payment rates for therapy.

**The problem:** "SNFs increasingly billed for the highest level of therapy even though beneficiaries' characteristics remained largely unchanged," the report said. "Increases in SNF billing, particularly for the highest level of therapy, resulted in a combined \$1.1 billion in Medicare payments in fiscal years (FYs) 2012 and 2013, despite beneficiary characteristics remaining nearly identical."

**The solution:** OIG maintains that a revamp of the SNF therapy payment guidelines would improve the issues, but warns that "CMS would need additional statutory authority to reduce Medicare's base payment rate for therapy," the report said.

### **EHR Concerns Persist**

Another issue targeted in the Compendium involves fraud vulnerabilities in EHRs. "We found that nearly all hospitals with EHR technology had audit functions recommended by RTI International, but these hospitals may not be using them to their full extent," the OIG said in the report.

Though the Office of the National Coordinator for Information Technology (ONC) and CMS have worked jointly to eradicate fraud, abuse, and data loss, the OIG report suggests that the organizations can do more to solve this persistent issue. "ONC and CMS should strengthen their collaborative efforts to develop a comprehensive plan to address fraud vulnerabilities in electronic health records," the OIG recommended in the Compendium advice.

**Resource:** To read the OIG 2017 Compendium of Unimplemented Recommendations, visit <https://oig.hhs.gov/reports-and-publications/compendium/files/compendium2017.pdf>.