

## Part B Insider (Multispecialty) Coding Alert

### Compliance: You May Soon Have Only 60 Days to Return Medicare Overpayments--Or You'll Face Penalties

**New CMS proposal would impact all self-identified overpayments that your contractor sends to you.**

You've always known that it's improper to hang on to money that belongs to the government--but until now, you haven't had a strict deadline for returning it.

Thanks to the Affordable Care Act, CMS was asked to institute a specific timeframe by which you must return overpayments to the Medicare program. A proposed rule outlining the new deadline process was published in the Feb. 16 Federal Register.

If the proposal is finalized, you will have to return overpayments within 60 days of identifying the incorrect payment, or on the date when a corresponding cost report is due (whichever is later).

CMS defines "overpayments" as funds a practice or person receives "to which the person is not entitled," including payment for duplicate claim submissions, reimbursements sent to the wrong payee, payment for excluded or medically unnecessary services, or money you receive for non-covered services.

For instance: You realize you erroneously submitted a claim for 100 units of a drug, even though the physician only administered 10 units, causing you to collect \$80.00 more in reimbursement than you should have collected. Although most practices would do the right thing and return the \$80.00 to their contractor immediately, CMS's proposal would ensure that you sent back the money within the newly prescribed timelines.

#### Keep Penalties at Front of Mind

**Penalties:** If the rule is finalized, practices that don't return overpayments to Medicare within the timeline could be in violation of the False Claims Act, may be subject to civil monetary penalties, or could even be excluded from participating in federal health care programs, CMS said in a Feb. 14 statement.

Timing: Interestingly, the proposed rule was published on the same date that the Dept. of Health and Human Services announced that the government recovered nearly \$4.1 billion in taxpayer dollars in 2011--the highest amount ever recovered over a one-year period "from individuals and companies who attempted to defraud seniors and taxpayers or who sought payments to which they were not entitled," CMS revealed in its annual "Health Care Fraud and Abuse Control Program Report," which you can read at <http://oig.hhs.gov/reports-and-publications/hcfac/index.asp>.

CMS has proposed rules for the return of Medicare overpayments twice in the past, but those were never finalized. The agency is currently accepting comments on the new proposal. To read the entire proposed rule, which includes instructions on how to send comments, as well as the details of the proposal, visit [www.ofr.gov/OFRUpload/OFRData/2012-03642\\_PI.pdf](http://www.ofr.gov/OFRUpload/OFRData/2012-03642_PI.pdf).