

## Part B Insider (Multispecialty) Coding Alert

### FRAUD AND ABUSE: Wake-Up Call for Telemarketing Suppliers

Disturbing people during dinner could be the least risky problem in telemarketing to home medical equipment beneficiaries.

You could be courting disaster if you let your employees or a third-party contractor telephone beneficiaries outside of the scenarios in which Medicare allows such calls. You could find yourself facing False Claims Act charges, the **HHS Office of Inspector General** warns suppliers in a Special Fraud Alert issued March 3.

Suppliers should heed the OIG's warning, says attorney **Carolyn McElroy** with **Mintz Levin Cohn Ferris Glovsky and Popeo** in Washington. Even though suppliers know telemarketing is a no-no except under very special circumstances, the OIG still found an increase in improper telephone calls.

Part of the problem is that third-party marketers tell HME companies, "you can't telemarket because you're a provider, but we're not a provider so we can telemarket," McElroy explains.

But it makes no difference, according to McElroy. Whether you telemarket on your own behalf or hire someone else to do it for you, your liability is the same. Or as the OIG puts it, "Suppliers cannot do indirectly that which they are prohibited from doing directly."

There are only three circumstances where phone solicitations are OK:

1. The beneficiary has given the supplier written permission to make contact by telephone.
2. The phone contact involves a covered item the supplier already has provided to the beneficiary.
3. The supplier has furnished at least one covered item to the beneficiary during the preceding 15 months.