

## Part B Insider (Multispecialty) Coding Alert

### INCIDENT TO: OIG Finds Alarming Error Rates Among Incident To Claims

OIG wants practices to append a special modifier to denote incident to services, but CMS isn't interested.

The OIG is fed up with incident to errors, and its auditors want CMS to take action that could turn your billing and coding upside-down. On Aug. 5, the OIG released its report, "Prevalence and Qualifications of Nonphysicians Who Performed Medicare Physician Services," which noted that unqualified non-physician practitioners (NPPs) performed 21 percent of incident to services.

"In the first three months of 2007, Medicare allowed \$12.6 million for approximately 210,000 services performed by unqualified nonphysicians," the report noted. Citing concern "about the potential scale of this problem," the OIG recommended that CMS take the following steps that would curb inappropriate incident to billing:

- Revise the incident to policy to ensure that services billed to Medicare are performed by licensed physicians "or nonphysicians who have the necessary training, certification, and/or licensure" who are under a licensed physician's direct supervision;
- Require practices to append a specific modifier to identify incident to services on claim forms;
- Take action to address the inappropriately-billed incident to claims that the OIG identified.

CMS agreed with the first and third recommendations, but disagreed with the modifier proposal. "Incidental services are often shared by physicians and staff, making definition of a service not personally performed operationally difficult," CMS noted.

For example: Suppose a physician performs an E/M service but asks his nurse to teach the patient to give herself an insulin injection, suggests **Joan Gilhooly, CPC, PCS, CHCC**, president of Medical Business Resources. "Do you use the modifier on the E/M service, since part of it was performed incident to?"

**Plus:** "Registered nurses can perform some services, such as allergy shots, as incident to, but cannot perform some of the more involved services that nurse practitioners or physician assistants can," suggests **Barbara J. Cobuzzi, MBA, CPC, CPC-H, CPC-P, CENTC, CHCC**, president of CRN Healthcare Solutions. "Therefore, CMS would need separate incident to modifiers to denote which type of non-physician practitioner performed a service."

For more on incident to billing, turn to page 220.