

## Part B Insider (Multispecialty) Coding Alert

### Reimbursement: Carriers Can't Punish You For Self-Disclosing Problems - But There's A Catch

#### Don't go straight to the carriers if the problem looks serious

The Medicare Modernization Act contains one welcome provision that prevents your carrier from putting you on prepayment review if you come forward voluntarily to disclose a billing problem. Or does it?

Now the Centers for **Medicare & Medicaid Services** has carved out an exception to that rule which the carriers could drive an 18-wheeler through. If you self-disclose an improper business practice, "and the contractor determines that there is a sustained or high level of payment error," then the carrier can go ahead and put you on prepayment review anyway, according to Transmittal 100-08 (Change Request 3569).

Still, the change is better than nothing, says attorney **Lester Perling** with **Broad & Cassell** in Fort Lauderdale, FL. "The carriers previously had a totally free hand in putting a provider on prepayment review," he notes. Now, they have to show a sustained pattern of overpayment, which CMS fails to define.

Most likely if you come forward with a couple of overpayments worth \$500, you're safe, but if you disclose that all of your evaluation/management visits have been upcoded two levels for the past year, you could be in for some review, Perling says.

Fortunately for providers, the carriers aren't fans of prepayment review, because they don't get paid any more money for doing it. And it's a lot of work to move a provider from electronic to paper claims and pay someone to sift through all of them, Perling notes.

#### If The Problem Grows, Don't Just Self-Disclose

If you find some loose change under the sofa cushions that belongs to Medicare, go ahead and send it back to the carrier, say experts. But if you discover the tip of a scary-looking iceberg, go to your health care attorney first.

"When you self-disclose you're pretty much putting yourself at the whim of the government," says consultant **Jim Collins** with **Compliant MD** in Matthews, NC. For a small overpayment, you can just refund it to the government without going through a formal self-disclosure proceeding. Usually, if you self-disclose a significant problem, the government will prescribe specific corrective actions you must follow.

An attorney can help you present the problem in the most favorable light, Collins adds.

"When you're talking about something that might have been intentional," or something that involves a "significant amount of money for a significant amount of time you should enlist an attorney's aid," says Perling.

Another key is to conduct more self-audits if you find evidence of a broader problem. "You want to find out [if you have a] one-time problem or if it's an ongoing problem," says **Catherine Brink**, president of **HealthCare Resource Management** in Spring Lake, NJ. That's because if you self-disclose a problem on one claim, the feds could decide to look at many more of your claims, she notes. Often, if you have a single problem with a particular CPT code, you might discover you have problems across the board with that code.

