

## Eli's Rehab Report

### Audits: Think an Auditor's Decision Means the End-of-Story? Think Again!

**See how one CORF fought -- and won some money back.**

Don't be afraid to dispute an auditor's decision if you feel you're in the right. Although Coral Gables, Fla.-based Action Rehabilitation Center wasn't 100 percent lucky in winning its argument, it didn't have to forfeit quite as much money as the OIG originally wanted it to.

The story: The HHS Office of Inspector General, with the assistance of a program safeguard contractor, audited a random sample of this comprehensive outpatient rehabilitation facility's claims with therapy services totaling \$100,283. Of that 100-claim sample, \$40,164 of therapy services did not meet Medicare reimbursement requirements, the OIG said. With that, the agency estimated \$727,569 of improper payment for therapy services and recommended that Action refund that amount to the Medicare program.

The response: Action "generally disagreed" with the OIG's findings and, according to the report, provided additional documentation and requested that the OIG consider the probe First Coast Service Options completed on the facility in September 2004. (First Coast had found only 12 percent in billing errors, while the OIG found about 40 percent.)

The OIG assessed the First Coast review and pointed out that it was too "dissimilar" to warrant a reverse decision. On the other hand, upon reviewing Action's additional documentation separate from the First Coast review, the OIG concluded that it would "partially reverse their original determinations on some of the services originally found to be in error," according to the report. You can view the report at [www.oig.hhs.gov/oas/reports/region4/40502010.pdf](http://www.oig.hhs.gov/oas/reports/region4/40502010.pdf).

#### What You Can Learn From This Story

While every case is different, you can glean some key takeaway points from this CORF's story.

**1. Don't blindly take an auditor's word as final**

"If someone looks at your claims and issues denials or says you've been overpaid, don't just say, 'Well, I must have been wrong,'" says **Kate Brewer, PT, MBA, GCS**, vice president of Greenfield Rehabilitation Agency in Greenfield, Wis. "If you were right, stand up for what you believe in -- that's what I like about this particular case." Just make sure you have sound reasoning and documentation behind your dispute, she says.

**2. Take steps to avoid audits in the first place.**

Implement your own internal monitoring system where you conduct scheduled self-audits, Brewer says. But that's not enough. "Maybe you have 10 clinics, and they're sending you chart audits every month -- but are you looking at them or just shoving them in a file cabinet?" Be sure to read the audits, look for trends, and educate your staff if you find patterns of incorrect billing, Brewer continues.

Tip: Collect all necessary documentation at the time services are rendered, recommends **Donna Thiel, JD**, shareholder with Baker, Donelson, Bearman, Caldwell, & Berkowitz, PC, in Washington, D.C. "Have a system to check and cross-check a sample of your own claims to ensure they are 'truly complete' and 'completely true' before filing the claims."

**3. Present all available evidence.**

"Some rehab organizations will only give auditors the bare minimum for fear that the auditors will find even more mistakes than what they were originally looking for, but this could affect the auditor's ability to make a good decision," Brewer warns. "If you have nothing to hide, disclose everything to demonstrate why you should be paid."

Action ended up providing more documentation the second time around to make its case.

**4. Consider hiring a lawyer.**

Action solicited help from a local law firm, Thiel points out. "This can certainly help if you want to dispute an audit, and this firm did a nice job," she observes. (See the last eight pages of the OIG report for the law firm's response.)

Important: If you decide to dispute an audit, do so as soon as possible, Thiel stresses. "The OIG usually invites comments, but you should prepare position papers on issues you think you are investigating."

Other tips: "Be polite -- not personal-- to the auditor, and be sure you understand the basis for the OIG's proposed findings," Thiel says. "Ask questions if you do not understand." Also, take care to control who is talking to the auditors. "Set them up in an office, and bring the records to them. Do not preclude people from talking to the auditors, but do not let them wander around the office unaccompanied," Thiel says.

If you choose to dispute, state your case citing the applicable law and CMS manual sections, and state why you believe the auditor got it wrong, Thiel says. Did they misinterpret the law or apply a regulation no longer in effect? Did they miss an important record on file or require something the law does not support? These are key questions to ask.