Eli's Rehab Report

Industry Notes: CMS Clarification on Use of New Modifiers

The **Centers for Medicare & Medicaid Services** (CMS) debuted four new modifiers to be used in place of the Healthcare Common Procedure Coding System (HCPCS) modifier-59 (Distinct procedural service) via Transmittal R1422 issued on Aug. 15.

CMS points out the following three common reasons that people use modifier 59, according to MLN Matters article MM8863:

- Infrequently used to identify a separate encounter, typically used correctly;
- Less commonly utilized to define a separate anatomic site, less often used correctly;
- Commonly used to define a distinct service, but frequently done so incorrectly.

Say Hello to "EPSU" Modifiers

In light of the problems that CMS has faced when dealing with modifier 59, CMS felt the need to find a solution. "The 59 modifier often overrides the edit in the exact circumstance for which CMS created it in the first place," the MLN Matters article says. "CMS believes that more precise coding options coupled with increased education and selective editing is needed to reduce the errors associated with this overpayment."

To that end, CMS has debuted the following new modifiers, known as the "X(EPSU)" modifiers:

- XE: Separate encounter (A service that is distinct because it occurred during a separate encounter);
- XS: Separate structure (A service that is distinct because it was performed on a separate organ/structure);
- XP: Separate practitioner (A service that is distinct because it was performed by a different practitioner);
- XU: Unusual non-overlapping service (The use of a service that is distinct because it does not overlap usual components of the main service).

"At this time, speech-language pathologists should not have to change their billing practices for specific code pairs and should continue to use the modifier-59 as indicated," says a November 13 **American Speech-Language Hearing Association** (ASHA) press release after a meeting between representatives of CMS and ASHA.

Resource: To read the transmittal, visit www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R1422OTN.pdf.

To read the MLN Matters article, visit www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM8863.pdf.

Congress Urged to Tighten Restrictions On Physician Self-Referral

The **American Association of Retired Persons** (AARP) has sought to prevent patients from being used as pawns in healthcare fraud and protect them from unnecessary treatments. The AARP has become "the first consumer organization to publicly endorse tightening restrictions on physician self-referral by eliminating the in-office ancillary services (IOAS) exception for 4 specific services, including physical therapy, under the Stark law," says the **American Physical Therapy Association** (APTA) in a Dec. 16 press release.

The IOAS exception was made with a view to ensuring swift delivery of services such as routine lab tests or x-rays during an emergency to save a patient's life or ensure better outcomes in situations where timeliness is critical. However, physicians have misused this exception over the years quite contrary to the spirit of the law. It has been estimated that such abuse could cause a financial drain to the tune of over $6 billion over a 10-year budget window. In the proposed

budget for 2015, 4 services physical therapy, radiation therapy, anatomic pathology, and advanced imaging have been excluded from the IOAS exception to the Stark law.

"APTA continues to urge Congress to take action to close this loophole, which threatens the integrity of the Medicare program," APTA President **Paul A Rockar Jr, PT, DPT**, MS said in the release.

Get New Therapy Reassessment Start Date Right

Don't adjust your therapy reassessment dates for episodes ending Jan. 1 or later, the **Centers for Medicare & Medicaid Services** (CMS) warned providers in a Dec. 2 Federal Register notice. The timeline for reassessments, as spelled out in the 2015 PPS final rule, will change for episodes beginning on Jan. 1.

Wrong way: In the PPS final rule, CMS "inadvertently stated that the changes were effective for episodes 'ending' on or after January 1, 2015," the agency spells out.

Right way: "We meant to state that the therapy reassessment changes finalized in the regulations ... are effective for episodes 'beginning' on or after January 1, 2015," CMS confirms. The reassessment timeline will switch from the current visit-counting methodology to every 30 days.

Fraud Can Be Pricey

A physical therapy assistant is the latest to go down in a scam run through **Physicians Choice Home Health Care, Quantum Home Care Inc., First Care Home Health Care, and Moonlite Home Care Inc**. Beneficiaries signed blank medical paperwork that PTA **Jigar Patel** and others then completed with false information purporting to show that care was provided, when it was not, the **Department Of Justice** (DOJ) says. Patel and others signed this paperwork, certifying that they had provided the services.

"In the course of the conspiracy, Patel incorporated his own staffing company, **MI Healthcare Staffing**, through which he laundered proceeds of the fraud," the DOJ noted in a release. Patel received a prison sentence of more than four years, and was ordered to repay $1.9 million, according to the release.