

Psychiatry Coding & Reimbursement Alert

Audits: Brace for Increased Lookback Period For Medicare Overpayments

The recently passed 'fiscal cliff' legislation has added two more years to your woes.

If you were expecting auditors to ask you for refunds on Medicare overpayments dating back three years, your troubles have now increased as Congress has approved a change to check for overpayments for another two years.

Background: Last May, the OIG published its Obstacles to Collection of Millions in Medicare Overpayments, which lamented that the government is barred from recovering overpayments from practices after three years following the original payment. The report noted that CMS was unable to collect over \$332 million "because of time constraints imposed by the statute of limitations on overpayment collections," and the OIG subsequently asked CMS to "pursue legislation to extend the statute of limitations" for collecting those overpayments.

It appears that has come to fruition. The American Taxpayer Relief Act of 2012, which President Obama signed into law on Jan. 2, includes a very small but significant provision that gives the government two more years to come after overpayments you may have collected. The text of Section 638 of the bill reads as follows:

"SEC. 638.REMOVING OBSTACLES TO COLLECTION OF OVERPAYMENTS.

a) IN GENERAL □ The last sentence of subsections (b) and (c) of section 1870 of the Social Security Act (42 U.S.C. 1395gg) are each amended□(1) by striking "third year" and inserting "fifth year"; and (2) by striking "three-year" and inserting "five year."

b) EFFECTIVE DATE □ The amendments made by subsection (a) shall take effect on the date of the enactment of this Act."

Although the text is short, it may not sound particularly sweet to practices, which are already under pressure from ZPIC, RAC, and other auditors who are trying to ferret out potential overpayments.

Best bet: If you receive an overpayment from your MAC, return it immediately, so you don't have to deal with recoupment requests down the road.

Resource: To read the complete text of the American Taxpayer Relief Act of 2012, visit <http://www.gpo.gov/fdsys/pkg/BILLS-112hr8eas/pdf/BILLS-112hr8eas.pdf>.