MDS Alert

Medicare & Clinical News to Use

CMS**has** "**proposed that providers and suppliers must report and return self-identified** overpayments either within 60 days of the incorrect payment being identified, or on the date when a corresponding cost report is due -- whichever is later," the agency states in a Feb. 14 press release.

"Before the Affordable Care Act, providers did not face an explicit deadline for returning taxpayers' money," CMS states in the release. "Thanks to the Affordable Care Act, there will be a specific timeframe by which overpayments must be reported returned. Any failure to report and return the overpayment within the applicable time frame could be a violation of the False Claims Act. Providers also could be subject to civil monetary penalties or excluded from participating in federal health care programs for failure to report and return an overpayment."

CMS notes in the release that "a Medicare overpayment means any funds that a person receives or retains under Medicare to which the person is not entitled. Examples of overpayments in Medicare include the following:

- Duplicate submission of the same service or claim;
- Payment to the incorrect payee;
- Payment for excluded or medically unnecessary services; or
- Payment for non-covered services."

"In order to assist providers and suppliers with understanding when an overpayment has been identified," CMS states in its proposed rule in the Feb. 16 Federal Register, "we provide the following examples:

- "A provider of services or supplier reviews billing or payment records and learns that it incorrectly coded certain services, resulting in increased reimbursement.
- A provider of services or supplier learns that a patient death occurred prior to the service date on a claim that has been submitted for payment.
- A provider of services or supplier learns that services were provided by an unlicensed or excluded individual on its behalf.
- A provider of services or supplier performs an internal audit and discovers that overpayments exist.
- A provider of services or supplier is informed by a government agency of an audit that discovered a potential overpayment, and the provider or supplier fails to make a reasonable inquiry. (When a government agency informs a provider or supplier of a potential overpayment, the provider or supplier has an obligation to accept the finding or make a reasonable inquiry. If the provider's or supplier's inquiry verifies the audit results, then it has identified an overpayment and, assuming there is no applicable cost report, has 60 days to report and return the overpayment. As noted previously, failure to make a reasonable inquiry, including failure to conduct such inquiry with all deliberate speed after obtaining the information, could result in the provider or supplier knowingly retaining an overpayment because it acted in reckless disregard or deliberate ignorance of whether it received such an overpayment).

A provider of services or supplier experiences a significant increase in Medicare revenue and there is no apparent reason -- such as a new partner added to a group practice or a new focus on a particular area of medicine " for the increase. Nevertheless, the provider or supplier fails to make a reasonable inquiry into whether an overpayment exists. ..." (Source: Excerpted verbatim from the proposed rule at http://www.gpo.gov/fdsys/pkg/FR-2012-02-16/pdf/2012-3642.pdf.)

In its press release, CMS states that "this proposed rule was issued the same day that the Obama Administration announced that the Health Care Fraud and Abuse Control Program had recovered $4.1 billion in Fiscal Year 2011 from anti-fraud efforts, while the Department of Justice opened 1,110 new criminal health care fraud investigations involving

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2,561 potential defendants."

Stay on top of this lab testing. "Usually the FDA label for a drug will state under the dosage section whether you have to reduce the dose for someone with reduced liver function -- some you do and some you don't," says **Thomas Lynch, PharmD, BCPS,** associate professor at the Eastern Virginia Medical School in Norfolk, Va. "But generally, if someone has liver failure to some degree, you either avoid the drug or reduce the dose," Lynch adds.

"Pharmacists might find that the results of liver function tests are already in the resident's chart since they are included in the comprehensive metabolic panel (CMP), which may have been drawn during a recent hospitalization," says **William Simonson, PharmD, CGP,** a consultant pharmacist and Senior Research Professor of Pharmacy Practice at Oregon State University. "Or a CMP may be drawn periodically during a nursing home admission such as during an annual assessment."»

"Several medications are well known to affect liver tests, such as statins and higher doses of acetaminophen," says **Charles Crecelius, MD, PhD,** a medical director in St. Louis, Mo. But "practitioners may occasionally forget that other agents should prompt monitoring on a regular basis," he adds. "Examples include methotrexate, valproate, amiodarone, NSAIDs, estrogenic/anabolic steroids, and prolonged use of certain anti-infective agents, such as trimethoprim/sulfamethoxazole, nitrofurantoin, isoniazid, ketoconazole, and certain antivirals."

Get the scoop on grapefruit juice. In a presentation at the March 2011 American Medical Directors Association annual meeting, **Thomas Lynch, PharmD, BCPS,** said that he considers grapefruit juice a drug.

Grapefruit juice "acts at the level of the intestine," which is lined with Cytochrome P450 3A4 enzymes, Lynch said. These 3A4 enzymes "are actually our first line of defense against toxins and drugs -- it's evolved that way," he relayed. And "if you give grapefruit juice, it blocks that enzyme, and so drugs that it normally won't let in, it lets in."

"Generally drugs that require 3A4 for metabolism have a low bioavailability," Lynch noted. "For instance, Zocor has like a 5 percent bioavailability. The reason for that is 95 percent of it is kicked out by the 3A4 enzyme -- it doesn't even allow it to be absorbed into the liver. But you block that [enzyme] and all of a sudden you've eliminated that block. That's what grapefruit juice does."

Plus: "You have to remove the grapefruit juice and wait for more enzyme to be produced," Lynch said. "So it's going to take a while. In other words, it's not one of these things where you say wait two hours" before giving the medication. "It's an irreversible effect. You can have [drug] levels' increased two-fold, three-fold or more."

Bottom line: "Elderly people on multiple drugs -- more likely drugs that require 3A4 for metabolism -- they should just avoid grapefruit juice," Lynch emphasized.

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