

MDS Alert

Risk Management: HEAT Training Session Offers Pointers for Self-Disclosing Payment Issues

The OIG has some advice for you on this compliance topic.

Heads up: The "OIG has long believed that timely corrective action including self-disclosure is a key component of having an effective compliance program," said OIG attorney **Tony Maida** in a presentation on compliance programs during the May HEAT training, which is now available online.

Maida went on to note that the OIG recognizes that "disclosing issues to the government isn't an easy decision, but it can be more difficult when the government knocks on your door without your invitation."

So, said Maida, when you've identified a problem, what should you do? "It's generally a good idea to get some advice to confirm that you, in fact, do have a problem and where to send your problem to," Maida advised. Getting advice from a healthcare attorney can be helpful, he added. "If you don't have a lawyer, you can contact your MAC, as well, to get some advice in part to confirm that you ... have a billing problem. Issues that are only overpayments or innocent mistakes can be reported to your contractor through that normal refund reconciliation process."

Key: If you're going to make a disclosure to the OIG, "avoid arguing that no fraud has occurred," Maida emphasized. This means that "at the end of the day," if the provider doesn't believe it has "liability exposure under the fraud laws," then the OIG's protocol isn't for them. "Overpayments and innocent mistakes should go through the claims reconciliation process," he said.

Resources: Review the OIG's self-disclosure protocol at <http://oig.hhs.gov/compliance/self-disclosure-info/index.asp>. Watch the HEAT training sessions at http://oig.hhs.gov/newsroom/video/2011/heat_modules.asp#a10.

Editor's note: For an article on how to identify and disclose overpayments, including ones caused by MDS issues, see an upcoming MDS Alert.