

MDS Alert

Risk Management: The OIG Has a Plan for 2009. Does Your Nursing Facility?

The time to shore up compliance is now.

If staff read and stash the OIG work plan each year without taking action, they may be closing the file cabinet door on a major opportunity.

"The OIG does breathe life into its work plan," cautions **Donna Senft**, an attorney with Ober/Kaler in Baltimore. As one example, Medicaid fraud control units sometimes home in on areas that the federal government has identified as problematic, she says.

That said, facilities should "dust off their compliance plans" each fall and take a look at the OIG work plan and regulations that have occurred in the past year, such as new regs for Part A payment and the physician fee schedule, advises Senft. "Then plan what the facility needs to do to improve compliance," she urges.

"The facility can look at what it does well and not so well and modify the compliance to capture any issues in the facility."

Target These Key Areas

- Antipsychotics and other psychoactive meds. The OIG says it's going to be looking at antipsychotic use among people aged 65 or older in nursing homes. The agency is looking at whether the government is inappropriately paying for medications acting as chemical restraints, says Senft.

"Restraint reduction activities in nursing facilities have historically been focused on physical restraints, but we don't know if surveyors will pick up on the OIG concern and begin looking at antipsychotics and other psychoactive medications in conjunction with F329 (unnecessary medications)," adds Senft.

- Hospice services and care plans. Hospice provided in nursing homes is also on the OIG's radar screen. A previous OIG review found that hospice beneficiaries residing in nursing facilities received nearly 46 percent fewer nursing and aid services than hospice beneficiaries in the home, according to the work plan. The agency plans to assess beneficiaries' plans of care and determine whether payments were appropriate.

The OIG work plan is only one aspect of this "hot-button compliance issue," says Senft. "There are new conditions of participation for hospice that may require some nursing facilities to redo their contracts with referring hospices," she says. And there have been other guidance documents in the last six months related to hospice, Senft adds. (For details, receive a free copy of **Eli's Hospice Insider** by e-mailing the editor at KarenL@Eliresearch.com.)

- **No-pay bills.** The OIG plans to review whether SNFs are submitting no-pay bills as required. "The government is focused on trying to avoid spending money due to SNFs' failure to track residents' benefit periods," notes **Marilyn Mines, RN, RAC-CT, BC**, manager of clinical services for FR&R Healthcare Consulting in Deerfield, Ill.

The OIG will also examine CMS' oversight mechanisms in place to ensure that SNFs submit no-pay bills, the work plan says. Consultant **Ron Orth, RN, NHA, CPC, RAC-MT**, finds the latter "interesting" in that he doesn't think there is much oversight of the issue currently.

The OIG work plan groups benefit exhaust bills and no-pay bills, notes Orth, president of Clinical Reimbursement Solutions LLC in Milwaukee.

In a nutshell: The SNF submits a monthly benefits exhaust claim when a resident has exhausted his 100 Medicare benefit days and continues to receive a skilled level of care in the SNF. When the SNF determines a resident receiving Part A skilled care no longer requires that level of care, it submits no-pay bills if the person remains in the facility in a Medicare-certified bed.

"If SNFs don't submit benefit exhaust bills, as required, and the resident goes to another SNF at another time, the Common Working File won't accurately reflect what benefits the person has available, if any," cautions Orth.

- **RUG payment.** OIG says it will review a national sample of Medicare SNF claims to determine the extent to which RUGs are accurate and supported by residents' medical records.

As part of the OIG's follow-up work, the agency will identify ways to improve the accuracy of SNF payments.

Download the entire OIG 2009 work plan at

[www.http://oig.hhs.gov/publications/docs/workplan/2009/WorkPlanFY2009.pdf](http://oig.hhs.gov/publications/docs/workplan/2009/WorkPlanFY2009.pdf).