

MDS Alert

SNFs: Watch Out: Your Therapy Billing Is Way Too High, OIG Says

You may soon see big changes to SOT, EOT and COT assessments.

You may soon face increased scrutiny of your billing for changes in therapy, and the **HHS Office of Inspector General** (OIG) wants to take away your financial incentives to use assessments differently when increasing or decreasing therapy.

So says a new OIG report in which the government watchdog takes a harsh stance on skilled nursing facility (SNF) billing for changes in therapy. The OIG analyzed SNF claims from fiscal year (FY) 2010 through FY 2013 to study billing for changes in therapy under the **Centers for Medicare & Medicaid Services'** (CMS) policies that introduced new types of assessments to capture changes in a beneficiary's therapy more quickly.

For each FY, the OIG calculated the percentage of stays during which the SNF billed for no therapy, the same level of therapy, or changes in therapy. The watchdog looked at SNFs' use of Start of Therapy (SOT) assessments, End of Therapy (EOT) assessments, and Change of Therapy (COT) assessments.

Then, the OIG calculated the percentage of stays in which the SNF billed for a change in the level of therapy, a therapy RUG followed by a non-therapy RUG, or a non-therapy RUG followed by a therapy RUG.

Findings: Your Therapy Billing is Out of Whack

Specifically, the OIG studied whether SNFs used assessments differently when decreasing therapy versus when increasing it, as well as whether SNFs used the new assessments incorrectly. The OIG found that SNF billing for changes in therapy increased only slightly using the new types of therapy assessments to capture when beneficiaries start therapy, end therapy, and decrease or increase therapy (from 27 percent of SNF stays in FY 2010 to 31 percent in FY 2013).

Red flag: But the OIG also discovered that SNFs used assessments "very differently" when decreasing therapy than when increasing it, costing Medicare \$143 million over two years. SNFs also frequently used the new SOT assessment incorrectly — for example, often using a SOT assessment while billing for no therapy during the stay, the OIG said.

Since FY 2012, CMS has allowed you to choose between conducting a scheduled assessment or a combined COT assessment (which occurs when a COT assessment overlaps with a scheduled assessment) when a resident's level of therapy changes, explained Washington, D.C.-based partner attorney **Sara Lord** in a recent report for the law firm **Arnall Golden Gregory LLP**. Using a combined COT assessment results in more timely billing, whereas using a scheduled assessment delays billing for the therapy changes.

The OIG's report revealed that "SNFs were far more likely to use scheduled assessments when they decreased therapy than when they increased it, allowing them to delay billing for the lower paying RUG, and that this practice cost Medicare \$143 million more than if they had used combined COT assessments," Lord stated.

Use Caution When Billing Ultra High RUGs

And overall, the OIG found that Medicare payments for therapy "greatly exceeded" SNFs' costs for therapy, causing a

\$1.1-billion increase in payments in FYs 2012 and 2013, according to an Oct. 5 analysis by the **CMS Compliance Group Inc.** (CCG). "The cause? SNFs billed for the highest level of therapy, Ultra High, considerably more in those years, even though the residents' characteristics did not show much change," CCG said.

Big problem: The OIG discovered that SNFs increased their billing for the Ultra High RUG category from 49 percent in FY 2011 to 57 percent in FY 2013, CCG says. Approximately 80 percent of the \$1.1 billion that CMS paid was for Ultra High therapy.

In particular, the OIG found that SNFs most commonly billed for a change in the therapy level when billing for changes in therapy □ during approximately one-quarter of stays and for a total increase of 2 percent from FY 2010, according to Lord. And billing for a change in the therapy level occurred far more often than billing for a therapy RUG followed by a non-therapy RUG.

Also what increased during this time was SNFs' billing for a non-therapy RUG followed by a therapy RUG, which is a least likely scenario, Lord noted.

"This is a result of the inherent nature of the rules for the assessments, since when the assessment rules were promulgated they allowed for an optional completion of some of those assessments if certain conditions were met," lamented **Michelle Synakowski** in an analysis for **Leading Age NY**. "Facilities have simply followed the rules as they were written."

Get Ready for New Payment Method

"CMS's new policies are complex and create challenges for effective oversight," the OIG concluded. "To better ensure that beneficiaries are receiving the amount of therapy they need, and that Medicare is paying appropriately, CMS should accelerate its efforts to implement a new method for paying for therapy."

The OIG wants CMS to create a new payment method to eliminate the need for new assessments by basing payments on beneficiary characteristics rather than on the amount of therapy the SNF provides. The OIG makes two specific recommendations, with which CMS agreed:

1. Reduce the financial incentives for SNFs to use assessments differently when decreasing and increasing therapy; and
2. Strengthen the oversight of SNF billing for changes in therapy.

Look ahead: "CMS has been working on a new process of paying for therapy based on resident characteristics rather than based on the amount of therapy provided," Synakowski noted. "It is anticipated that this new process will be similar to the hospital DRG process, with some sort of set payment amount for a particular condition."

Bottom line: "So, we will have to wait to see if CMS issues another layer of rules for the COT, EOT, and SOT assessments that are used for Medicare billing, or if they will instead accelerate the development of the new payment method for therapy services," Synakowski said.

Link: To view the OIG report, "Skilled Nursing Facility Billing for Changes in Therapy: Improvements are Needed," go to <http://oig.hhs.gov/oei/reports/oei-02-13-00611.pdf>.