

OASIS Alert

Compliance: Will Lax OASIS Submissions Earn Your Agency a 2 Percent Penalty?

New OIG report questions home health data collection and reporting practices.

If you haven't been submitting an OASIS for every claim, prepare to come under fire.

In 2009, 392,180 (6 percent) of Medicare home health agency claims did not have OASIS data for the same period, the **HHS Office of Inspector General** notes in a new report, "Limited Oversight of Home Health Agency OASIS Data." That represents a whopping \$1 billion in HHA payments. Submitting OASIS data was a regulatory requirement at the time, but wasn't a condition of payment until Jan. 1, 2010, the OIG points out.

In 2009, 85 percent of HHAs did not submit OASIS data for at least one claim, the report adds. And more than half of those HHAs did not submit OASIS data for at least 10 claims that year.

Problems: The **Centers for Medicare & Medicaid Services** penalizes HHAs with a 2 percent reduction only when they fail to submit any OASIS data at all for the year at issue, the OIG notes. And they don't penalize at all for submitting OASIS data late. Plus, CMS does not review OASIS data for completeness or accuracy, the OIG criticizes.

On the radar: OASIS submission error number 286 Warning "Inconsistent M0090/Submission Date" was number one on the list of top 10 OASIS submission errors, **Pat Sevast** from CMS told attendees of the **National Association for Home Care and Hospice's** 2012 Home Care & Hospice March on Washington & Law Symposium & Exposition. The OIG has been asking why there aren't deficiencies and terminations for these late data sets, Sevast said. "When you're dealing with people like the OIG, it's black and white," she said.

Report Makes Drastic Recommendations

The OIG wants CMS to identify all HHAs that failed to submit OASIS data and apply the 2 percent payment reduction to them, it recommends in the report.

The OIG also wants CMS to establish and implement enforcement actions for HHAs that submit OASIS data late -- after the 30-day deadline. "HHAs lack an incentive to submit the OASIS before final claims, which they can submit as long as 3 to 4 weeks after the OASIS data are due," the OIG criticizes.

Penalties shouldn't necessarily apply to agencies with occasional slip-ups, the OIG allows. "CMS should identify HHAs that are consistently or egregiously late in submitting data," the report says. "CMS should also consider enforcement actions for HHAs that consistently miss the 30-day deadline."

CMS should also hold states more accountable for OASIS timeliness and accuracy, the OIG adds. "The current system uses self-reported data from HHAs with little to no validation," the watchdog agency laments.

No OASIS? No Reimbursement, CMS Says

CMS is on board with imposing the 2 percent penalty on agencies that failed to submit all their required OASIS data. "CMS is currently pursuing a plan of action consistent with OIG's recommendations," CMS says in a response to the report.

The agency wants to toughen up its current billing requirements too. "We are working to enforce OASIS submission so that all claims submitted without OASIS assessments are denied," CMS says. System upgrades will be necessary to

achieve this goal, and they are scheduled for completion this October, the agency says.

CMS isn't as worried about late submitters. The 15 percent late benchmark is overstated, because it also includes corrected OASIS assessments, the agency points out. Surveyors also look at late OASIS submission, the agency adds.

CMS also pooh-poohs the OIG's recommendation to tackle late or missing OASIS submissions through the state. Due to the intensive resources that would require, the issue should be addressed by medical review instead, the agency suggests.

OIG Shouldn't Expect OASIS Perfection

The OIG's report is "very scary," exclaims consultant **Sharon Litwin** with **5 Star Consultants** in Ballwin, Mo. "I don't think most agencies check OASIS often for completeness, accuracy, etc.," Litwin tells **Eli**.

Financial penalties for failing to submit every OASIS assessment on time could be painful, experts say. But getting hit for the content of your submissions would be even worse.

The OIG may be using some fuzzy math on this one, though, Chicago-based regulatory consultant **Rebecca Friedman Zuber** suspects. "Not every data set is germane to payment," Zuber notes. "In fact, for each episode only the first data set (the initial comprehensive assessment of the follow-up assessment) is germane to payment. So when they state that the missing data sets represent \$1 billion in Medicare payments, I don't really know what that means." Zuber would like to see more details on exactly which data sets are missing.

As far as the 2 percent penalty, "historically CMS has taken a very lenient approach ... by essentially applying it only to agencies that submit NO data sets," Zuber acknowledges. "However, it is not realistic to take the opposite approach which appears to be advocated by the OIG -- to penalize every agency that fails to submit even one of the required data sets."

HHAs submit thousands of data sets a year, Zuber points out. "A 2 percent reduction in reimbursement for an entire year seems to be a draconian penalty for failing to submit a single data set."

CMS should ask some key questions when setting a stricter enforcement policy. "Do we penalize only for failure to submit the data sets that establish the payment amount? Should there be an acceptable error rate given the thousands of data sets that are required?" she asks. "All or nothing is not a good approach."

HHAs sometimes need to submit late datasets, Zuber tells **Eli**. For example, when an agency discovers a patient has switched from Medicare Advantage to fee-for-service after the fact, or when the face-to-face encounter fails to occur on time. "There needs to be an acceptable error rate for late submissions as well," she maintains.

Bottom line: The report is "just another black eye for the entire industry, partly based on the bad actors and partly based on [the OIG's] insufficiently nuanced understanding of what the agencies have to do," Zuber judges.

Note: For more tips and strategies on running a successful home health agency, see Eli's Home Care Week. Information on subscribing is online at www.elihealthcare.com or by phone at 1-800-874-9180.