

## OASIS Alert

### OASIS News: Free Video Is Not A Kickback

Watch out for more grouper payment errors.

A new advisory opinion provides more guidance on acceptable preoperative education.

The freebie: The **HHS Office of Inspector General** issued Advisory Opinion 07-16 Dec. 12 addressing a home health agency's practice of providing a free educational video to patients scheduled for joint replacement surgery.

Conclusion: The OIG says this practice is not grounds for civil monetary penalties and would not result in anti-kickback sanctions.

**Reason:** The arrangement under consideration in this advisory opinion differs from prohibited offers by HHAs to provide free in-person or telephone home safety assessments for patients scheduled to undergo orthopedic surgery, the OIG says.

Home safety assessments are personalized and the patient is likely to see them as a valuable service, while the video is generic and contains information readily available on the Internet for free, the OIG says. Also, the home safety assessment "initiates a personal relationship between the patient and the agency's physical therapist," which is more likely to influence the patient's choice of the service provider, the OIG maintains.

In contrast, the video is a "more modest and impersonal arrangement" and thus poses much less risk, the OIG concludes.

**Resource:** The advisory opinion is at <http://www.oig.hhs.gov/fraud/docs/advisoryopinions/2007/AdvOpn07-16B.pdf>.

• **The Centers for Medicare & Medi-caid Services issued a guidance on Dec. 18 for two more PPS billing problems** that may challenge you in 2008. First, CMS offers an option for agencies whose billing system "is not able to produce an accurate HIPPS code for billing purposes by 1/1/2008."

The second issue involves two areas in the grouper that need revisions, CMS says in its guidance. These grouper problems "may result in underpayments to HHAs" in specific situations, CMS says. Once **Abt Associates** revises the software, agencies may choose to cancel and resubmit these underpaid claims, CMS says. The HHA also may choose whether to resubmit the OASIS to the State to correct the HIPPS code, CMS adds.

"CMS will be releasing the revised grouper, HAVEN and associated pseudo code as soon as possible in 2008," the notification says. **Resources:** Detailed information about the options and the claims likely to be underpaid is at [http://www.cms.hhs.gov/HomeHealthPPS/Downloads/GuidanceforHHAs\\_Posting\\_12-18-2007.pdf](http://www.cms.hhs.gov/HomeHealthPPS/Downloads/GuidanceforHHAs_Posting_12-18-2007.pdf). For analysis and tips on navigating PPS billing, order Eli's Home Care Week at 1-800-874-9180.

• **In another M0175 case, the OIG found** that the CMS edit missed 48 claims that failed to note an acute care stay in the 14 days before start of care. The watchdog agency recommended the home health agency, **Partners Home Care** in Waltham, MA, return \$16,443 in overpayments.

Rather than refund the \$16,443, Partners tells the OIG to have the fiscal intermediary issue an official determination so it can have the right to appeal. The report is online at <http://www.oig.hhs.gov/oas/reports/region10/10700503.pdf>.

• **Don't worry about survey problems related to the five-day window** for OASIS assessments during the New Year's changeover, CMS' **Pat Sevast** told attendees at the recent **OASIS Certificate and Competency Board** annual

conference in Baltimore. CMS is granting M0090 exceptions for certain OASIS assessments in that timeframe and requiring agencies to use an "artificial date" to obtain the correct payment code. CMS will instruct surveyors to give HHAs a pass on having the correct assessment day during that timeframe, in accordance with its guidance, Sevast assured attendees.

- **Regional home health intermediary Cahaba GBA** has posted three new tools on its Web site on home health administration of parental nutrition; qualifying criteria for intermittent care; and a wound care flow sheet.

The new materials are at [http://www.cahabagba.com/part\\_a/education\\_and\\_outreach/educational\\_materials/hha.htm](http://www.cahabagba.com/part_a/education_and_outreach/educational_materials/hha.htm).