

## OASIS Alert

### Regulations: CMS Gives Up On M0175 Recovery Efforts

**HHAs can breathe easier -- unless the OIG comes knocking.**

CMS is ready to end the controversy over M0175 recoupments -- and that means you're off the hook for old overpayments.

The **Centers for Medicare & Medicaid Services** is suspending M0175 takebacks for 2001 to 2004 and limiting them drastically for 2005 to 2007, the agency revealed in Dec. 5 CR 6275 (Transmittal No. 410).

Background: Prior to 2008, M0175 over-payments came about when home health agencies failed to mark all the correct responses to the OASIS item on prior inpatient stays. If they marked that the patient had a rehab or skilled nursing facility discharge without also marking that the patient had a hospital discharge in the 14-day time period prior to admission, they were overpaid by about \$200 for a non-therapy patient and \$600 for a therapy patient. Under-payments occurred when the reverse happened -- agencies marked a hospital stay without a rehab or SNF stay when one occurred.

CMS already made M0175 recoupments for 2001, the first year of the prospective payment system, last year. But "a significant volume of recoveries have been reversed on grounds that providers did not receive timely notice of the reopening of their claims," CMS noted.

"As a result of these findings, M0175 recoveries for services provided in 2004 and earlier are also now beyond the timely notice period," CMS adds. "Medicare contractors shall take no action on ... M0175 overpayment for services in calendar years 2001 through 2004, since reopening these claims is no longer timely," CMS instructs regional home health intermediaries in the transmittal.

Industry reaction: Home health agencies and their advocates applaud CMS' decision. "CMS has taken a very reasonable action in a number of ways regarding the M0175 controversy," said **Bill Dombi**, director of the **National Association for Home Care & Hospice's** Cen-ter for Health Care Law in a release on the group's Web site. "Eliminating it from the payment model was a significant improvement. This latest action to halt any further attempts to recover alleged overpayments that are well over four years in the past is fair and makes a lot of sense," he stated.

After 2004, M0175 over- and underpayments were much less significant due to pre-payment edits CMS implemented. Thus, CMS directs the regional home health intermediaries (RHHIs) to collect only on M0175 overpayments that the HHS **Office of Inspector General** specifically pointed out in relation to its series of reports on the item.

Up to the OIG: "There are currently findings for 2005 in a few HHA-specific OIG reports ... but no regional or national findings," a CMS staffer tells **Eli**. "So the number of HHAs affected will really be driven by whether or not OIG does further work in this area," the CMS source says.

That means, at least for now, everyone else is off the hook for M0175. That's a positive for the larger contingent of agencies that were set to undergo takebacks, but a negative for the smaller group of HHAs expecting refunds.

Unlucky HHAs singled out for OIG review should find out by March that they are slated for M0175 corrections. "Medicare contractors shall provide notice to each HHA with claims identified in OIG reports regarding M0175 overpayments for services in calendar years 2005 through 2007 that their claims will be reopened in response to the reports," CMS says in the transmittal.

Bottom line: CMS' years of alleged overpayments total as much as \$70 million; however, the agency's years of underpayments may decrease that amount by half, NAHC estimated. CMS acknowledged that further attempts to recover M0175 overpayments would be a waste of money and time.

Note: You can read the transmittal at <http://www.cms.hhs.gov/transmittals/downloads/R410OTN.pdf>.