

Chiropractic Coding & Compliance Alert

Compliance: Brace Yourself for the Work Plan OIG Has Up Its Sleeve for Chiropractors

Safeguard your practice with these three strategic tips.

The Office of Inspector General (OIG) of the Department of Health and Human Services (HHS) released its 2015 work plan on October 31, 2014, and it includes points every chiropractic office should heed.

Read on for a few interesting observations from this year's work plan that could affect you.

1) Post Payment Reviews of Part B Payments for Noncovered Chiropractic Services

OIG plans to review Medicare Part B payments for chiropractic services to determine whether such payments were claimed appropriately. The 2015 Work Plan cites earlier OIG reports from CY 2006 and 2013 which identified inappropriate payments for chiropractic.

According to the OIG:

- Part B pays only for a chiropractor's manual manipulation of the spine to correct a subluxation if there is a neuro-musculoskeletal condition for which such manipulation is appropriate treatment (42 CFR § 410.21(b)).
- Chiropractic maintenance therapy is not considered to be medically reasonable or necessary and is therefore not payable (CMS's Medicare Benefit Policy Manual, Pub. No. 100-02, ch. 15, § 30.5B).
- Medicare will not pay for items or services that are not "reasonable and necessary" (Social Security Act, § 1862(a)(1)(A)).

Impact to you: Post payment scrutiny will continue in 2015 and beyond. Since Medicare covers subluxation that is well documented; any other adjustments you bill as active treatment would be considered maintenance care in the eyes of Medicare.

Way out: Fix your documentation so that you can retain the reimbursements that you worked so hard for. (See Chiropractic Coding & Compliance Alert, Vol. 1, No. 1 and 2 for tips on flawless documentation.) Also, review documentation before billing the procedures. "Don't hesitate to query the provider before sending claims to make sure items are appropriate," tells **Doreen Boivin, CPC, CCA**, with Chiro Practice, Inc., in Saco, Maine.

2) OIG to Determine Questionable Billing Patterns in Chiropractic

Earlier OIG reports demonstrate inappropriate payments for chiropractic services, which makes it a target now. The most significant recent case OIG identified was that of a chiropractor with a 93 percent claim error rate who was inappropriately paid a whopping amount of approximately \$700,000 by Medicare.

Although the chiropractors may submit claims for any number of services, Medicare reimburses claims only for manual manipulations or treatment of subluxations of the spine that provides "a reasonable expectation of recovery or improvement of function" (CMS's Medicare Benefit Policy Manual, Pub. No. 100 02, ch.15, § 240.1.3).

Impact to you: Medicare will now be vigilant to look out for DCs who claim an unrealistically high amount compared to the average Medicare reimbursement to chiropractors in that region.

Way out: If you bill 98941(Chiropractic manipulative treatment (CMT); spinal, 3-4 regions), and see a lot of patients, then chances are you'll catch notice. Although there is nothing principally wrong with being in this situation, remember

you should have impeccable documentation, and have claimed for only medically necessary services. "Overuse or incorrect use of modifiers may be another area auditors will look at. It's all in the documentation. If you did it, document it," cautions Boivin.

3) OIG to Compile a Portfolio Report on Part B Payment for Chiropractic

According to the Work Plan, the OIG will compile the results of all prior OIG audits, evaluations, and investigations of chiropractic services paid by Medicare to identify trends in payment, compliance, and fraud vulnerabilities and offer recommendations to improve detected vulnerabilities. Prior OIG reports identified inappropriate payments, incomplete documentation, and even fraud cases.

Remember:

- CMS's Medicare Benefit Policy Manual, Pub. No. 100-02, Ch. 15, § 30.5, states that chiropractic maintenance therapy is not considered to be medically reasonable or necessary and is therefore not payable.
- Further, § 240.1.2 of the manual establishes Medicare requirements for documenting chiropractic services. This planned work will offer recommendations to reduce Medicare chiropractic vulnerabilities detected in prior OIG work. (OAS; OIG-12-14-03; expected issue date: FY 2015).

Impact to you: Unfortunately, the reimbursement history for chiropractic is far from favorable. This review of all the mistakes, miscommunications, and ignorance from past years will incite a greater vigilance from Medicare, so brace yourself with all the right tools.

Way out: Though you can do nothing to change this, you can be the part of the change OIG wants to see in the future. Make good use of any OIG recommendations for areas of high fraud vulnerability to decrease your chances of becoming another target.

"Follow guidelines, attend webinars and ask questions if you are unsure. Better to be prepared than not. You can't claim you didn't know. That isn't good enough in the eyes of the OIG," reiterates Boivin.

Final note: You should consider developing internal audit and compliance plans based on the OIG's initiatives. Rely on a variety of sources to see how others are handling the challenge.

OIG's Work Plan should not be the only compliance guidelines one should use for its internal initiatives, but OIG's focus on specific initiatives can help you shape your practice's compliance program for the year 2015.

The work plan itself contains a number of other areas under review and is worth reading. You can find it online at <http://oig.hhs.gov/reports-and-publications/archives/workplan/2015/FY15-Work-Plan.pdf>.