

OIG Work Plan 2012: Physicians

NOVEMBER 11, 2011

On October 5, 2011, the U.S. Department of Health and Human Services Office of the Inspector General ("OIG") released its Work Plan for 2012. The OIG releases its Work Plan for each year in advance of the coming year. The Work Plan provides stakeholders in the health care industry with a broad overview of the OIG's activities in the coming year as they relate to its enforcement priorities and issues it will review and evaluate during that fiscal year. The Work Plan set forth the following initiatives and activities relating to physicians for 2012, most of which are new for the coming year.

- **Compliance with Assignment Rules.** Physicians participating in Medicare receive payment on "assignment", meaning that the patient/beneficiary "assigns" his or her claim for payment from Medicare and agrees to allow Medicare to send payment directly to the physician. In the coming year, the OIG will review the extent to which physician providers comply with assignment rules and the extent to which beneficiaries are inappropriately billed in excess of amounts allowed by Medicare. Beneficiaries' awareness of their rights and responsibilities regarding potential billing violations and Medicare coverage guidelines will also be assessed.
- **High Cumulative Part B Payments (New).** The OIG will assess and determine whether payment system controls that identify high cumulative Medicare Part B payments are in place and effective. A cumulatively high payment is an unusually high payment made to an individual physician, or on behalf of a particular beneficiary, over a specified period. The OIG believes that unusually high payments may indicate incorrect billing or fraud and abuse.
- **Physician-Owned Distributors of Spinal Implants (New).** The OIG will review the extent to which physician-owned distributors provide spinal implants purchased by hospitals, and whether such distributors are associated with high use of spinal implants. Physician-owned distributors are prevalent in the orthopedic surgical arena but are expanding into other areas. Congress is concerned that such arrangements create conflicts of interest and safety concerns.
- **Place-of-Service Errors.** Physicians' coding on Part B claims for services performed in ASCs and hospital outpatient departments will be reviewed to determine whether they properly coded the place of service. Improper coding of the place of service could lead to improperly high reimbursement for physicians' services because physicians receive higher rates of reimbursement in an office setting.
- **Incident-To Services (New).** Medicare Part B pays for certain services performed by nonphysicians that are incident to a physician office visit. Past OIG work has uncovered problems in the volume of work being performed by nonphysicians, as well as the qualifications of such individuals. Accordingly, the OIG will review "incident-to" billings to determine whether they have a higher error rate than non-incident-to services. The OIG will also assess CMS's ability to monitor such services. The OIG believes that incident-to services may be vulnerable to overutilization and can potentially expose beneficiaries to substandard care.

- **Impact of Opting Out of Medicare (New).** The OIG will review the extent to which physicians are opting out of Medicare and determine whether such physicians are submitting claims to Medicare. OIG will also examine whether physicians are opting out at higher rates in specific areas of the country. While physicians are permitted to opt out of Medicare and enter into private contracts with Medicare beneficiaries, doing so prohibits them from submitting claims to Medicare for such beneficiaries.

For more information on the OIG's Work Plan for 2012, please contact a member of Benesch's Health Care Department.

Additional Information

Benesch's Health Care Practice Group

Cleveland

Gregory Binford at (216) 363-4617 or gbinford@beneschlaw.com

Harry Brown at (216) 363-4606 or hbrown@beneschlaw.com

W. Cliff Mull at (216) 363-4198 or cmull@beneschlaw.com

Daniel J. O'Brien at (216) 363-4691 or dobrien@beneschlaw.com

Alan Schabes at (216) 363-4589 or aschabes@beneschlaw.com

Columbus

Frank Carsonie at (614) 223-9361 or fcarsonie@beneschlaw.com

Janet Feldkamp at (614) 223-9328 or jfeldkamp@beneschlaw.com

Martha Sweterlitsch at (614) 223-9367 or msweterlitsch@beneschlaw.com

White Plains

Ari J. Markenson (914) 682-6822 or amarkenson@beneschlaw.com