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## **OIG Report Signals Likelihood of Increased Scrutiny of Evaluation and Management Coding**

On May 8, 2012, the Office of Inspector General of the U.S. Department of Health and Human Services (OIG) published its first in a series of reports on evaluation and management (E/M) services billed under Medicare Part B.<sup>1</sup> As described in this initial report, the OIG reviewed E/M coding trends by physicians from 2001 to 2010. The OIG also identified those physicians who consistently billed more complex and expensive (i.e., higher-level) E/M codes in 2010. The OIG found that, from 2001 to 2010, physicians increased their billing using higher-level E/M codes across all types of E/M services. From 2010 data, the OIG identified approximately 1,700 physicians who consistently billed using higher-level E/M codes. These physicians practiced in nearly all states and were of similar specialties. They also treated Medicare beneficiaries of similar ages and having similar diagnoses as those treated by other physicians. The OIG made no determination in this study as to whether such E/M claims were inappropriate, but it indicated that, in subsequent evaluations, it will do so. Accordingly, physicians can anticipate increased scrutiny of claims for E/M services, particularly where consistent use of higher-level codes is apparent from Part B claims data.

### **Reasons for the Study**

Increasing payments for E/M services was one reason for this study. Between 2001 and 2010, the OIG reported a general increase in Medicare Part B payments from \$77 billion to \$110 billion (a 43 percent increase). However, Part B payments for E/M services increased from \$22.7 billion to \$33.5 billion (a 48 percent increase) over this same period. Also during this period, the number of E/M services billed increased from 346 million to 392 million (a 13 percent increase), and average Medicare payment per E/M service increased from \$65 to \$85 (a 31 percent increase).

The OIG's belief that E/M services are vulnerable to fraud and abuse was another reason for this study. The OIG cited that, in 2009, two providers paid more than \$10 million in settlement of allegations of fraudulent Part B billing for E/M services. The OIG also cited a finding of the Centers for Medicare & Medicaid Services (CMS) that, of all Medicare Part B services, a disproportionate number of improper payments have been made for certain E/M visit types.

<sup>1</sup> HHS, OIG, *Coding Trends of Medicare Evaluation and Management Services*, OEI-04-10-00180, May 2012.

## Reported Findings

### *2001–10 Trend*

The OIG reported that, from 2001 to 2010, physicians increased their use of higher-level E/M codes across all visit types. However, in discussing this trend, the OIG focused on three visit types:

1. Established office visits;
2. Subsequent inpatient hospital care; and
3. Emergency department visits.

These ranked first, second, and fifth, respectively, in terms of Medicare payments made for E/M services in 2010. Each showed a decreased annual trend in use of lower-level E/M codes, and each showed a corresponding increase in use of the higher-level E/M codes. However, E/M codes for emergency department visits showed the most pronounced increase over this 10-year period (21 percent) in use of the highest-level E/M code.

### *2010 Analysis*

From 2010 claims data, the OIG identified 1,669 physicians who billed using the two highest-level E/M codes within a visit type at least 95 percent of the time. These physicians represented less than 1 percent of the entire population of physicians who billed Medicare for E/M services in 2010. The OIG determined that Medicare paid an average of \$250 more per beneficiary and \$43 more per E/M service to these physicians identified as having consistently billed using the higher-level codes. These physicians practiced in nearly all states and treated beneficiaries having similar ages and diagnoses as those treated by other physicians. These physicians also represented similar specialties. However, of these physicians identified as having consistently billed using the two highest-level E/M codes, the OIG determined that the majority specialized in internal medicine, family practice, or emergency medicine.

## Conclusion

The OIG acknowledged that several factors contributed to the overall increases in Medicare payments for E/M services from 2001 to 2010, including an increase in both the number of services provided and the average payment rate for E/M services. But the OIG also stated that changes in physicians' code selections for E/M services (toward higher-level codes) contributed to this trend. With respect to the 1,669 physicians identified as having consistently billed using higher-level codes, the OIG said that it has not determined whether this reflects improper coding. However, the OIG went on to say that such determinations are forthcoming: "[s]ubsequent evaluations will determine the appropriateness of Medicare payments for E/M services and the extent of documentation vulnerabilities in the E/M services."

Based on these findings, the OIG made the following recommendations to CMS:

1. Continue to educate physicians on proper billing for E/M services;
2. Encourage its contractor to review E/M billings; and
3. Review those physicians who bill using higher-level E/M codes and take appropriate actions.

CMS concurred with the first two recommendations and partially concurred with the third. With respect to the third, CMS stated that it will forward the names of the 1,669 physicians to the Medicare Administrative Contractors (MACs). But CMS said that it would direct the MACs to focus on the “top 10 high billers” in their respective jurisdictions and that it and the MACs “must weigh the cost and benefit of E/M reviews against reviews of more costly Part B services.” In any event, however, physicians who consistently bill for E/M services using higher-level codes should anticipate increasing scrutiny of these claims. The OIG’s May 2012 report may be accessed by clicking [here](#).<sup>2</sup>

<sup>2</sup> <http://oig.hhs.gov/oei/reports/oei-04-10-00180.asp>

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