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Newsletters

OIG Report Indicates CMS Paid Practitioners for Telehealth Services that did not meet Medicare Requirements

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CMS estimates it paid $3.7 million to practitioners for telehealth services that did not meet Medicare requirements. That's the finding of a recent report of the Office of Inspector General (OIG) of the Department of Health and Human Services (HHS).

The report is the result of an OIG audit of 191,118 claims paid by Medicare for distance-site telehealth services from calendar years 2014 and 2015 that did not have corresponding originating-site claims. The OIG audited a random sample of 100 claims, including supporting documentation, in order to determine whether paid telehealth services were allowable in accordance with Medicare requirements.

Of the 100 claims, 31 did not meet Medicare requirements. Specifically:

- 24 claims were unallowable because the beneficiaries received services at nonrural originating sites that did not fall under the demonstration program exception;
- 7 claims were billed by ineligible institutional providers;
- 3 claims were for services provided to beneficiaries at unauthorized originating sites;
- 2 claims were for services provided by an unallowable means of communication;
- 1 claim was for a noncovered service; and
- 1 claim was for services provided by a physician located outside the United States

Based upon the sample results, the OIG estimated that Medicare could have saved approximately $3.7 million during the audit period if practitioners had provided telehealth services in accordance with Medicare requirements.

Identified Deficiencies in the OIG Report

The report identified deficiencies that occurred because CMS did not ensure that:

1. Oversight existed to disallow payments for errors in which telehealth claim edits could not be implemented;

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2. All contractor claim edits were in place; and
3. Practitioners were aware of Medicare telehealth requirements

The OIG concluded that practitioner education and improved monitoring would help ensure that paid telehealth services meet Medicare requirements.

Current Medicare Conditions of Telehealth Coverage

Providers of telehealth services to Medicare beneficiaries must be educated and trained on Medicare telehealth requirements, which include:

- Originating sites (except entities participating in Federal telehealth demonstration projects) must be located in either: (1) an HPSA that is outside of an MSA; or (2) a county that is not included in an MSA.
- Institutional facilities at a distant site may bill Medicare for telehealth services only when: (1) the facility is a critical access hospital (CAH) that elected the Method II payment option and the practitioner reassigned his or her benefits to the CAH or (2) the facility provided Medical Nutrition Therapy (MNT) services.
- Telehealth services must be furnished to a beneficiary at an eligible originating site which is one of the following: office of a practitioner, a hospital, a CAH, a rural health clinic, a federally qualified health center, a hospital-based or CAH-based renal dialysis center, a skilled nursing facility, or a community mental health center.
- Practitioners must provide telehealth services using an interactive telecommunications system, which does not include telephone, fax, or email, subject to an exception for use of a synchronous store and forward technology for Federal telemedicine demonstration programs in Alaska or Hawaii.
- Practitioners may only bill Medicare for allowable telehealth services and corresponding HCPCS codes as published on the CMS website.
- Services may not be billed to Medicare if provided outside the United States.

The recently signed federal Bipartisan Budget Act will remove some coverage limitations in 2019. However, until that time, current conditions of coverage for telehealth services remain in effect and distant site providers must fully comply with each requirement. Providers are strongly encouraged to study and comply with the current conditions of coverage.

Hinshaw will continue to monitor regulatory and statutory telehealth developments.

The Hinshaw Healthcare Bulletin Blog

Since the last edition of the Health Care Newsletter, our health care blog has published the following posts:

- Court Holds Alteration of Medical Record does not Create Inference of Falsification
- Provider Defending a ZPIC Audit Fights Back With Significant Victory at Fifth Circuit

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