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OCULAR SURGERY NEWS brings you issues in compliance with billing and coding regulations.

OIG work plan for 2007 highlights compliance risks

A number of issues mentioned in the plan warrant attention from the ophthalmic community.

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Each October the Office of the Inspector General issues its work plan for the new fiscal year, in which it identifies areas of focused review. In this era of heightened enforcement, all members of the health care community should use this as a guide to be certain that their activities are not the target of OIG scrutiny. For 2007, there are a number of issues that should be of interest to ophthalmologists. Here are the most significant.

Billing service companies

For years, the OIG has been concerned about certain types of arrangements between billing companies and physicians. In 1998, the OIG issued compliance program guidance for third-party medical billing companies. Physicians should make certain that whatever arrangements they have with third-party billers comply with those guidelines.

"Incident to" services

"Incident to" services have been on the OIG work plan for several years. The work plan focuses on issues relating to medical necessity, documentation and quality of care. Historically, concern about lack of adequate supervision has been the principal focus relating to "incident to" services. Regardless, "incident to" services continue to be a significant focus of OIG attention.

Eye surgeries

Perhaps the most significant, and curious, item relating to ophthalmology is that for eye surgeries. The work plan summary reads as follows:

"We will determine whether Medicare payments for ophthalmology services related to cataract and LASIK eye surgery were billed in accordance with Medicare requirements. We will also examine the

adequacy of carrier claims processing controls to prevent inappropriate payments for these services."

Questions have been raised about the meaning of the OIG's investigation into the question of whether LASIK was billed in accordance with Medicare requirements, as LASIK is virtually never covered by the Medicare program. Some have speculated that this refers to the use of LASIK for the correction of surgically induced astigmatism.

The frequency of this service to correct surgically induced astigmatism, however, is limited, and one wonders if this could be the focus of OIG resources. Interestingly, some health care news publications have reported this item as cataract and "laser" eye surgery, with the suggestion that the reference to LASIK was a misprint and the real concern is post-cataract surgery YAG procedures. Interestingly, however, the OIG recently issued a correction to the work plan, but there was no reference to this matter. Calls to the OIG, thus far, have not resulted in any

clarification. If clarification is eventually obtained, we will report it.

Review of E&M services during global surgery periods

The work plan also includes a section relating to E&M services. The OIG plans to determine whether physicians received separate payment for E&M services provided during the global surgery period, as well as review the changes in industry practices related to the number of E&M services provided during the global surgery period. While not clear from the work plan, the OIG may be considering if the number of postoperative services following cataract and other ophthalmic surgeries is the same as it had been when the global surgery fee concept was developed many years ago. If a reduction in the number of visits is identified, it could impact the value assigned to postop care.

Violation of assignment rules

The OIG has initiated a new inquiry into the extent to which providers are billing beneficiaries in excess of the amounts allowed by Medicare requirements. Issues of assignment violation have been raised previously in connection with the provision of concierge services, where some critics have argued that physicians who charged such fees are billing patients for services otherwise covered by Medicare. More recently, this question has been raised in connection with surgery related to presbyopia correcting IOLs, where physicians may charge patients for noncovered services, but are limited to Medicare reimbursement for the covered cataract procedure. Unreasonably high charges for noncovered services may be viewed as an attempt to bill the patient an amount beyond the Medicare reasonable charge, and constitute assignment viola-

tion. Violations of the assignment rules may carry civil as well as criminal penalties; physicians who bill patients for these services should review their practices carefully to avoid potential violation.

Summary

While certainly not exhaustive, the OIG work plan provides health care providers with insights to the concerns on which the OIG plans to focus its activity. Physicians should be certain that their practices in these areas are compliant.



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