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Ophthalmology singled out in 2014 OIG work plan

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From international law firm Arnold & Porter LLP comes timely views on current regulatory and legislative topics that weigh on the minds of today's physicians and health care executives.

On Jan. 31, the Office of the Inspector General published its Work Plan for Fiscal Year 2014. Each year the OIG publishes the plan, which advises the health care industry about the topics and areas on which the OIG intends to focus its resources. As usual, this year's plan identified a number of topics of interest to ophthalmologists.

For many years the OIG has identified billing for evaluation and management (E&M) services as an area of focus. This year's work plan is no different; it identifies inappropriate payment for E&M services as a major concern. The OIG notes that it will review multiple E&M services associated with the same providers and beneficiaries to determine the extent to which electronic or paper medical records have documentation vulnerabilities. The OIG notes that contractors have identified an increased frequency of medical records with identical documentation across services. Ophthalmologists, as well as all physicians, should be certain that their documentation accurately reflects the services performed for their patients.

A second area on which the OIG continues to focus is place of service coding. The OIG noted that Medicare reimburses different amounts depending upon the location of the service performed. For example, if a physician's service is performed in an ambulatory surgical center, it is reimbursed at a lower rate than if the same service were performed in the office. The OIG is concerned that physicians may not be coding place of service accurately and, therefore, may be receiving payment amounts to which they are not entitled.

Third, the OIG again has identified concerns about noncompliance with assignment rules and excessive billing of beneficiaries. Both the OIG and CMS are aware of the recent trend where physicians — principally ophthalmologists — are offering additional diagnostic services to their patients as not covered by the Medicare program, and charging patients for those services. CMS has expressed concern that this may, in fact, be a sophisticated mechanism to supplement the Medicare reasonable charge for covered services, which would constitute a violation of the Medicare assignment rules. Assignment violations are subject to sanction, including civil penalty or suspension from Medicare.

Finally, and most significantly, the OIG has singled out ophthalmology billing for a special review. Specifically, the OIG notes that it will review Medicare claims data to identify inappropriate payments and/or questionable billing for ophthalmological services during 2012. While not unprecedented, it is very unusual for the OIG to identify a particular specialty practice for concern relating to questionable billing practices. Ophthalmologists should take appropriate steps to assure that their billing and coding is accurate. Depending upon the OIG's findings, it is likely that increased auditing of ophthalmologists will be a significant initiative in the near future.

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