JONES DAY

NOVEMBER 2014

COMMENTARY

2015 HHS OIG Work Plan Focuses on Payment Accuracy, Privacy Concerns, and Insurance Marketplaces

On October 31, 2014, the Department of Health and Human Services ("HHS"), Office of Inspector General ("OIG") published its Work Plan for Fiscal Year 2015 ("2015 Work Plan") to provide an annual summary of new and ongoing OIG audit activities related to HHS programs. In its 2015 Work Plan, the OIG continues to focus its new and ongoing audits on emerging vulnerabilities in the areas of payments, eligibility, and information security, as well as on key activities in the health insurance marketplaces under the Affordable Care Act ("ACA").

The following is a high-level overview of select 2015 Work Plan audit projects planned for this year in several key areas.

Reviews Related to Hospitals

Inpatient Admission Criteria

- New audit to evaluate the impact of new inpatient admission criteria implemented in FY 2014 on hospital billing. The new criteria state that physicians should admit for inpatient care only those beneficiaries who are expected to need at least two nights of hospital care (known as the "two midnight policy"). The OIG plans to review compliance with the "two midnight policy" and views this new criterion as a "substantial change" in the way hospitals bill for inpatient and outpatient stays. The OIG anticipates publishing results from this audit in FY 2016.

Provider-Based Status

- Ongoing audits and review of provider-based facilities' compliance with CMS's qualification criteria. The OIG echoed earlier concerns that this review is appropriate because provider-based status allows a subordinate facility to bill as part of the main provider, which can result in higher Medicare payments for services furnished at provider-based facilities. This audit was first identified in the 2013 Work Plan, and the OIG anticipates publishing a report of its findings and recommendations in FY 2015.

Quality of Care and Safety

- Ongoing audit and review of a number of procedures concerning hospital practices to promote quality of care and safety (e.g., review how hospitals assess medical staff candidates before granting initial privileges, including verification

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of credentials in compliance with hospital bylaws governing staffing). The OIG remains focused on ongoing audits designed to promote hospital accountability and patient safety. The OIG anticipates publishing a number of quality of care and safety audits next year and through 2016.

- New audit concerning the rate of and reasons for transfer from group homes or nursing facilities to hospital emergency departments. As discussed in the 2015 Work Plan, past OIG audits identified high transfer rates that have raised congressional concerns about the quality of care in nursing facilities. This proposed audit appears to be initially designed to observe and monitor transfer practices to hospitals, but the audit will remain important for hospitals to track, given the potential impact to congressional review of readmission rates and discharge practices. The OIG anticipates publishing its findings and recommendations in FY 2015.

Salary and Wage Data

- Ongoing audit and review of data from Medicare cost reports and hospitals to identify salary amounts reported to and reimbursed by Medicare. The OIG plans to continue its review to confirm that employee compensation as part of hospital costs is limited to those costs related to the operation of the facility and furnished in connection with patient care. This audit was first identified in the 2014 Work Plan, and a report is expected in FY 2015.

- New audit focusing on hospital controls over reporting wage data used to calculate wage indexes for Medicare payments since the recent CMS policy changes on reporting deferred compensation costs. The OIG anticipates publishing the results of this review in FY 2015.

Adverse Events in Post-Acute Care (Long-Term Care Hospitals)

- New audit reviewing adverse and temporary harm events in long-term-care hospitals. This planned audit is similar to the ongoing review of such instances in skilled nursing facilities and inpatient rehabilitation facilities. Review of adverse events in skilled nursing facilities and inpatient rehabilitation facilities was first identified for audit in the 2012 Work Plan. This audit appears to be a continuation of adverse event auditing to include an additional service site. The OIG anticipates this review to include an estimate of the national incidence of adverse events, identification of factors contributing to such events, and an estimate of the resulting costs to Medicare. The OIG expects to publish its findings and recommendations in FY 2015.

Reviews Related to Privacy Practices

Contingency Plans for Protected Health Information

- New audit to determine the extent to which hospitals comply with the contingency planning requirements set forth in the Health Insurance Portability and Accountability Act. The OIG plans to review contingency plans to assess whether the plan effectively establishes policies and procedures for responding to an emergency (or other occurrence that might damage systems containing protected health information). As part of this review, the OIG will compare hospitals' contingency plans to recommended contingency practices from both the government and the industry. The OIG anticipates publishing its report in FY 2015.

Medical Devices—Safeguards Related to Networked Medical Devices

- Ongoing audit of CMS oversight of hospitals' security controls concerning network-connected medical devices. The OIG has expressed concern over whether controls are sufficient to protect electronic protected health information because the agency views such devices as posing a growing threat to the security and privacy of patients' medical data. This audit was first identified in the 2014 Work Plan. The OIG expects to publish its report and recommendations in FY 2015.

Electronic Medical Records

- Ongoing audit of Medicare and Medicaid incentive payments to eligible health care professionals and hospitals for adopting electronic health records ("EHRs"). As part of this review, the OIG will assess whether those individuals and entities receiving EHR incentive payments are adequately protecting patients' electronic health information. Additionally, the OIG plans to review the effectiveness of safeguards CMS has in place to prevent inappropriate distribution of incentive payments. Audits related to EHR incentive payments were first identified

in the 2010 Work Plan, following passage of the 2009 Recovery Act. The OIG anticipates publishing its findings and recommendations for this review in FY 2015.

Reviews Related to the 340B Drug Discount Program

Potential Medicare Savings with Shared Benefit Pricing for 340B Drugs

- Ongoing review as to whether Medicare Part B spending could be reduced if Medicare were able to share in savings for 340B-purchased drugs. The OIG is analyzing the potential spending reductions for Medicare if CMS were to implement strategies similar to Medicaid state agencies that limit reimbursement to the 340B purchase price (instead of the average-sales-price-based payment amount). This audit was first identified in the 2014 Work Plan, and a report is expected in FY 2015.

HRSA—Duplicate Discounts for 340B Purchased Drugs

- New audit for the OIG to identify ways to prevent duplicate discounts for 340B-purchased drugs paid through Medicaid managed care organizations ("MCOs"). The OIG is conducting a review to assess current tools used by states to prevent duplicate discounts in fee-for-service Medicaid and review the effectiveness of MCOs. The OIG anticipates publishing its findings and recommendations in FY 2015.

Reviews Related to Clinical Laboratories

Independent Clinical Laboratory Billing

- New review and audit of Medicare payments to independent clinical laboratories to evaluate compliance with selected billing requirements. The OIG has expressed concern that clinical laboratories may be routinely submitting improper claims. This review will focus on areas that are "at risk" for overpayments based on prior OIG audits, including payments to service providers that require supporting information to justify the amounts due. The OIG expects to publish its report in FY 2015.

Reviews Related to Program Integrity Measures

State Agencies' Use of Enhanced Enrollment Screening for Providers and Suppliers

- Ongoing review as to the effectiveness of enhanced provider screening by states to identify fraud and abuse risks to Medicare, Medicaid, and the Children's Health Insurance Program. The OIG is analyzing the impact of such screenings to prevent high-risk providers and suppliers from participating in federal and state health care programs. This audit was first identified as part of the general review of Affordable Care Act measures and formalized as an audit in the 2014 Work Plan. A report is expected in FY 2015.

State Agencies' Use of Payment Suspensions

- Ongoing audit and review following up on issues first raised in the 2014 Work Plan as to the timely implementation of payment suspension by states where there is a credible allegation of fraud. The OIG will focus on states' processes to effect payment suspensions and to refer investigations to Medicaid Fraud Control Units ("MFCU") or other appropriate law enforcement agencies. The downstream impact of this audit may be states triggering payment suspensions or MFCU referrals at earlier stages of investigations. The OIG anticipates publishing its findings and recommendations in FY 2015.

Screening of Medicaid Home Health Care Workers

- Ongoing audit of Medicaid home health agencies' screening practices for caregivers. This review will assess whether home health agencies are conducting health screens for caregivers in compliance with state and federal requirements (including vaccinations for influenza and hepatitis). The OIG's review of health screening practices was initiated in 2011 based on concerns that inadequate screenings present risks to beneficiary safety. A report on the OIG findings and recommendations may be published in FY 2015.

Reviews Related to Affordable Care Act Initiatives

In addition to the reviews listed below, the OIG may initiate additional reviews to address health exchange marketplace functionality, premium stabilization, and potential vulnerabilities arising from the upcoming second open enrollment period. New audits may also focus on Medicaid expansion and new payment and delivery models for Medicare.

Pioneer Accountable Care Organization

- New review to conduct a risk assessment of the Pioneer Accountable Care Organization ("ACO") model. The OIG does not provide additional detail on the scope or elements for this risk assessment. Generally, the Center for Medicare & Medicaid Innovation is responsible for the testing of the Pioneer ACO care and service delivery model. The OIG anticipates publishing the results of this risk assessment in FY 2015.

Health Exchange Enrollment Eligibility

- New audits to assess whether internal controls at state and federal marketplaces are effective in ensuring compliance with enrollment eligibility requirements. This OIG review follows earlier FY 2014 reports that identified vulnerabilities in the marketplaces' eligibility and enrollment systems. The audit will also determine the extent to which inconsistencies are resolved between self-attested information and data received through other sources. The OIG report on its findings is expected in FY 2015 and will supplement a prior review related to enrollment safeguards mandated by the Continuing Appropriations Act.

Financial Assistance Payments Related to Health Insurance Exchanges

- New audit will expand the OIG's existing reviews related to Advanced Premium Tax Credit ("APTC") and Cost Sharing Reduction ("CSR") payments to individual enrollees. This review will focus on the accuracy of APTC and CSR payments to individuals given the fluctuations in eligibility status of payees and payment amounts. The OIG expects to issue a report on the processes and controls impacting payment accuracy to individual enrollees in FY 2015.
- New audit to review and address the adequacy of CMS internal controls for approving APTC payments. The audit will examine the APTC payment process, from obtaining tax credit information from issuers to providing data to the Department of the Treasury. The OIG expects to issue the report in FY 2015.
- Ongoing review to determine the accuracy of APTC and CSR payments to qualified health plan issuers. The audit will focus on the internal controls governing proper calculation of these financial assistance payments under federal requirements. The OIG first identified this audit in the 2014 Work Plan, and a report on its findings is expected in FY 2015.

Conclusion

The audits discussed above highlight some of the key areas of new and ongoing OIG enforcement for the upcoming year. Common themes include payment accuracy, patient privacy, and security and functionality of the health insurance marketplaces. The full 2015 Work Plan provides further detail on current OIG audits in other areas, including hospitals, medical equipment, and public health. For information on all audits planned by the OIG for FY 2015, see the full 2015 Work Plan.

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