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In Negotiating Hospital Self-Disclosure Over Supervision, OIG Adds MA to FFS Overpayments

By Nina Youngstrom

Milton S. Hershey Medical Center in Pennsylvania agreed to pay \$382,074 to settle allegations it billed Original Medicare, Medicare Advantage (MA) and TRICARE for outpatient radiology services that were performed without the personal supervision of a physician, according to a new civil monetary penalty (CMP) settlement that began with a submission to the HHS Office of Inspector General's Self-Disclosure Protocol (SDP). It's unusual for MA claims to be resolved through the SDP, but hospitals should brace for this, according to the attorney who represented the hospital.

OIG alleged that Hershey Medical Center's employed radiologists didn't personally supervise the imaging provided by employed radiology assistants (RAs) from Jan. 26, 2011, through July 16, 2018. Most of it was fluoroscopy, which is a type of imaging that shows a continuous X-ray image on a monitor, says Washington, D.C., attorney Mark Fitzgerald, who represents the hospital. The radiologists were providing direct supervision, which means they were immediately available to help patients if necessary—"on the floor of the hospital"—but were supposed to provide personal supervision, which means "at the bedside," he says.

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