

Report on Medicare Compliance Volume 30, Number 16. April 26, 2021 Hospital Settles CMP Case About Unlicensed Nurses, Self-Disclosed Out of 'Caution'

By Nina Youngstrom

In a case about licensure, a Delaware hospital agreed to pay \$179,725 in a civil monetary penalty settlement over claims for nursing services although they weren't billed separately to Medicare.

TidalHealth Nanticoke, a hospital in Seaford, self-disclosed to the "appropriate nursing boards" and the HHS Office of Inspector General (OIG) that "the licensure of two experienced nurses had lapsed for a period of time while they were providing services within their respective clinical areas at the hospital," Lisa Keenan, an attorney for the hospital, told RMC.

The licensure errors—the result of "an administrative oversight"—were discovered during routine internal auditing, said Keenan, with Miles & Stockbridge. While hospitals generally don't bill Medicare directly for nursing care, "we made the disclosure out of an abundance of caution. The Medicare Conditions of Participation require the hospital to ensure that nursing services are provided by individuals with current and valid licenses."

According to the settlement, which was obtained through the Freedom of Information Act, OIG contends the hospital submitted claims to Medicare for items or services that it "knew or should have known were not provided as claimed and were false or fraudulent related to two (2) nurses who were not properly licensed." Specifically, OIG contends between April 18, 2019, and Jan. 23, 2020, the hospital submitted claims for nursing services provided by one nurse who was not properly licensed at that time. Also, from Aug. 28, 2018, through July 28, 2020, OIG alleged the same thing happened with a second nurse.

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