

Report on Medicare Compliance Volume 31, Number 13. April 11, 2022 Hospitals Pay \$12.7M in CMP Settlement Over Pain Management Procedures, E/M Services

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In a case that appears fundamentally to be about modifier 25, two Florida hospitals agreed to pay \$12.7 million in a civil monetary penalty settlement with the HHS Office of Inspector General (OIG). Lee Memorial Health System, doing business as Lee Health, and Cape Memorial Hospital Inc., doing business as Cape Coral Hospital, allegedly billed Medicare, Medicaid and TRICARE for items or services that were false or fraudulent, according to the settlement. Cape Coral Hospital is part of Lee Health, which is in Fort Myers.

OIG alleged that from Jan. 1, 2011, through May 10, 2018, the two hospitals submitted claims “for certain professional and technical pain management procedures and evaluation and management services performed by two independent contractor physicians” at the two hospitals that failed to comply with federal health care program coverage criteria. The settlement, which was obtained through the Freedom of Information Act, stemmed from a self-disclosure. The hospitals were accepted into OIG’s Self-Disclosure Protocol in July 2019. About \$9.09 million of the settlement amount was restitution. Typically in self-disclosures, settlement amounts are 1.5 times the calculated damages.

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