

Report on Medicare Compliance Volume 31, Number 29. August 15, 2022

Another Practice Settles FCA Case on UDT; Health System Audit Centers on CLIA, Equipment

By Nina Youngstrom

Urine drug testing (UDT) services are attracting more scrutiny from auditors and enforcers, as a growing number of settlements are coming down the pike and audits are under way by the HHS Office of Inspector General (OIG). With the Medicare fee-for-service improper payment data showing a very high error rate, health systems may want to consider internal audits. One compliance department at a health system focused on its high-volume physician practices because they're at the greatest risk of not having the appropriate equipment and/or Clinical Laboratory Improvement Amendment (CLIA) certification "to match the testing provided," according to the compliance officer.

UDT may be relatively easy pickings for auditors and enforcers who use data mining to identify billing anomalies, said attorney Asher Funk, with Troutman Pepper in Chicago. "This is tried and true territory for the government when it comes to their enforcement activity," he said. "The government believes there is a significant amount of fraud that occurs with UDT."

The latest enforcement action: Maryland anesthesiologist Melvin Gonzaga, M.D.; his practices, Gonzaga Interventional Pain Management (GIPM) in LaVale and Garrett Anesthesia and Pain Management in Deer Park; and his son, Rommel Gonzaga, who was CEO of GIPM, agreed to pay \$980,000 to settle false claims allegations they billed for medically unnecessary UDTs from Jan. 1, 2016, through March 31, 2019, the U.S. Attorney's Office for the District of Maryland said Aug. 5.^[1]

The government alleged the Gonzagas and their practices, who are referred to as the LaVale parties in the settlement, submitted false claims to Medicare, Medicaid and the Railroad Retirement Board for presumptive and definitive UDTs. "A presumptive UDT is an initial test to detect the presence or absence of a substance or class of substances in the body," the settlement explained. "A definitive UDT is a more advanced test that can identify individual drugs, distinguish between structural isomers and report the results of drugs absent or present in concentrations of nanograms per milliliter."^[2]

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