

## Report on Medicare Compliance Volume 29, Number 26. July 20, 2020

### OIG: Hospitals Overbilled \$1B for Malnutrition, CMS Will Recoup; Other Audits to Resume

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Hospitals should brace themselves for possibly returning money related to severe malnutrition, perhaps going back six years, now that the HHS Office of Inspector General (OIG) estimates they overbilled Medicare \$1 billion by incorrectly assigning two diagnosis codes on inpatient claims. CMS and hospitals will split the job of repaying Medicare, with CMS recouping money from the reopening period and instructing providers to follow suit under Medicare's 60-day refund rule, according to OIG's report.<sup>[1]</sup> For hospitals that already had a medical review of malnutrition through Targeted Probe and Educate (TPE), another round of recoupment is a setback, one compliance officer said.

OIG's findings came down shortly after hospitals and other providers learned that Medicare administrative contractors (MACs), recovery audit contractors and the supplemental medical review contractor will soon be back in business. CMS had suspended fee-for-service reviews March 30 because of the COVID-19 pandemic. In an update to its answers to frequently asked questions on provider burden relief during the pandemic, CMS said:

As states reopen, and given the importance of medical review activities to CMS' program integrity efforts, CMS expects to discontinue exercising enforcement discretion beginning on August 3, 2020, regardless of the status of the public health emergency. If selected for review, providers should discuss with their contractor any COVID-19-related hardships they are experiencing that could affect audit response timeliness. CMS notes that all reviews will be conducted in accordance with statutory and regulatory provisions, as well as related billing and coding requirements. Waivers and flexibilities in place at the time of the dates of service of any claims potentially selected for review will also be applied.<sup>[2]</sup>

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