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Back to basics: OIG Supplemental Compliance Program Guidance for Hospitals—Risk areas

By Catherine Boerner

Catherine Boerner (cboerner@boernerconsultingllc.com) is President of Boerner Consulting LLC in New Berlin, WI.

- [linkedin.com/in/catherineboerner/](https://www.linkedin.com/in/catherineboerner/)

The Office of Inspector General’s Supplemental Compliance Program Guidance for Hospitals^[1] presented the fraud and abuse risk areas listed below that are particularly relevant to the hospital industry. Each hospital should carefully examine these risk areas and identify those that potentially affect the hospital.

It amazes me, as I review this list 15 years later, how the same risk areas are just as relevant today.

1. Submission of accurate claims and information

a. Outpatient procedure coding

- Billing on an outpatient basis for inpatient-only procedures
- Submitting claims for medically unnecessary services by failing to follow the fiscal intermediary’s local policies
- Submitting duplicate claims or otherwise not following the National Correct Coding Initiatives guidelines
- Submitting incorrect claims for ancillary services because of outdated Charge Description Masters
- Circumventing the multiple procedure discounting rules
- Improperly selecting evaluation and management codes
- Improperly billing for observation services

b. Admissions and discharges

- Failure to follow the same-day rule
 - Abuse of partial hospitalization payments
 - Same-day discharges and readmissions
 - Violation of Medicare’s post-acute care transfer policy
 - Improper churning of patients by long-term hospitals
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- c. Supplemental payment considerations
 - i. Improper reporting of costs of pass-through items
 - ii. Abuse of DRG outlier payments
 - iii. Improper claims for incorrectly designated provider-based entities
 - iv. Improper claims for clinical trials
 - v. Improper claims for organ acquisition costs
 - vi. Improper claims for cardiac rehabilitation services
 - vii. Failure to follow Medicare rules regarding payments for costs related to educational activities
 - d. Use of information technology
2. The referral statutes: The Physician Self-Referral Law (Stark Law) and the federal Anti-Kickback Statute
 - a. The Physician Self-Referral Law
 - b. The federal Anti-Kickback Statute
 - i. Joint ventures
 - ii. Compensation arrangements with physicians
 - iii. Relationships with other healthcare entities
 - iv. Recruitment arrangements
 - v. Discounts
 - vi. Medical staff credentialing
 - vii. Malpractice insurance subsidies
 3. Payments to reduce or limit services—gainsharing arrangements
 4. The Emergency Medical Treatment and Labor Act
 5. Substandard care
 6. Relationships with federal healthcare beneficiaries
 - a. Gifts and gratuities
 - b. Cost-sharing waivers
 - c. Free transportation
 7. HIPAA Privacy and Security rules
 8. Billing Medicare or Medicaid substantially in excess of usual charges
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9. Areas of interest

- a. Discounts to uninsured patients
- b. Preventive care services
- c. Professional courtesy

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