



2016 OIG Work Plan and Its Impact on Long Term Care Providers

The U.S. Department of Health and Human Services Office of Inspector General ("OIG") recently released its [Work Plan for fiscal year 2016](#). OIG's responsibility is to protect the integrity of federal health care programs by detecting and preventing fraud, waste and abuse. Each year, OIG releases its Work Plan, which outlines the areas on which OIG plans to focus its attention. For fiscal year 2015, OIG reported expected recoveries in excess of \$3 billion, sharply down from fiscal year 2014's \$4.9 billion. Many believe that the drop in expected recoveries is the result of large settlements with pharmaceutical companies over the prior 12 months. Skilled nursing facilities ("SNFs") are cautioned that this decrease in expected recoveries does not mean the OIG will be less diligent in rooting out fraud, waste and abuse in 2016. This client alert describes the areas on which OIG plans to focus in 2016.

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Therapy Services and SNF Prospective Payment System Requirements

This area of focus on SNFs comes about as the result of OIG determining that Medicare payments for therapy services in prior years have greatly exceeded the actual cost of the therapy provided. OIG has also found an increasing number of SNF residents are being classified as requiring the highest level of therapy in spite of the residents' key characteristics remaining static. In 2015, a number of SNFs became the subject of enforcement actions for, among other violations, presumptively placing residents in the highest therapy resource utilization group. We discussed this issue in greater depth in a previous [client alert](#).

Medicaid Managed Care Reimbursement

OIG will review Medicaid managed care plan reimbursements to determine whether managed care organizations ("MCOs") are receiving accurate reimbursement for services provided. OIG will ensure that rate setting data is reliable and includes only the costs for services actually reimbursable under the state plan. OIG will also verify that payments are made under a risk-sharing mechanism, and that incentive payments made to MCOs are strictly within the limits set forth in federal regulations.



A 2011 OIG report determined that more than 25% of MCOs did not report any cases of suspected fraud and abuse to their respective state Medicaid agencies in 2009.^[1] OIG will determine whether Medicaid MCOs appropriately identified and addressed incidents of potential fraud and abuse.

Home Health Prospective Payment System Requirements

OIG will also focus on home health providers' compliance with various aspects of the prospective payment system ("PPS"), including the documentation required to support claims paid by Medicare. A 2012 OIG report determined that 25% of home health agencies employed questionable billing practices.^[2] The Centers for Medicare and Medicaid Services considers all newly enrolled home health agencies to be high risk providers.^[3] Compliance with PPS requirements has been an area of focus in the past, so home health agencies must be careful to avoid becoming the subject of recoupment actions as a result of noncompliance.

Conclusion

If you have any questions about the 2016 OIG Work Plan, the provision of therapy at your facility, or compliance with PPS requirements, please contact [Rob Heath](#) or your Reinhart attorney.

^[1] Department of Health and Human Services Office of Inspector General; Medicaid Managed Care: Fraud and Abuse Concerns Remain Despite Safeguards (December 2011), available at <http://oig.hhs.gov/oei/reports/oei-01-09-00550.asp>.

^[2] Department of Health and Human Services Office of Inspector General; Inappropriate and Questionable Billing by Medicare Home Health Agencies (August 2012), available at <http://oig.hhs.gov/oei/reports/oei-04-11-00240.pdf>.

^[3] *Id.*

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