PUBLICATION

OIG Calls for Increased Scrutiny on Hospital Outlier Payments [Ober|Kaler]

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In a recent report [PDF], the Department of Health and Human Services Office of the Inspector General (OIG) highlighted hospital outlier payment trends it found troubling: Of the nearly 3,200 hospitals reviewed, approximately 5 percent received 12.8 percent of all Medicare Inpatient Prospective Payment System (IPPS) outlier payments between 2008 and 2011.

To assess the current distribution of outlier payments, the OIG examined all hospital claims processed through IPPS during calendar years 2008-2011. In doing so, the OIG identified 158 hospitals that had received outlier payments constituting more than eight percent of their total Medicare IPPS reimbursement. These “high-outlier hospitals,” as noted previously, received an average of 12.8 percent of their IPPS payments from outlier payments; by comparison, other hospitals averaged only 2.2 percent of IPPS payments in outlier payments. Moreover, 8.3 percent of IPPS claims paid to high-outlier hospitals included an outlier payment while only 1.7 percent of such claims paid to all other hospitals included an outlier payment.

The OIG report characterized high-outlier hospitals as “larger, more likely to be in urban areas, [with] a higher percentage of teaching hospitals, compared to all other hospitals.” Notably, the report did not name the 158 hospitals identified.

Some MS-DRGs Appear to be Associated with High Rates of Outlier Payments

The OIG report also underscored the role played by several Medical Severity Diagnosis Related Groups (MS-DRGs) with respect to high-outlier payments. Between 2008 and 2011, Medicare made over 41 percent of its outlier payments for claims categorized in only 16 of the 746 MS-DRG categories. Thirteen MS-DRGs triggered outlier payments on at least 25 percent of each MS-DRG's claims during 2008-2011; one MS-DRG triggered outlier payments on 37 percent of claims during 2008-2011

Despite the fact that both high-outlier and all other hospitals had a similar percentage of MS-DRGs coming from the 16 high MS-DRGs, high-outlier hospitals nonetheless received outlier payments in the 16 high MS-DRG categories approximately three times as frequently as all other hospitals between 2008 and 2011.

Additionally, the OIG reported that high-outlier hospitals charged Medicare on average 42 percent more for the same MS-DRGs as compared to all other hospitals, yet had only slightly longer lengths of stay. Indeed, for about one third of MS-DRGs, high-outlier hospitals had higher average charges and shorter lengths of stays when compared to all other hospitals, suggesting high charges are not necessarily associated with more care for patients. High-outlier hospitals also had similar average cost-to-charge ratios (CCRs), as compared to all other hospitals, causing the OIG to conclude that it is higher charges by the hospitals, not the amount of patient care, that is the driving force between larger and more frequent outlier payments.

OIG Recommendations

As a general matter, the OIG noted that the "routine receipt of outlier payments for certain MS-DRGs at high-outlier hospitals" raises the broader question of "why charges for similar patient-care cases vary substantially across hospitals." While cautioning that in some cases, the high charges could be the result of high costs become "some hospitals attract a disproportionate share of exceptionally costly patients or apply costly technologies and treatments," the OIG nonetheless emphasized that their report findings were "consistent with data released by CMS in May 2013 showing substantial differences in hospital charges for the 100 most common inpatient claims." As a result, the OIG made the following recommendations to CMS:

- *Instruct Medicare contractors to increase monitoring of outlier payments.*
  Specifically, the OIG recommended that CMS develop claims thresholds that would prompt further review by Medicare contractors, such as thresholds relating to charges, estimated costs, percentage of MS-DRGs that result in outlier payments, and/or the ratio of outlier payments to all IPPS payments.
- *Include information about the distribution of outlier payments with other publicly reported data.*
  In the interest of promoting transparency and demonstrating the direct effect increased charges can have on overall Medicare payments to hospitals, the OIG urged CMS to supplement its public reporting with information about hospital outlier payments, including the distribution of outlier payments across hospitals. The OIG also suggested that CMS consider including information about outlier payments in reports it issues to individual hospitals.
- *Examine whether MS-DRGs associated with high rates of outlier payments warrant coding changes or other adjustments.*
  The OIG stated CMS should consider whether any changes are needed for MS-DRGs, particularly with regard to the 16 MS-DRGs that account for over 40 percent of outlier payments. The OIG noted that this imbalance suggests that certain MS-DRGs may result in outlier payments for "reasons inherent to the MS-DRG, rather than for extraordinarily costly cases."

CMS generally agreed with the OIG recommendations. In CMS' response to the recommendation that Medicare contractors increase monitoring of outlier payments, CMS stated that they "concur and believe that [their] current guidelines to Medicare contractors provide sufficient monitoring of outlier payments." Likewise, in response to the recommendation that CMS include information about the distribution of outlier payments with other publicly reported hospital data, CMS stated that they again "concur" and that "this information is already publicly available through the Medicare Provider Analysis and review file." Lastly, in response to the third recommendation that CMS examine whether MS-DRGs associated with high rates of outlier payments warrant re-examination, CMS "concurred," noting that they already annually examine MS-DRGs and code assignments.

Ober|Kaler's Comments

Providers should expect increased scrutiny of their outlier payments by Medicare contractors. These contractors will likely use any form of data available to them to identify "high outlier hospitals" for further scrutiny. Providers should likewise turn to any data available to them, including the Medicare Provider Analysis and review file, for their reviews. Providers can anticipate inquiries in which they will be asked to defend their high percentages of outliers cases and their high CCRs and, particularly, high charges.