

# PUBLICATION

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## OIG Work Plan – October 2019 Update

November 18, 2019

The OIG updates its Work Plan monthly to identify audits and evaluations that are underway or proposed by the OIG's Office of Audit Services and Office of Evaluation and Inspections. The October 2019 update identifies new Work Plan items of interest to Medicare providers and suppliers.

### 1. Review of Hospice Inpatient and Aggregate Cap Calculations

The OIG intends to audit and review hospice inpatient and aggregate cap calculations. Medicare imposes an inpatient cap and an aggregate cap to payments made per cap year to hospice providers. A hospice must report to its Medicare administrative contractor its aggregate cap determination after the end of the cap year and at that time refund to Medicare any amounts received for its claims that exceeded its aggregate cap as well as any amounts received that exceeded the inpatient cap. Retention of any such excess amounts is an overpayment and can result in false claims.

### 2. Medicare Part B Payments for Speech-Language Pathology

Medicare payments for a beneficiary's combined physical therapy and speech therapy are subject to an annual therapy spending threshold. When a Medicare beneficiary's annual therapy spending threshold is met, a provider must append the KX modifier to the CPT code reported on the claim. The OIG intends to audit whether claims using the KX modifier adhere to federal requirements and to identify Medicare payments for outpatient speech therapy services billed using the KX modifier that are potentially unallowable.

### 3. Review of Medicare Payments for Power Mobility Device Repairs

Medicare Part B covers medically necessary power mobility devices, such as power wheelchairs, and repairs that are reasonable and necessary to make the equipment serviceable. The OIG plans to audit Medicare payments for power mobility device repairs to determine whether durable medical equipment suppliers complied with Medicare requirements, including maintaining (i) documentation from the physician or treating practitioner indicating that the beneficiary's use of the power mobility device being repaired continued to be medically necessary and that the repairs were reasonable and necessary and (ii) detailed records describing the need for and nature of all repairs. The OIG will also audit whether the expense for repairs exceeded the estimated expense of purchasing or renting another power mobility device, in which case no payment should have been made for the excess amount.

### 4. Review of Medicare Part B Urine Drug Testing Services

The OIG will review urine drug testing services for Medicare beneficiaries with substance use disorder diagnoses to determine whether the urine drug testing services are allowable in accordance with Medicare requirements. The OIG reports that the 2018 Medicare fee-for-service improper payment data showed that laboratory testing, including urine drug testing, had an improper payment rate of almost 30 percent, and that the overpayment rate for definitive drug testing for 22 or more drug classes was 71.7 percent.

### 5. Supplier Compliance with Medicare Requirements for Replacement of Positive Airway Pressure Device Supplies

The OIG will review claims for replacement of supplies for continuous positive airway pressure or respiratory assist devices (e.g., mask, tubing, headgear, and filter) to determine whether all Medicare requirements are met, including documentation of medical necessity and frequency of replacement. The OIG reports that

Medicare payments for such replacement supplies in 2017 and 2018 were approximately \$945.8 million. Orders for supplies and accessories used periodically must specify the type of supplies needed, the frequency of use and the quantity to be dispensed.

Baker Ober Health Law attorneys assist our Medicare provider and supplier clients in monitoring the OIG Work Plan updates to determine whether any such audits or reviews are relevant to the provider's or supplier's operations. We guide our clients in identifying potential risk areas related to their compliance with Medicare regulations, submission of claims and receipt of Medicare payments and advise on necessary corrective action. If you have any questions concerning these reported updates, please contact any member of the [BakerOber Health Law Team](#).