

OIG Special Fraud Alert: Laboratory Payments to Referring Physicians: On June 25, 2014, the Office of the Inspector General of the Department of Health and Human Services issued a Special Fraud Alert on Laboratory Payments to Referring Physicians. The Special Fraud Alert addresses compensation paid by laboratories to referring physicians and physician group practices for blood specimen collection, processing, and packaging; and for submitting patient data to a registry or database. The OIG has issued a number of guidance documents and advisory opinions addressing the subject of remuneration offered by laboratories to referring physicians that may raise issues under the Medicare and Medicaid Anti-Kickback Statute. The new Special Fraud Alert supplements the prior guidance documents and focuses upon two areas: (i) blood specimen collection, processing and packaging arrangements and (ii) registry payments. For more information see: <http://ow.ly/z8ZQ0>.

CMS Proposes 2015 ASC, HOPD and Physician Fee Schedules: On July 3, 2014, CMS proposed the 2015 fee schedules for ambulatory surgical centers, hospital outpatient departments and physicians. CMS is in the process of establishing new payment rates for the physician fee schedule that will be more transparent and allow for greater public input prior to payment rates being set. CMS is also proposing to include anesthesia in the definition of colonoscopy screening so that Medicare beneficiaries will not be required to pay co-insurance on the anesthesia portion of the screening. The proposed rule would also change several of the quality reporting initiatives associated with the physician fee schedule and continues to phase in the physician value-based payment modifier created by the Affordable Care Act, which will affect payments to physicians and groups based on the quality and cost of care they furnish to Medicare beneficiaries enrolled in fee-for-services programs. The adjustment to the ASC schedule shall be 1.2 percent for 2015. Comments on the proposed rules are due September 2, 2014 and a final rule will be issued on or around November 1, 2014. For more information see: <http://ow.ly/z90GS> and <http://ow.ly/z90yl>.

CMS Open Payments Registration and Dispute Process Begins Mid-July: Open Payments is a national transparency program requiring certain manufacturers and group purchasing organizations to disclose their financial relationships with physicians and teaching hospitals. Phase 1 of the registration process, the CMS Enterprise Portal, is open and may be accessed here: <http://ow.ly/z918g>. Phase 2 requires users to register in the Open Payments system. Users must register with the CMS Enterprise Portal before they may register on the Open Payments system. The Open Payments system registration will be available in mid-July. This will allow users to review and dispute reported data prior to its publication. Registration in the Open Payments system is voluntary; however, it is the only way to access and dispute reported data prior to its publication. Any data that is disputed, but not corrected by the industry, will still be made public but will be marked as disputed. Additional information on the dispute process may be found here: <http://ow.ly/z91q5>.

Horizon Class Action Settlement on Underpaid Out-of-Network Claims Approved: On July 9, 2014, U.S. District Judge Stanley R. Chesler approved a class action settlement brought against Horizon Blue Cross Blue Shield by the New Jersey Psychological Association, a psychiatrist and a policyholder alleging that Horizon underpaid out-of-network services. Under the settlement, Horizon will discontinue use of the Ingenix database to calculate payment for out-of-network providers. The Ingenix database has come under much scrutiny and been determined to be faulty in some states. Horizon will begin phasing out the use of the database within 60 days and the database will be discontinued as covered contracts are renewed or replaced, except in instances where state or federal law demands the use of the database. Horizon will also update its plan language, member handbook, website and marketing materials to explain the calculation of out-of-network provider reimbursements. The settlement will cover more than 2.8 million class members and only 471 members opted out.

BME Issues Rule Proposal to Allow for Prescriptions of Opioid Antidotes: The Overdose Prevention Act (the “Act”) allows for opioid antidotes to be administered by a person who is not at risk of an opioid overdose, but who may be in the position to assist another individual during an overdose, such as a family member or law enforcement officer. The current regulations can be seen as prohibiting dispensing or prescribing to a person who is not the end user of the drug. On July 7, 2014, the New Jersey Board of Medical Examiners issued a rule proposal that would allow physicians to dispense or prescribe opioid antidotes under the Act. The proposed rule would remove the requirement for a prior examination of the patient and a follow up visit when dispensing or prescribing opioid antidotes. Comments are due by September 5, 2014. The full proposed changes may be found at: <http://ow.ly/z91ZB>.

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



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