Office of Audit Services
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DEC 0 5 2002

Report Number: A-01-02-00521

Dr. Joseph Amaral
President
Rhode Island Hospital
593 Eddy Street
Providence, Rhode Island 02903

Dear Dr. Amaral:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services' (OAS) report entitled, "Review Of Outlier Payments Made To Rhode Island Hospital Under The Outpatient Prospective Payment System For The Period August 1, 2000 Through June 30, 2001". A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, (5 U.S.C. 552, as amended by Public Law 104-231), OIG, OAS reports issued to the department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the department chooses to exercise. (See 45 CFR Part 5).

To facilitate identification, please refer to Report Number A-01-02-00521 in all correspondence relating to this report.

Sincerely yours,

Michael J. Armstrong
Regional Inspector General
For Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:
Acting Regional Administrator
Centers for Medicare and Medicaid Services
John F. Kennedy Federal Building
Boston, MA 02203-0003

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF OUTLIER PAYMENTS MADE TO RHODE ISLAND HOSPITAL UNDER THE OUTPATIENT PROSPECTIVE PAYMENT SYSTEM FOR THE PERIOD AUGUST 1, 2000 THROUGH JUNE 30, 2001

JANET REHNQUIST
Inspector General

DECEMBER 2002
A-01-02-00521

Office of Inspector General

http://oig.hhs.gov/

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the Department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

EXECUTIVE SUMMARY

Background

The Balanced Budget Act of 1997 mandated that the Centers for Medicare & Medicaid Services (CMS) implement a Medicare prospective payment system for hospital outpatient services. As such, CMS implemented the outpatient prospective payment system (OPPS). The Balanced Budget Refinement Act of 1999 established major provisions that affected the development and implementation of OPPS. One of the provisions requires that CMS make an outlier payment to hospitals to cover some of the additional cost of providing care that exceeds established thresholds.

Objective

The objective of our review was to determine whether outpatient claims with outlier payments were billed in accordance with Medicare laws and regulations. Our review included outlier payments to Rhode Island Hospital (RIH) for services rendered during the period August 1, 2000 through June 30, 2001.

Results of Review

We found that a weakness in RIH's internal controls for billing observation services resulted in excessive or unwarranted Medicare OPPS outlier payments to the hospital. We reviewed a judgmentally selected sample of 35 outpatient hospital claims with outlier payments totaling $93,259. Our sample represented less than 2 percent of the hospital's OPPS outlier claims and about 21 percent of the outlier payments. Based on our review, we found that overpayments totaling $13,275 were made for 21 claims because the hospital did not bill for observation services in accordance with Medicare regulations. Specifically, the hospital billed charges for observation services that were unsupported, not medically necessary, or excessive.

Recommendations

We recommend that RIH: (1) ensure that all services provided are appropriately documented in the medical record; (2) improve its controls over the billing process to ensure that only allowable observation services are billed for Medicare reimbursement; (3) ensure that medical devices that qualify for transitional pass-through payment are billed in accordance with Medicare regulations; (4) conduct an internal review of all OPPS outlier claims that include charges for observation for services rendered between August 1, 2000 and March 31, 2002; and (5) initiate adjustments with its FI to reimburse Medicare for $13,275 in overpayments identified through this review and overpayments identified through its subsequent internal review.

RIH's Comments

In its response to our draft report, RIH generally agreed with our findings and recommendations.

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INTRODUCTION

BACKGROUND

The Balanced Budget Act of 1997 mandated that the Centers for Medicare & Medicaid Services (CMS) implement a Medicare prospective payment system for hospital outpatient services. As such, CMS implemented the outpatient prospective payment system (OPPS). With the exception of certain services, payment for services under OPPS is calculated based on grouping services into ambulatory payment classification (APC) groups. Services within an APC are clinically similar and require similar resources. In this respect, some services such as anesthesia, supplies, certain drugs, and use of recovery and observation rooms are packaged in APCs and not paid separately. The BBA also allowed for establishment of outlier adjustments, in a budget neutral manner, to ensure "equitable payments".

The Balanced Budget Refinement Act of 1999 further delineated the requirements for outlier payments for hospitals to cover some of the additional cost of providing care that exceed thresholds established by the Secretary. The payments in total can be no more than 2.5% of total program payments for outpatient hospital services for each year before 2004. Outlier payments are determined by: (1) calculating the costs related to the OPPS services on the claim by multiplying the total charges for covered OPPS services by an outpatient cost-to-charge ratio; (2) determining whether these costs exceed 2.5 times the OPPS payments; and (3) if costs exceed 2.5 times the OPPS payments, the outlier payment is calculated as 75 percent of the amount by which the costs exceed the OPPS payments. OPPS became effective for services provided on or after August 1, 2000.

Outpatient observation services are defined as those services furnished by a hospital on its premises to evaluate an outpatient's condition or determine the need for possible admission to the hospital as an inpatient. According to Section 230.6 (A) of the Hospital Manual, and 3112.8 (A) of the Intermediary Manual published by CMS, observation services are allowable "…only when provided by the order of a physician or another individual authorized by State licensure law and hospital staff bylaws to admit patients to the hospital or to order outpatient tests."

Prior to August 2000, hospitals were separately reimbursed for observation services on a reasonable cost basis. With the start of OPPS in August 2000, observation services were no longer reimbursable as a separate payment. They were included as part of the OPPS payment amount for outpatient procedures. Although CMS will continue to package observation services into surgical procedures and most clinic and emergency visits, beginning April 1, 2002, CMS will separately pay for observation services involving three medical conditions: chest pain, asthma, and congestive heart failure.

Rhode Island Hospital (RIH), located in Providence, Rhode Island is a private, not-for-profit, acute care hospital and academic medical center. The RIH had 1,935 outpatient claims with outlier payments totaling $436,813 for services rendered during the period of August 1, 2000 through June 30, 2001.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our review was conducted in accordance with generally accepted government auditing standards. The objective of our review was to determine whether outpatient claims with outlier payments were billed in accordance with Medicare laws and regulations. Our review included OPPS outlier payments to RIH for services rendered during the period August 1, 2000 through June 30, 2001.

To accomplish our objective, we:

- Used CMS's National Claims History file to identify 1,935 outpatient claims with outlier payments totaling $436,813 made to RIH for services rendered during the period August 1, 2000 through June 30, 2001.

- Analyzed RIH's outlier claims for our audit period to identify high risk claims, such as those where the outlier payment represented a significant percentage of the total payment of the claim. On this basis, we selected a judgmental sample of 35 claims with outlier payments totaling $93,259 for review. These 35 claims represent less than 2 percent of the hospital's OPPS outlier claims, however they account for about 21 percent of the total outlier payments.

- Held discussions with RIH and Lifespan, Inc. billing and compliance personnel to obtain an understanding of RIH's procedures for accumulating charges, creating outpatient bills, and submitting Medicare claims.

- Utilized medical review expertise from RIH's clinical staff and the Office of Inspector General (OIG) to determine the medical necessity for the services for selected claims.

We limited consideration of the internal control structure to those controls concerning the accumulation of charges, the creation of outpatient bills, and submission of Medicare claims. The objective of our review did not require an understanding or assessment of the complete internal control structure at the hospital.

We conducted our audit during the period of July 2002 through September 2002 at RIH in Providence, Rhode Island and the Boston Regional Office of the OIG. On October 17, 2002, we provided RIH with a copy of our draft report. The hospital's written comments are included as an appendix to this report. We have revised our draft report to acknowledge the hospital's comments regarding our judgmental sample of claims and inpatient services billed as outpatient observation.

FINDINGS AND RECOMMENDATIONS

We found that a weakness in RIH's internal controls for billing observation services resulted in excessive or unwarranted Medicare OPPS outlier payments to the hospital. We reviewed a judgmentally selected sample of 35 outpatient hospital claims with outlier payments totaling $93,259. Based on our review, we found that for 21 claims the hospital billed for: (1) observation services that were not supported; (2) unnecessary observation charges; (3) inpatient services as outpatient observation; and (4) excessive observation charges. Overstated charges for unallowable observation services could result in excessive or unwarranted outlier payments (see EXHIBIT). For these 21 claims, we identified overpayments totaling $13,275.

Observation Services not Supported

Per 42 CFR, Section 482.24(c), a provider is required to maintain medical records that contain sufficient documentation to justify admission, services furnished, diagnoses, treatment performed and continued care. For five of the 21 claims, RIH submitted bills for observation services and for other outpatient services that were not documented in the medical records. Specifically, the hospital was not able to provide us with any medical record support for one claim. For the remaining four claims, there was not enough medical record documentation (i.e., physician orders, progress notes) to determine whether observation services were medically necessary. As a result, we determined the hospital received overpayments of $5,389 for these five claims.

Unnecessary Observation Charges

Under the observation criteria, time spent prior to a scheduled procedure is unallowable as observation, and time spent in surgery and recovery cannot be simultaneously billed as observation. For 12 of the 21 claims, RIH billed charges for observation services that were unnecessary. For nine of these claims, the observation time billed by RIH began when the patient arrived at the hospital for a scheduled procedure, included the time the patient was in the procedure and in a recovery unit, and ended when the patient was discharged. For the other three claims, RIH billed observation services that were not necessary because the medical records indicate the patient was discharged home immediately after surgery. The RIH programmed its computer system to calculate observation time for planned surgeries from the time the patient was admitted to the time the patient was released from the hospital. As a result, we determined the hospital received overpayments of $3,365 due to unnecessary observation charges.

Inpatient Services Billed as Outpatient Observation

It is the responsibility of the admitting physician to make an initial decision about the patient's condition and the level of services required. When it is clear to the admitting physician that the patient requires a full inpatient admission, the provision of these services should not be delayed. For two of the 21 claims, we found the hospital should have billed the services as inpatient rather than outpatient services. Our review of the supporting medical

records indicates the admitting physician ordered the services as inpatient. As a result of these incorrectly billed claims, we determined the hospital received OPPS overpayments of $3,231[1].

Excessive Observation Charges

Medicare does not usually cover observation services that exceed 48 hours. For two of the 21 claims, we found the charges billed for observation services were excessive because the charges represented observation services in excess of 48 hours. For instance, RIH billed for one claim charges of $6,715 for 79 hours of observation services based on its standard rate of $85 per unit (hour). The FI's claims processing system payment edits rejected this claim because it exceeded 48 hours. The hospital rebilled the claim for 46 hours of observation services, however, it did not reduce the charges on the claim to reflect the reduction in hours. As a result, we determined the hospital received overpayments of $1,290 due to excessive charges for observation services.

Conclusion

As illustrated above, we identified a weakness in the hospital's controls for billing observation services that resulted in excessive or unwarranted Medicare OPPS outlier payments to the hospital. Although our review was limited to a sample of 35 OPPS claims with outlier payments, our analysis of claims data shows there are an additional 506 OPPS claims that include observation services rendered from August 1, 2000 through June 30, 2001. Due to the high risk of incorrectly billed observation services and the significant amount of these services rendered during this period and subsequent months, we believe that additional overpayments have occurred.

RECOMMENDATIONS

We recommend that RIH:

- ✓ Review documentation requirements with physicians and other hospital staff to ensure that all services provided are appropriately documented in the medical record in accordance with standards of practice and Medicare laws and regulations, emphasizing the need to document physician orders.

- ✓ Improve its controls over the billing process to ensure that only observation services that are ordered by a physician, reasonable and necessary, and supported by appropriate documentation are billed for Medicare reimbursement.

[1] Based on its Medicare contractor's medical review, the hospital may be allowed to resubmit these two claims for payment as inpatient hospital services.

- ✓ Perform an internal review of all OPPS outlier claims that include observation services rendered during the period of August 1, 2000 through March 31, 2002[2], focusing on the billing deficiencies identified in this report.

- ✓ Initiate adjustments with its FI to reimburse Medicare for: (1) the $13,275 in overpayments identified through the OIG review; and (2) overpayments identified through the hospital's subsequent internal review.

RIH's Response To Draft Report

The RIH generally agreed with our findings and recommendations. The RIH has recently initiated corrective actions to their system used for billing observation services and will continue to implement additional steps to prevent overpayments for observation services.

[2] Beginning April 1, 2002, CMS separately pays for observation services relating to chest pain, asthma, and congestive heart failure. Also effective April 1, 2002, CMS revised calculations for determining outlier reimbursement.

EXHIBIT

IMPACT OF OVERSTATED CHARGES FOR OBSERVATION SERVICES

Because the calculation of an outlier payment for OPPS claims is contingent, in part, on the charges for services that are packaged in APCs, overstated charges for such services, including observation, could result in excessive or unwarranted outlier payments. The following example illustrates the effect on outlier reimbursement due to charges for unallowable observation services.

- *For one claim, the hospital billed for 30 hours of observation services. Our review of the medical records shows the patient was admitted to the outpatient unit at 9:30 a.m., received an outpatient surgical procedure from 2:30 p.m. to 3:30 p.m., and was discharged at 3:00 p.m. the following day. Although there were no physician orders, OIG and RIH clinical staffs' review of the medical records indicates that observation services were warranted until 8:00 p.m. on the day of the surgery due to complications after the procedure. Under Medicare observation criteria, time spent prior to a scheduled procedure is unallowable as observation, and time spent in surgery and recovery cannot be simultaneously billed as observation. Therefore, the hospital should have billed for, at most, five hours of observation services.*

OPPS OUTLIER CALCULATION	**With 30 units**	**With 5 units**
Total Charges for all OPPS Services:	$ 17,116.06	$ 14,991.06
OPPS Cost to Charge Ratio	0.36800	0.36800
Adjusted Cost of OPPS Services	$ 6,298.71	$ 5,516.71
Total APC Payments:	$ 1,117.44	$ 1,117.44
2.5 times the APC payments	$ 2,793.61	$ 2,793.61
(Adjusted Cost) Less (2.5 x APC Payment)	$ 3,505.10	$ 2,723.10
Outlier Payment (75% of the difference)	$ 2,628.83	$ 2,042.33
REIMBURSEMENT CALCULATION		
APC Payment	$ 1,117.44	$ 1,117.44
Coinsurance	$ (635.94)	$ (635.94)
Outlier Payment	$ 2,628.83	$ 2,042.33
TOTAL PROVIDER REIMB	$ 3,110.33	$ 2,523.83
	Difference	**$ 586.50**

For this claim, the total charges for all OPPS services include charges for observation. The hospital billed excessive charges of $2,125 (25 hours times $85 per hour). As shown above, the overbilling of 25 hours for observation services resulted in an outlier overpayment of $586.50.

APPENDIX

Lifespan

November 21, 2002

Michael J. Armstrong
Regional Inspector General for Audit Services
Office of Inspector General, Office of Audit Services
John F. Kennedy Federal Building, Room 2425
Boston, MA 02203

Re: A-01-02-00521

Dear Mr. Armstrong:

I am the Corporate Compliance Officer and Director of Internal Audit Services for Lifespan Corporation, of which Rhode Island Hospital is an affiliate. My staff worked closely with the Office of Inspector General auditors on this assignment. I have been asked to respond for Rhode Island Hospital to the draft report received on October 25, 2002, by Dr. Joseph F. Amaral, President & CEO of Rhode Island Hospital. The report is entitled "Review of Outlier Payments Made To RIH Under The Outpatient Prospective Payment System For The Period August 1, 2000 Through June 30, 2001".

After review and discussion with my staff and subject to the comments that follow, I generally agree with your draft report.

I believe the following comments are relevant in evaluating and understanding the audit findings relating to the OPPS overpayments caused by observation services billing.

- As stated on page one, "Introduction", effective August 2000 hospitals were no longer reimbursed for observation services as a separate payment, instead payment for these services were bundled in the OPPS payment. The errors in recording of observation hours cited in this report were inadvertent and separate Medicare payments for these services were not anticipated or expected. Such overpayments only occurred because the total charges exceeded the Medicare outlier threshold.

- It may be helpful to more clearly note on page two, "Objectives, Scope and Methodology", that the OIG judgmentally selected those claims where outlier payments were the highest. All selected claims had outlier payments in excess of $1,000; however, the vast majority of the claims with outlier payments, over 90%, included payments that were less than $1,000. In fact, our analysis shows there are more claims with outlier payments less than $100 than there are similar accounts exceeding the $1,000 threshold. In my opinion the OIG judgmental

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sample was designed to identify those accounts where overpayments would be the highest. While I do not challenge the OIG methodology, an uninformed reader of this report may believe that the overpayments relating to the sampled accounts are representative of the entire universe of outlier claims. The OIG's findings relating to the overpayment amounts are not representative of Rhode Island Hospital's experience.

- The programming error cited on page 3 "Unnecessary Observation Charges" was corrected on October 1, 2002. An internal review has begun to identify similar overpayments and to return those funds to the fiscal intermediary.

- We do not dispute the OIG identified OPPS overpayments totaling $13,275 in the 35 judgmentally sampled claims. However, the $3,231 in OPPS overpayments cited in the section on page three entitled "Inpatient Services Billed as Outpatient Observation" may be misleading to an uninformed reader. In the two cases cited in this section, RIH would have received $3,231 more in Medicare inpatient payments than received in OPPS payments if the accounts had been coded as inpatient accounts. While this section of the report is technically correct, it is not clear that the Medicare program in total did not overpay RIH in these two cases. Such information may be helpful; it could be included as a footnote.

- The practice cited on page three, "Excessive Observation Charges" was corrected on September 17, 2002. All accounts where overpayments occurred because of this error are in the process of being corrected. Our initial analysis of the 529 outlier claims processed during the period August 1, 2000 through June 30, 2001, has found six similar accounts with overcharges totaling $4,164. We have not yet calculated the overpayment relating to these overcharges, but we believe the total overpayment will be a small amount.

In addition to the corrective actions cited above RIH will implement the following steps to prevent similar problems in the future.

- Clinical auditors will annually review a judgmental sample of Medicare Outlier OPPS claims to help ensure the accuracy of the itemized bills.

- Refunds totaling $13,275 were made to the fiscal intermediary effective November 1, 2002.

- The result of your review was discussed in detail with a group of hospital managers that are currently reviewing the observation charge and documentation process.

I would like to thank your staff for the professionalism and courtesy shown during this audit. If you have any questions please contact me at 401-444-4728.

Sincerely,

Thomas P. Igoe

Copy: Joseph F. Amaral, MD, President & CEO, Rhode Island Hospital
David Lantto, Sr. Vice President & CFO, Lifespan
Mamie Wakefield, Vice President & CFO, Rhode Island Hospital
Ken Arnold, Sr. Vice President & General Counsel