DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

January 26, 2005

Report Number: A-02-04-01010

Mr. William Foley
Vice President
Empire Medicare Services
2651 Strang Boulevard
Yorktown Heights, New York 10598

Dear Mr. Foley:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Review of Place of Service Coding for Physician Services". A copy of this audit report will be forwarded to the action official named on page 2 for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. 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 reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information 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-02-04-01010 in all correspondence.

Sincerely,

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

James T. Kerr
Regional Administrator
Centers for Medicare & Medicaid Services – Region II
26 Federal Plaza, Room 3811
New York, New York 10278

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF PLACE OF SERVICE CODING FOR PHYSICIAN SERVICES

January 2005
A-02-04-01010

Office of Inspector General

http://oig.hhs.gov

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EXECUTIVE SUMMARY

BACKGROUND

Medicare Part B pays for services provided by physicians to program beneficiaries. Although physicians routinely perform many of these services in a facility setting, including an outpatient hospital department or a freestanding ambulatory surgical center, certain of the same services may also be performed in non-facility settings, such as a physician's office. To account for the increased practice expense incurred by physicians in their offices, Medicare reimburses a higher amount for services performed in this setting. Physicians are required to identify the place of service on the health insurance claim form submitted to Medicare Part B carriers for payment. The correct place of service code ensures that Medicare is not duplicating payment to the physician and the facility for any part of the practice expense incurred to perform the service.

OBJECTIVE

The objective of the audit was to determine the extent of Medicare Part B overpayments made to physicians by Empire Medicare Services (Empire) for billings with an incorrect place of service code.

FINDINGS

Medicare overpaid physicians[1] due to incorrect place of service coding. From a population of 50,882 services identified as having a high potential for place of service coding errors, we used stratified random sampling techniques to select a sample of 100 services totaling $13,669. Eighty-eight[2] of the sampled physician services were performed in a facility, but were incorrectly billed by the physicians to Medicare Part B using the "office" place of service code. As a result of the incorrect coding, Medicare paid the physicians $3,641 more for 66 of these services. The amount claimed for the remaining 22 services did not exceed the Medicare allowed amount for these services when performed in a facility location. Based on a statistical projection, we estimate that Empire overpaid physicians $1,467,318 for services provided during the 2-year period ended December 31, 2002 that were incorrectly coded as if they were performed in the physicians' offices.

We attribute the overpayments to control weaknesses at Empire and at the physician's office level. Specifically:

- Empire had not established sufficient controls, primarily due to vulnerabilities inherent in Medicare's claims processing system, to detect Medicare Part B place of service billing errors and to prevent, identify, or recover the program overpayments that resulted from these errors. Under the Medicare claims processing system, Medicare Part B carriers do not have access to billing information from outpatient hospitals, whose claims are processed by the Medicare Part A fiscal intermediaries (FIs). As a result, Empire did not perform data matches to identify potential overpayments; and

[1] Includes physician assistants and nurse practitioners.
[2] Twelve services were billed correctly.

- many of the physicians had not implemented controls to prevent, or subsequently identify, billings with incorrect place of service codes.

RECOMMENDATIONS

We recommend that Empire:

- recover the $3,641 of overpayments for the sampled services that were performed in a facility setting, but were billed by physicians using the physician's office place of service code;

- work with the physicians represented in the population of potential errors to reassess their billings and to refund any overpayments estimated at $1,467,318 for the 2-year period that ended December 31, 2002;

- strengthen its education process and re-emphasize to physicians, the importance of correctly reporting the place of service, and the need for internal control systems to prevent Medicare billings with incorrect place of service codes;

- instruct physicians to notify their billing agents of the importance of using correct place of service codes; and

- work with the Program Safeguard Contractor (PSC) or the FI to perform a data match on an ongoing basis, to identify physician services having a high potential for error due to place of service miscoding, and to recover program overpayments that result from these errors.

We provided the universe of the 50,882 services to Empire so that it can take appropriate steps to recover any provider overpayments due to place of service coding errors.

Empire's Comments

In its written response to our draft report, Empire generally concurred with our findings and recommendations. However, Empire indicated that developing data match functionality for use with the Part A intermediary system and/or the PSC is outside the scope of their current requirements. Empire's written comments are attached in their entirety as Appendix B.

OIG's Response

We are pleased that Empire is taking steps to address our recommendations. We continue to believe that Empire should exchange information with the FI or the PSC on an on-going basis to help identify those services performed in facilities that may be highly susceptible to place of service coding errors.

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INTRODUCTION

BACKGROUND

Medicare Part B Procedures and Services

Medicare Part B pays for services provided by physicians to program beneficiaries. These services include medical and surgical procedures and other services such as office visits and medical consultations. Although physicians routinely perform many of these services in a facility setting, including an outpatient hospital department or a freestanding ambulatory surgical center, certain of the same services may also be performed in non-facility settings, such as a physician's office. To account for the increased practice expense incurred by physicians in their offices, Medicare reimburses a higher amount for services performed in this setting.

Medicare Payment Regulations

Physicians are paid for services based on the Medicare physician fee schedule. The Centers for Medicare & Medicaid Services (CMS) established relative value units (RVUs) for physician work, practice expense, and malpractice insurance. Each RVU has a corresponding geographic practice cost index based on the location where the service was performed. To calculate the physician payment, each of the RVUs is multiplied by the appropriate geographic practice cost index. The sum of these products is then multiplied by the nationally uniform conversion factor to determine the payment.

For certain services, Medicare has established two different RVUs for practice expense to compensate physicians for the cost differences that result from performing a service in a facility as opposed to a non-facility setting. Physicians are required to identify the place of service on the health insurance claim form submitted to Medicare Part B carriers for payment. The correct place of service code ensures that Medicare is not duplicating payment to the physician and the facility for any part of the practice expense incurred to perform a Medicare service.

Carrier Responsibility

The Medicare Part B carriers, under contract with CMS, process and pay claims submitted by physicians, clinical laboratories, suppliers, and ambulatory surgical centers. Empire is the Medicare Part B carrier that processes and pays claims submitted by Part B providers in 16 counties in southeastern New York and the State of New Jersey.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of the audit was to determine the extent of Medicare Part B overpayments made to physicians by Empire for billings with an incorrect place of service code.

Scope

Our audit covered physician services provided during the period from January 1, 2001 through December 31, 2002. For this 2-year period, we performed a computer match to identify potential Medicare Part B overpayments for services that may have been billed using an incorrect place of service code. We analyzed a stratified random sample of 100 services selected from a population of 50,882 physician services paid by Empire that had been identified through our computer match as having a high potential for error. The services, although coded by the physicians as having been performed in non-facility settings, were matched with data that indicated the services may have been performed in a facility setting (outpatient hospital department or ambulatory surgical center). For example, a physician was paid for laser eye surgery performed in his office, and an ambulatory surgical center was paid for use of the facility for the same surgery.

The objective of our audit did not require an understanding or assessment of the complete internal control structure at Empire, or at the physicians' office. Therefore, we limited our review of internal controls at Empire to the payment controls in place to prevent program overpayments resulting from place of service billing errors. Our review of internal controls at the physician office level was limited to obtaining an understanding of controls related to the development and submission of Medicare claims.

Methodology

To accomplish the objective of the audit, we:

- reviewed applicable Medicare laws and regulations;
- reviewed paid claims data to determine the place of service for which the sampled services were paid;
- discussed billings with physician office personnel and representatives, reviewed medical and billing records to determine whether place of service was incorrectly coded, and to identify the underlying causes that may have contributed to incorrect coding;
- calculated amounts of any Medicare overpayments; and
- discussed results of the review with Empire officials.

Our review was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

PAYMENTS BASED ON INCORRECT PLACE OF SERVICE

Medicare overpaid physicians[3] due to incorrect place of service coding. From a population of 50,882 services identified as having a high potential for place of service coding errors, we used stratified random sampling techniques to select a sample of 100 services totaling $13,669. Eighty-eight[4] of the sampled physician services were performed in a facility, but were incorrectly billed by the physicians to Medicare Part B using the "office" place of service code. As a result of the incorrect coding, Medicare paid the physicians $3,641 more for 66 of these services. The amount claimed for the remaining 22 services did not exceed the Medicare allowed amount for these services when performed in a facility location. We attribute the overpayments to control weaknesses at the carrier and physician office level. Based on a statistical projection, we estimate that Empire overpaid physicians $1,467,318 for services provided during the 2-year period ended December 31, 2002 that were incorrectly coded as if they were performed in the physicians' offices.

Medicare Requirements

The Medicare physician fee schedule includes two payment amounts depending on whether a service is performed in a facility setting, such as an outpatient hospital department or ambulatory surgical center, or in a non-facility setting, such as a physician's office. Payments to physicians are higher when services are performed in non-facility settings. The higher payments are designed to compensate physicians for the additional costs incurred to provide services at an office location, as opposed to a facility location.

In order for the physician to receive the higher non-facility practice expense payment, the service must meet the requirements of 42 CFR 414.22(b)(5)(i)(B) as follows:

> . . . The higher non-facility practice expense RVUs apply to services performed in a physician's office, a patient's home, an ASC [ambulatory surgical center] if the physician is performing a procedure not on the ASC approved procedure list, a nursing facility, or a facility or institution other than a hospital or skilled nursing facility, community mental health center, or ASC performing an ASC approved procedure . . . .

Services Billed with Incorrect Place of Service Codes

The place of service for 88 of 100 sampled services had been incorrectly coded on the physicians' billings. Although each of the 88 services was coded as though it had been performed in the physician's office, 58 of the services were actually performed in outpatient hospital settings, and 30 of the services were performed in ambulatory surgical centers.

[3] Includes physician assistants and nurse practitioners.
[4] Twelve services were billed correctly.

By re-pricing the claims, using the correct place of service code, we determined that Empire overpaid physicians $3,641 for 66[5] of the 88 services. Even though the place of service had been miscoded, overpayments did not result for 22 of the 88 services because the physicians' billings did not otherwise exceed the Medicare fee schedule amount for the correct facility setting.

Estimate of Overpayments

We estimate that Empire overpaid physicians $1,467,318 for services that were billed using incorrect "non-facility" place of service codes for services provided during the period from January 1, 2001 through December 31, 2002. Our estimate is based on the point estimate of a statistical projection as described in Appendix A.

Control Weaknesses at the Carrier and Physician Office Level

We attribute the overpayments to control weaknesses at both Empire and at the physician office level.

At the carrier level, Empire had not established sufficient controls, primarily due to vulnerabilities in Medicare's claims processing system, to detect place of service billing errors, and to prevent, identify, or recover program overpayments that resulted from these errors. Under the Medicare claims processing system, Medicare Part B carriers do not have access to billing information from outpatient hospitals, because hospital claims are processed by the Medicare Part A FIs. As a result, Empire did not perform data matches to identify potential overpayments. In addition, although carriers have access to claims data for freestanding ambulatory surgical centers, these centers have up to 27 months to submit their claims for processing. Therefore, a physician could submit a bill and receive payment well before the ambulatory surgical center submits its claim, making the identification of these cases more difficult.

In addition, prior to our audit period, Empire notified providers through news bulletins of the requirement to use the appropriate place of service code for services performed in facility and non-facility settings. However, according to some providers, they were unaware that using incorrect place of service codes would result in inaccurate reimbursements.

At the physician office level, we found that many physicians had not implemented controls to prevent, or subsequently identify, billings with incorrect place of service codes. Specifically, we found that incorrect place of service coding often occurred for one or more of the following reasons:

- Billing personnel were inadequately trained regarding the correct place of service code for a particular location, and may have also been new to their jobs, or temporarily substituting for more experienced employees.

- Physician's office personnel or billing agents were unaware that incorrect place of service codes could change the Medicare payment amount for a specific service.

[5] Physicians informed us that as a result of our audit, repayments either have been or will be made for 4 of the 66 overpayments.

- Physician's billing personnel were unsure about the precise definition of a "physician's office", or had not adequately considered whether the assigned "office" place of service code for a particular location was appropriate.

- Undetected flaws in the design or implementation of some billing systems allowed the systems to assign incorrect place of service codes to specific physical locations, or to groups of services.

- Default settings for place of service codes within some billing systems were incorrectly set and not manually over-ridden, or were correctly set and inappropriately over-ridden, for specific service locations by personnel who did not fully understand the default settings.

- Inadvertent data entry errors occurred when apparently well-trained billing personnel made isolated mistakes.

RECOMMENDATIONS

We recommend that Empire:

- recover the $3,641 of overpayments for the sampled services that were performed in a facility setting, but were billed by physicians using the physician's office place of service code;

- work with the physicians represented in the population of potential errors to reassess their billings and to refund any overpayments estimated at $1,467,318 for the 2-year period that ended December 31, 2002;

- strengthen its education process and re-emphasize to physicians, the importance of correctly reporting the place of service, and the need for internal control systems to prevent Medicare billings with incorrect place of service codes;

- instruct physicians to notify their billing agents of the importance of using correct place of service codes; and

- work with the PSC or the FI to perform a data match on an ongoing basis to identify physician services having a high potential for error due to place of service miscoding, and to recover program overpayments that result from these errors.

We provided the universe of the 50,882 services to Empire so that it can take appropriate steps to recover any provider overpayments due to place of service coding errors.

AUDITEE COMMENTS AND OIG RESPONSE

We are pleased that Empire provided comprehensive comments, dated November 19, 2004 to our draft audit report. The full text of Empire's comments is included as Appendix B.

Auditee Comments

In its written comments to our draft report, dated October 14, 2004, Empire generally concurred with our findings and recommendations. Empire will take steps to recover the $3,641 of overpayments identified, and request that physicians included in our universe of claims reassess their billings, and refund any overpayments identified as a result of incorrect place of service coding. Empire will assess their current system edits as they relate to place of service and ambulatory surgical center providers who bill their Part B carrier. Empire further indicated that it will continue to offer training seminars and provide electronic information to educate providers and their billing staff on the importance of correctly reporting the proper place of service, and instruct physicians to share this information with their billing agents.

Empire indicated that the Medicare standard system used to process Part B claims does not have the functionality to perform data matches with the Part A intermediary system or the PSC. According to Empire, developing data match functionality for use with the Part A intermediary system and/or the PSC is outside the scope of their current requirements. Empire agreed, however, that data match functionality should be addressed with the system maintainers, and that the claims in question included in our review will be referred to the PSC for further investigation.

OIG Response

We are pleased that Empire is taking steps to address our recommendations. We continue to believe that Empire should exchange information with the FI or the PSC on an on-going basis to help identify those services performed in facilities that may be highly susceptible to place of service coding errors.

SAMPLING METHODOLOGY

POPULATION

The population included 50,882 services that were provided during the period from January 1, 2001 through December 31, 2002, and were billed to Medicare Part B by physicians who may have used incorrect "non-facility" place of service codes. Empire processed and paid claims for these services. Through a computer match, we identified the services as having a high potential for error. These services, although coded by the physicians as having been performed in non-facility settings, were matched with data that indicated the services may have been performed in an outpatient hospital setting or in an ambulatory surgical center.

Stratum Number	Description of Stratum	Number of Services in Population	Medicare Payment
1	Physician - Outpatient Hospital Setting	47,554	$3,246,375
2	Physician – Ambulatory Surgical Center	3,328	867,739
	Total	**50,882**	**$4,114,114**

SAMPLE DESIGN

We designed a stratified random sample of 100 services selected from two strata. The first stratum consisted of 47,554 services that were billed by physicians using a "non-facility" place of service code, but which may have been performed in an outpatient hospital setting. The second stratum consisted of 3,328 services that were billed by physicians under the "non-facility" place of service code, but which may have been performed in an ambulatory surgical center. We selected a random sample of 70 services from the first stratum and 30 services from the second stratum.

RESULTS OF SAMPLE

The results of the sample review follow:

Stratum Number	Sample Size	Medicare Payment	Number with Incorrect Coding	Number with Overpayments	Value of Overpayments
1	70	$5,889	58	44	$1,870.94
2	30	7,780	30	22	1,769.61
Total	**100**	**$13,669**	**88**[6]	**66**	**$3,640.55**

[6] There were no dollar amounts associated with 22 of these errors, because the physician's billing did not exceed the allowed Medicare fee schedule amount.

The point estimate of the projection was $1,467,318 with a precision of plus or minus $816,063 at the 90 percent confidence level. The lower limit of the projection was $651,255, and the upper limit was $2,283,382.

MEDICARE
Part A Intermediary
Part B Carrier

November 19, 2004

Mr. Timothy Horgan
Regional Inspector General for Audit Services
Office of Inspector General, Office of Audit Services
26 Federal Plaza
New York, NY 10278

Re: Report Number A-02-04-01010

Dear Mr. Horgan:

We have reviewed the draft report entitled "Review of Place of Service Coding for Physician Services." In this report you have recommended that Empire recover overpayments from physicians due to incorrect place of service coding and also collaborate with the PSC or FI to perform a data match on an on going basis to identify physician services having a high potential for error.

We have reviewed the 100 claims used in your sample and concluded that our processing of these claims was accurate based on the information submitted by the provider.

As stated in the report, the OIG was able to identify these overpayments as a result of a review of provider records and interview with provider staff. By reviewing the medical record documentation and interviewing provider staff, it was determined that providers submitted claims with place of service office when the requested documentation revealed that the performance of these services took place in a facility setting or an Ambulatory Surgical Center which would result in a lower reimbursement.

The report cites one of the reasons for these overpayments is a result of Empire not establishing sufficient controls to detect, prevent, identify, and recover the program overpayments that have resulted from the provider billing errors. As the report indicates, the primary driver of this weakness is limitations in the Medicare standard claims processing systems. As a Medicare Part B carrier, claims submitted to Empire Medicare Services are processed through the Medicare standard systems.

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Claims are processed and paid on the information contained on the claim. Empire does have a variety of edits in place to validate that the procedure code being billed is appropriate for the place of service being billed. To identify the types of place of service billing errors identified in the OIG review up-front, we would have to perform a 100 percent manual review on these types of claims, which may include development of the claims in question for supporting documentation. Current funding is not sufficient to perform such a review. However, we will assess our current system edits as they relate to place of service and ASC providers who bill our Part B carrier.

Specific to the recommendations in the report:

- *Recover the $3,641 overpayments for the sampled services.* Upon receipt of the final report and recommendations, Empire will take steps to recover the $3,641 in overpayments. However, in the event the providers involved appeal our overpayment request for the claims identified in the sample, Empire would like to know if the documentation used by the OIG in identifying the overpayments will be available to us.

- *Work with the physicians represented in the population of potential errors to reassess their billings and to refund any overpayments estimated at $1,467,318.* Empire can notify the physicians included in the universe of services provided by OIG of the OIG review and potential place of service errors and request they reassess their billings and refund any overpayments they identify as a result of incorrect place of service coding. We will await the final OIG report and receipt of the universe of services prior to initiating any such notification.

- *Strengthen the education process.* Empire will continue to offer many training seminars and provide electronic information to educate providers and their billing staff on the importance of correctly reporting the place of service to ensure they are properly billing Medicare. We will emphasize to the physicians need to establish internal controls to ensure the proper place of service is billed.

- *Instruct physicians to notify their billing agents of using the correct place of service codes.* As part of the above education to physicians, we will instruct physicians to also notify their billing agents.

- *Work with the PSC or FI to perform data match on an ongoing basis.* The Medicare standard systems currently do not have the functionality to perform data matches with the Part A intermediary system or the PSC. Developing data match functionality for use with the Part A intermediary system and/or the PSC is outside the scope of our current requirements. We believe data match functionality should be addressed with the standard system maintainers. However, we have made contact with the PSC and we will refer the claims in question for further investigation. Until such time the standard systems have data match capability, we will continue to work with our PSC, to the extent possible, to safeguard the Medicare trust fund.

Please feel free to contact me at 914-248-2802 should you have any questions or require additional information.

Sincerely,

/s/ Annette Rose

Annette Rose
Manager, Medicare Coordination

cc: Mr. William E. Foley