

Report in Brief

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

Under the Medicare Part B program, the Centers for Medicare & Medicaid Services (CMS) makes a reduced payment to physicians who work together as co-surgeons to perform a surgical procedure on the same patient during the same operative session. We conducted this audit because of the potential risk that Medicare was overpaying physicians for co-surgery procedures billed without the appropriate modifier.

Our objective was to determine whether Medicare Part B payments to physicians for potential co-surgery procedures complied with Federal requirements.

How OIG Did This Audit

Our audit covered \$15.4 million in Medicare Part B payments for services performed during calendar years 2017 through 2019 (audit period) in which two different providers separately billed an identical procedure code for the same beneficiary and on the same day. We selected a stratified random sample of 100 services for review that were billed by one of the providers from our sampling frame without a co-surgery or assistant-at-surgery modifier. We also identified and reviewed 127 corresponding services that were billed by providers with the same procedure code for the same beneficiary on the same day as our sampled services.

Medicare Improperly Paid Physicians for Co-Surgery and Assistant-at-Surgery Services That Were Billed Without the Appropriate Payment Modifiers

What OIG Found

From our 100 statistically sampled services, we found that 69 did not comply with Federal requirements. Specifically, these statistically sampled services included 49 that were incorrectly billed without the co-surgery modifier, 14 that were incorrectly billed without an assistant-at-surgery modifier, and 6 that were incorrectly billed as duplicate services. These statistically sampled service errors resulted in overpayments of \$31,545. Based on the results of our statistical sample, we estimated that Medicare made \$4.9 million in improper payments for physician surgical services during our audit period. In addition to the statistically sampled services, based on our review of the 127 corresponding services, we further found that 62 of these corresponding services did not comply with Federal requirements. These corresponding service errors resulted in overpayments of \$24,471. Altogether, these statistically sampled and corresponding service errors occurred primarily because CMS did not have adequate system controls to identify and prevent such payments.

What OIG Recommends and CMS Comments

We recommend that CMS: (1) recover the portion of the \$56,016 in Medicare Part B overpayments that are within the 4-year claim reopening period; (2) instruct the Medicare contractors to, based upon the results of this audit, notify appropriate providers (i.e., those for whom CMS determines this audit constitutes credible information of potential overpayments) so that the providers can exercise reasonable diligence to identify, report, and return any overpayments in accordance with the 60-day rule and identify any of those returned overpayments as having been made in accordance with this recommendation; (3) strengthen its system controls to detect and prevent improper payments to providers for incorrectly billed co-surgery services, assistant-at-surgery services, and duplicate services—which could have saved approximately \$4.9 million during our audit period; and (4) update Medicare requirements and corresponding educational material to improve providers' understanding of the Part B billing requirements for co-surgery procedures.

In written comments on our draft report, CMS concurred with our recommendations and described actions that it planned to take to address our recommendations, such as strengthening its system controls to detect and prevent improper payments to providers for incorrectly billed co-surgery services, assistant-at-surgery services, and duplicate services.