

Report on Medicare Compliance Volume 30, Number 22. June 14, 2021 Radiation Therapy Provider Pays \$3.6M in CMP Settlement; OIG: 25 CPT Codes 'Involved'

By Nina Youngstrom

A Colorado radiation therapy provider has agreed to pay \$3.569 million in a civil monetary penalty settlement with the HHS Office of Inspector General (OIG).

According to the settlement, OIG alleged that HealthONE Radiation Therapy at Red Rocks LLC, which at the time was part of the HealthONE network of hospitals and clinics in the metro Denver area, billed Medicare and Medicaid for services that were false or fraudulent. Between Jan. 1, 2013, and April 16, 2017, HealthONE allegedly submitted claims for some radiation and oncology services that (1) used incorrect CPT codes and dates of service, (2) were not provided, (3) didn't have documentation to support the necessity of the services, (4) "were unbundled" and (5) "had incomplete documentation."

The settlement, which was obtained through a Freedom of Information Act request, stemmed from HealthONE's self-disclosure to the OIG. A spokesperson for the HealthONE system said it "no longer owns and has no role in the operation of Red Rocks Oncology."

OIG alleged the improper claims "involved" 25 CPT codes, and "encompass" radiation therapy planning and simulation services and evaluation and management services furnished to patients undergoing radiation therapy. The CPT codes are:

1. G6002: Stereoscopic x-ray guidance for localization of target volume for the delivery of radiation therapy
2. 31575: Laryngoscopy, flexible; diagnostic
3. 77014: Computed tomography guidance for placement of radiation therapy fields
4. 77262: Therapeutic radiology treatment planning; intermediate
5. 77263: Therapeutic radiology treatment planning; complex
6. 77280: Therapeutic radiology simulation-aided field setting; simple
7. 77285: Therapeutic radiology simulation-aided field setting; intermediate
8. 77290: Therapeutic radiology simulation-aided field setting; complex
9. 77295: Three-dimensional radiotherapy plan, including dose-volume histograms
10. 77300: Basic radiation dosimetry calculation, central axis depth dose calculation, TDF, NSD, gap calculation, off axis factor, tissue inhomogeneity factors, calculation of non-ionizing radiation surface and depth dose, as required during course of treatment, only when prescribed by the treating physician

11. 77301: Intensity modulated radiotherapy plan, including dose-volume histograms for target and critical structure partial tolerance specifications
12. 77307: Teletherapy isodose plan; complex (multiple treatment areas, tangential ports, the use of wedges, blocking, rotational beam, or special beam considerations), includes basic dosimetry calculation(s)
13. 77321: Special teletherapy port plan, particles, hemi-body, total body
14. 77331: Special dosimetry (e.g., TLD, microdosimetry) (specify), only when prescribed by the treating physician
15. 77333: Treatment devices, design and construction; simple (simple block, simple bolus); intermediate (multiple blocks, stents, bite blocks, special bolus)
16. 77334: Treatment devices, design and construction; complex (irregular blocks, special shields, compensators, wedges, molds or casts)
17. 77338: Multi-leaf collimator (MLC) device(s) for intensity modulated radiation therapy (IMRT), design and construction per IMRT plan
18. 77370: Special medical radiation physics consultation
19. 77470: Special treatment procedure (e.g., total body irradiation, hemibody radiation, per oral or endocavitary irradiation)
20. 99204: New patient evaluation and management (E/M) (level 4)
21. 99205: New patient E/M (level 5)
22. 99213: Established patient E/M (level 3)
23. 99214: Established patient E/M (level 4)
24. 99215: Established patient E/M (level 5)
25. 99245: Office consultation (level 5)

OIG Found IMRT Billing Errors Nationally

HealthONE didn't admit liability in the settlement. In a statement, the company said: "During HealthONE's joint ownership of Red Rocks Oncology, incorrect bills for oncology services were submitted to the [Centers for Medicare & Medicaid Services] (CMS). Upon learning of the billing errors, we self-disclosed them and worked to rectify the billing errors with CMS. At no point has there been any concern about patient care or treatment." OIG accepted HealthONE into the Self-Disclosure Protocol in November 2019.

The Denver area provider was not alone in (allegedly) making mistakes in its IMRT billing. Billing for IMRT, an advanced radiation procedure for hard-to-reach tumors, was called out by the OIG in a 2018 audit report.^[1] Medicare pays a bundled payment to hospitals to cover IMRT planning services that may be performed to develop a treatment plan. OIG reviewed planning services billed using CPT code 77290, which represented a complex simulation billed by a hospital on a claim that included one or more services. A random sample of 100 line items on claims submitted by 91 hospitals was selected.

The findings: Payments for outpatient IMRT planning services were not compliant with Medicare billing

requirements. The hospitals separately billed for complex simulations when they were performed as part of IMRT planning on all 100 line items for the audit period (2013-2015) and received overpayments of \$21,390 as a result. The cause: unfamiliarity or misinterpretation of CMS guidance for billing IMRT planning services. “On the basis of our sample results, we estimated that Medicare overpaid hospitals nation-wide as much as \$21,543,154 for complex simulations billed during our audit period,” OIG said. It identified an additional \$4 million in potential overpayments for other IMRT planning services.

1 Gloria L. Jarmon, *Medicare Improperly Paid Hospitals Millions of Dollars for Intensity-Modulated Radiation Therapy Planning Services*, A-09-16-02033, Office of Inspector General, U.S. Department of Health & Human Services, August 2018, <https://bit.ly/2RI0a3X>.

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