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### With More Audits, Settlements for HBOT, Consider Risks Around the Billing Process

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By Nina Youngstrom

Sometimes there's a perfect storm of audits and enforcement actions, and that seems to be the case with hyperbaric oxygen (HBO) therapy. Wound care centers in hospitals and elsewhere may have trouble proving that the high-intensity oxygen treatment is medically necessary for the conditions covered by Medicare and other payers.

"Medicare and commercial payer policies for HBO have some very specific elements required to be clearly documented in support of medical necessity," says Toni Turner, executive director of InRich Advisors in The Woodlands, Texas. "Year after year, the majority of denials and pay backs are due to insufficient documentation that fails to support medical necessity."

There have just been major settlements in this area. Marquette General Hospital in Michigan agreed to pay \$545,663 in a civil monetary penalty settlement over Medicare claims that allegedly were false or fraudulent, the HHS Office of Inspector General said. From Oct. 1, 2011, to Feb. 28, 2015, OIG alleged the hospital "presented claims for reimbursement on behalf of one physician for HBO therapy that were excessive." The settlement was set in motion by the hospital's self-disclosure to OIG.

Baltimore attorney Sandy Teplitzky, who represented Marquette General Hospital, tells *RMC* that someone reported the HBO therapy issue internally "and the compliance folks picked it up from there. They reviewed it and determined there were some issues with documentation and potentially medical necessity," but no patient harm. The physician, a plastic and reconstructive surgeon, no longer works at the hospital, says Teplitzky, with Baker Donelson. "The hospital took appropriate action to put in place some compliance measures to ensure documentation going forward would be contemporaneous and accurate. It has been monitoring since and the issue has not recurred."

In an unrelated case, the Department of Justice said June 20 that Healogics, a Florida-based company, agreed to pay up to \$22.51 million to settle false claims allegations that it caused wound care centers to bill Medicare for medically unnecessary HBO therapy. Healogics manages wound-care centers at almost 700 hospitals across the country. The company denied the allegations.

HBO therapy involves administering high concentrations of oxygen to patients in a pressurized chamber. Medicare reimburses hospitals generously for HBO therapy, which treats about a dozen serious conditions, including diabetic wounds of the lower extremities if their wounds are classified as Wagner grade III or higher or they have certain levels of gangrene; acute carbon monoxide poisoning; and chronic refractory osteomyelitis that's unresponsive to conventional medical and surgical management.

### **OIG: MAC Overpaid \$42.6M for HBOT**

The settlement with Marquette General Hospital was announced two months after OIG posted a February report on findings from an audit of HBO therapy payments by Wisconsin Physicians Service (WPS), a Medicare

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administrative contractor (MAC). OIG audited a stratified random sample of 120 claims from 208 providers in Jurisdiction 5, and determined that 102 weren't medically necessary. That means WPS overpaid them \$300,789 in 2013 and 2014, and OIG estimated the MAC overpaid all providers in the same jurisdiction \$42.6 million for HBO services. The reasons: "We determined that the medical records did not always support that HBO therapy was provided as treatment for a covered condition" as defined by Medicare national coverage determination (NCD) 20.29, OIG said. "Additionally, the medical records did not always support that HBO therapy was provided only after standard or conventional treatment failed".

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