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MACs to Recoup Advance Care Planning Overpayments After OIG Audit

By Nina Youngstrom

Medicare administrative contractors (MACs) will be recovering overpayments from providers for advance care planning (ACP) services that don't meet Medicare requirements in the wake of a national audit by the HHS Office of Inspector General (OIG).[1]

The audit report, posted Nov. 23, estimated physicians and other qualified health care professionals were overpaid about $42.3 million in 2019 for ACP, an extrapolated amount. OIG recommended that CMS direct the MACs to recover the $33,332 in actual overpayments identified and "instruct the MACs to notify appropriate providers so that they can exercise reasonable diligence in identifying, reporting, and returning any overpayments in accordance with the 60-day rule." CMS agreed.

ACP is a relatively new Medicare-covered service, with payments beginning in 2016 under the Medicare Physician Fee Schedule. ACP involves a face-to-face discussion between patients and providers about their health care wishes in the event they become unable to make decisions about their care.

ACP is vulnerable partly because there are no frequency limits per beneficiary, said Betsy Nicoletti, a consultant in North Andover, Massachusetts. In one example cited in the report, a provider billed for ACP provided to the same patient 22 times in 2019. "They should have some frequency edits in there," she said. "You don't have to deny it but if you're the MAC, maybe at the fourth time you look at the notes before you pay for it." OIG recommended frequency limits, but CMS shot down the idea, saying in a written response to the report that "it would be inappropriate for CMS to establish an allowable frequency for advance care planning services because these services are furnished at the patient's request and when the patient experiences a change in health status and/or wishes about their end-of-life care."