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After Refunding Outlier Payments, Hospital Settles FCA Case Over More Money it Shouldn't Have Received

By Nina Youngstrom

St. Vincent Hospital (SVH) in Worcester, Massachusetts, has agreed to pay $1.784 million to settle false claims allegations over money it still owed Medicare for "impermissible" outlier payments after voluntarily refunding $7.4 million, the U.S. Attorney's Office for the District of Massachusetts said Dec. 9.[1] The outlier payments were for inpatient cardiac procedures, notably transcatheter aortic valve replacements (TAVR), a minimally invasive heart procedure performed with an expensive device. According to the settlement, SVH hiked its charges for TAVR by 1,350% one year although its costs didn't increase, which affected outlier payments.[2]

SVH's refund was set in motion when a Medicare Advantage (MA) plan informed the hospital that its charges had surged.

But one attorney questioned the premise of the false claims allegations. Outlier reconciliation is a routine process and Medicare administrative contractors (MACs) take back undeserved outlier payments when they settle cost reports, said attorney Holley Thames Lutz, with Dentons US LLP in Washington, D.C. "It's a very interesting case."

SVH, a for-profit hospital owned by Tenet Healthcare Corp., "admits, acknowledges, and accepts its responsibility" for certain facts in the settlement. Sandy Teplitzky, an attorney for SVH, emphasized the investigation was never about quality of care. "It was a technical Medicare billing issue," said Teplitzky, with Baker Donelson.

Outlier payments are an add-on to MS-DRG payments when hospitals incur extraordinarily high costs. Whether a patient triggers outlier payments depends on the cost-to-charge (CCR) ratio, which is how Medicare determines what it actually costs a hospital to perform a service, said Ronald Hirsch, M.D., vice president of R1 RCM.

The costs are the numerator and the charges are the denominator, Lutz explained. If the charges for a Medicare patient's treatment were $100,000 and the hospital had a CCR of 0.7, the costs of treating the patient are $70,000. With a DRG payment of $30,000, the hospital would be underwater $40,000. CMS also annually sets a "fixed loss outlier threshold," which is a trigger for determining if a hospital is entitled to outlier payments, she said. In this example, assume the annual threshold amount was $22,000. Because the hospital's loss was $40,000, which exceeds the annual threshold amount, the hospital is eligible for an outlier payment of 80% of $18,000 ($40,000 minus $22,000). "The reason the CCR matters is because your charges impact that number," Lutz explained. "The higher the charges, the lower the CCR," assuming costs are constant.