

## Report on Medicare Compliance Volume 32, Number 32. September 11, 2023

### News Briefs: September 11, 2023

---

By Nina Youngstrom

◆ **The HHS Office for Civil Rights (OCR) on Sept. 7 announced a proposed rule to bar discrimination based on disability.**<sup>[1]</sup> “The rule, Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance, updates critical provisions that help persons with disabilities access health and human services under Section 504 of the Rehabilitation Act of 1973,” OCR stated. The rule helps ensure people with disabilities don’t face discrimination in programs or activities that get HHS funding. For example, OCR said the proposed rule “ensures that medical treatment decisions are not based on biases or stereotypes about individuals with disabilities, judgments that an individual will be a burden on others, or beliefs that the life of an individual with a disability has less value than the life of a person without a disability” and “clarifies obligations for web, mobile, and kiosk accessibility.”

◆ **CMS on Aug. 7 posted an Evaluation and Management Services Guide** with updated information on critical care services, prolonged visits and other services.<sup>[2]</sup>

◆ **In a new report, the HHS Office of Inspector General (OIG) said home health agencies (HHAs) failed to report 55% of falls “with major injury and hospitalization among their Medicare patients.”**<sup>[3]</sup> The falls were not reported on OASIS assessments as required. OIG said reporting of falls was worse among younger versus older HHA patients and Black, Hispanic or Asian patients compared to White patients. “Notably, HHAs with the lowest Care Compare major injury fall rates reported falls less often than HHAs with higher Care Compare fall rates, indicating that Care Compare does not provide the public with accurate information about how often home health patients fell,” OIG said. “Finally, for many Medicare home health patients who fell and were hospitalized, there was no OASIS assessment at all associated with the hospitalization, which raises additional concerns about potential noncompliance with data submission requirements and its impact on the accuracy of information about falls with major injury on Care Compare.”

<sup>1</sup> U.S. Department of Health & Human Services, Office for Civil Rights, “Discrimination on the Basis of Disability in Health and Human Service Programs or Activities,” proposed rule, Sept. 7, 2023, <https://bit.ly/3ZbwNp4>.

<sup>2</sup> Centers for Medicare & Medicaid Services, “Evaluation and Management Services Guide,” MLN Booklet: MLN006764, August 2023, <https://bit.ly/3P2hvy4>.

<sup>3</sup> Ann Maxwell, *Home Health Agencies Failed To Report Over Half of Falls With Major Injury and Hospitalization Among Their Medicare Patients*, OEI-05-22-00290, U.S. Department of Health & Human Services, Office of Inspector General, September 2023, <https://bit.ly/3Reo0Az>.

This publication is only available to subscribers. To view all documents, please log in or purchase access.

[Purchase Login](#)