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Penn State Settles FCA Case Over Wellness Visits; Compliance Discovered a 'Discrepancy'

By Nina Youngstrom

Penn State Health has agreed to pay \$11.7 million to settle false claims allegations over Medicare annual wellness visits, the U.S. Attorney's Office for the Middle District of Pennsylvania said Feb. 7.^[1] It may be the first False Claims Act settlement for annual wellness visits, which are a risk area because reimbursement for the entire visit may go out the window if physicians fail to document any of the required components. To drive the point home, annual wellness visits have earned a spot on at least one Medicare administrative contractor's Targeted Probe and Educate—CGS Medicare.

According to the settlement, the government alleges that Penn State Health, a multihospital system that includes Milton S. Hershey Medical Center, billed Medicare for annual wellness visits that weren't supported by the medical records between Dec. 1, 2015, and Nov. 30, 2022. As a result, it received money it wasn't entitled to, the government alleged.

The settlement stemmed from Penn State Health's voluntary self-disclosure to the U.S. attorney's office. Penn State Health said its compliance office "discovered a discrepancy with regard to documentation requirements for Medicare Annual Wellness Visits. Not all required components to bill Medicare for Annual Wellness Visits were captured in the documentation." After an internal review and external compliance audit, Penn State Health took steps to prevent future occurrences, according to its statement. "This includes modifying Medicare Annual Wellness Visit documentation templates across all Electronic Health Record platforms to facilitate the capture of the Medicare Annual Wellness Visit components" as required by CMS. "It also includes implementing a comprehensive Medicare Annual Wellness Visit training and education program for providers and clinical staff."

Compliance with billing requirements for Medicare wellness visits may go awry because there are differences among them, said Betsy Nicoletti, a consultant in Northampton, Massachusetts. When people first sign up for Medicare, they are entitled to one Initial Preventive Physical Examination (IPPE), also known as the "Welcome to Medicare" visit. Medicare then covers the annual wellness visit once (G0438) and subsequent wellness visits (G0439) every 12 months.

The purpose of the annual wellness visit is to "develop or update a personalized prevention plan and perform a health risk assessment," CMS said in an updated MLN Educational Tool.^[2] The patient and provider review information—including demographic data, self-assessment of health status, psychosocial and behavioral risks and activities of daily living.

Physicians and nonphysician practitioners (NPPs) may confuse which services must be performed at the Welcome to Medicare visit versus annual wellness visits, Nicoletti said. For example, visual acuity tests are only required at the Welcome to Medicare visit. Even when physicians are aware of this, they might brush it off because, for example, a diabetic patient routinely sees her ophthalmologist, Nicoletti said. That would be a mistake because all the boxes must be checked regardless. Another common oversight: neglecting to document a list of the patient's current providers and suppliers during the annual wellness visit. Physicians may also fail to

ask patients (or document) whether they're taking supplements, need a flu shot or have had a colonoscopy, for example.

"The clinician can't do the wellness visit from memory," she said. "It doesn't work."

The components of the initial annual wellness visit are:

- Establish the patient's medical and family history.
- Establish a list of current providers and suppliers.
- Measure height, weight, body mass index and blood pressure.
- Detect any cognitive impairment.
- Review potential depression risk factors.
- Review functional ability and level of safety.
- Establish a patient written screening schedule for the next five to 10 years based on U.S. Preventive Services Task Force and Advisory Committee on Immunization Practices.
- Establish the patient's list of risk factors and conditions for which primary, secondary or tertiary interventions are recommended or underway.
- Give the patient personalized health advice and referrals to health education or preventive counseling (e.g., tobacco cessation).
- Provide, at the beneficiary's discretion, advance care planning services.
- Review opioid prescriptions.
- Screen for potential substance use disorders.
- Brand new: Starting in 2024, physicians have the option to do a risk assessment for social determinants of health (SDOH).

The subsequent annual wellness visit is similar, but the components must be updated.

A Single Template May Help Compliance

Some physicians can't wrap their heads around annual wellness visits because they're different from routine physical exams, which aren't covered by Medicare, Nicoletti said. But that's just sacrificing money for services that Medicare wants them to provide. The initial annual wellness visit (nonfacility) has 4.97 relative value units (RVUs), which compares favorably with a level four established patient visit, with its 3.85 RVUs (nonfacility).

For the sake of compliance, she recommends physician practices create a single template for all three visits—Welcome to Medicare, initial and subsequent annual wellness visits, Nicoletti said. Using a single template for all three helps avoid missing components required for one type of visit and not the other, such as the visual acuity test or assessment of cognitive ability. "Include the components for all the visits in the single template," Nicoletti said.

The requirements for all three are very similar but if the physician does something additional, "it's not that much work" and protects them from a denial. Anyway, it's the staff, not the physicians, who perform many of the

services for an annual wellness visit.

Don't forget to update templates to match CMS's revised list of components for annual wellness visits, as reflected above (e.g., in recent years CMS added a review of opioid prescriptions and now it has made SDOH risk assessments optional). Also, as of Jan. 1, Medicare covers A1C screening that might be ordered during the annual wellness visit as part of the personalized prevention plan. "Before you would need a diabetes diagnosis," Nicoletti said.

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1 U.S. Department of Justice, U.S. Attorney's Office for the Middle District of Pennsylvania, "Penn State Health Agrees To Pay More Than Eleven Million Dollars Following Its Voluntary Disclosure Of Improper Billings Related To Medicare Annual Wellness Visit Services," news release, February 7, 2024, <https://bit.ly/42KFpVA>.

2 Centers for Medicare & Medicaid Services, "Medicare Wellness Visits," MLN, MLN6775421, November 2023, <https://go.cms.gov/351I2WQ>.

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