

# Report on Medicare Compliance Volume 33, Number 13. April 08, 2024 Medical Direction of Anesthesia at Heart of \$2.239M CMP Settlement

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By Nina Youngstrom

Medical College of Wisconsin has agreed to pay \$2.239 million in a settlement with the HHS Office of Inspector General (OIG) over anesthesia billing. The settlement stemmed from its self-disclosure to OIG.

OIG alleged that Medical College of Wisconsin submitted claims to Medicare, Medicaid, TRICARE and the Veterans Administration for items or services it knew or should have known were fraudulent. Specifically, OIG alleged that from Nov. 1, 2016, through Oct. 31, 2022, Medical College of Wisconsin billed for anesthesia with modifiers QK and QY "where physicians failed to perform and document the seven steps of medical direction as required by 42 C.F.R. § 415.110." The alleged conduct subjects it to civil monetary penalties, according to OIG. Of the settlement amount, \$1.493 million is restitution. Medical College of Wisconsin didn't admit liability in the settlement.

Tennille Sifuentes, vice president of corporate compliance and risk management at the Medical College of Wisconsin, told RMC that "The concern was reported by a staff member via the compliance hotline. The concern raised was that the seven steps required to bill for medical direction were not being fully met in all instances. One example of this would be that in some instances, the anesthesiologists may have overly relied on the pre-anesthetic exam and evaluation by the CRNA as a replacement for their own comprehensive exam. The modifiers QK and QY can only be billed when all seven steps are fulfilled." Sifuentes said the issue was addressed by making the following improvements: modification of the attestations and workflows in the electronic medical record to ensure accurate documentation of medical direction elements; developing a protocol to define the standard expectations the seven elements; providing medical-direction education at hiring and annually; and requiring anesthesiologists to attest they understand the medical direction standards. "One suggestion for considering and going through the OIG Self-Disclosure Protocol would be to work with an external attorney that has experience with the self-disclosure process. Our external attorney provided invaluable guidance through this process to ensure we investigated properly and developed a comprehensive disclosure document," Sifuentes said.

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