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Hospitals Were Overpaid $33M Over Device Credits; Policy May Change

By Nina Youngstrom

Medicare administrative contractors (MACs) will be coming to 911 hospitals for overpayments caused by unreported manufacturer credits for recalled or prematurely failed cardiac medical devices, according to an audit report from the HHS Office of Inspector General (OIG) posted Nov. 18.[1] The hospitals received $33 million in "potential overpayments" stemming from the credits in a two-year period. OIG recommended that MACs recover the portion of the money within the reopening period and that CMS tell hospitals to return any overpayments in compliance with Medicare's 60-day rule. CMS agreed.

OIG also suggested a possible trade-off with broader implications: Maybe CMS should eliminate the device-reporting requirement and reduce payments for cardiac device replacement procedures under the inpatient and outpatient prospective payment systems. CMS agreed, saying it "will consider whether there are administratively efficient alternative methods of accounting for device credits in a manner that treats all hospitals fairly."

CMS requires hospitals to pass on to Medicare the credits they receive from manufacturers for recalled or malfunctioning medical devices or for medical devices implanted free as part of clinical trials. Credits are used to reduce Medicare payments for inpatient and outpatient procedures performed to replace or fix devices, such as pacemakers and defibrillators. In 2015, CMS changed the way that hospitals report device credits. Explanted devices with a manufacturer credit of 50% or greater are reported on Medicare claim forms with value code FD (credit received from the manufacturer for a medical device) and, if applicable, condition code 53 (initial placement of a medical device provided as part of a clinical trial or free sample). When value code FD is on the claim, hospitals also must report condition code 49 (devices replaced within the life cycle) or 50 (devices recalled and replaced).

For the audit, OIG got a list of cardiac device warranty credits provided to hospitals by the three top cardiac device manufacturers from Jan. 1, 2015, through June 30, 2017. The credits matched to 7,960 Medicare beneficiaries who had cardiac devices implanted, and then OIG identified 6,558 claims with a cardiac device replacement procedure "for which the date of service matched to the device replacement procedure date on the credit listing." Its findings: Almost half the claims (3,233) were billed without condition and value codes. Many hospitals didn't comply with Medicare requirements for reporting manufacturer credits.

"We concluded they issued reportable credits for 514 inpatient and 2,719 outpatient claims that averaged $10,124 each, to the hospitals for recalled or prematurely failed cardiac medical devices, but the hospitals did not adjust the claims with proper condition and value codes to reduce payments as required," OIG said.

Although CMS has done its part to educate hospitals on reporting credits, noncompliance continues. OIG thinks the potential overpayments would have been identified and returned if hospitals were required to use condition codes 49 and 50 "regardless of whether a credit was received prior to billing for the service" and if MACs had a postpayment process for claims with certain cardiac device procedures to ensure compliance with credit reporting. CMS won't adopt these recommendations.

1 Amy J. Frontz, "Hospitals Did Not Comply With Medicare Requirements for Reporting Cardiac Device Credits," Office of Inspector General, November 2020, https://bit.ly/3lNN9jj.