The OIG Estimates Hundreds of Millions in EHR Incentive Overpayments

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Between May 2011 and June 2014, the Centers for Medicare and Medicaid Services (CMS) made approximately $6 billion in incentive payments to promote the use of electronic health record (EHR) technology. But a recent review by the U.S. Department for Health and Human Services Office of Inspector General (the OIG) estimates that $729 million of these incentive payments were made to providers who did not comply with the mandated program requirements and recommends that CMS attempt to recoup those incorrect payments.

Meaningful Use

The Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009 created the EHR incentive programs to promote the adoption and "meaningful use" of health information technology. To receive these incentive payments, providers self-report data to CMS but are required to maintain documentation supporting the self-reported data. The data and supporting documentation are intended to show compliance with benchmarks established to improve health care quality and efficiency through the use of health information technology, such as electronic prescribing, computerized provider order entry, electronic exchange of clinical information, and patient electronic access.

The OIG Review

To determine whether CMS made EHR incentive payments in accordance with the federal requirements, the OIG selected a random sample of 100 providers that received incentive payments. The OIG also evaluated whether improper incentive payments were made for providers that switched between the Medicare and Medicaid incentive programs in different years (payment is only allowed from one program each year).

The OIG found that, of the 100 providers reviewed, fourteen failed to meet the meaningful use requirements through a lack of supporting documentation, improper meaningful use periods, or insufficient use of EHR technology. These improper payments totaled $291,222. Extrapolating the improper payments to all providers who received incentive payments, the OIG estimates that a total of $729 million was improperly paid. Due to procedural errors, an additional $2 million was found to have been improperlypaid in the wrong year to providers that switched between Medicare and Medicaid.

The OIG expressly stated that a lack of significant review of the providers' supporting documentation by CMS left this incentive program vulnerable to abuse. Of particular concern, twelve of the fourteen non-compliant providers were unable to provide supporting documentation for meaningful use measures for which they reported successful compliance.

The OIG's Recommendations to CMS

Given the estimated amount of these improper incentive payments, the OIG recommended that CMS take the following steps to rectify these problems:

- Recover the improper incentive payments from the sampled providers that failed to meet the meaningful use requirements;
- Review incentive payments and supporting documentation for other providers to attempt to discover and recover additional improper payments;
- Educate providers on proper documentation procedures and requirements; and
- Correct procedural issues with providers switching to different incentive programs.

CMS concurred with collecting the identified overpayments and stated that it had implemented targeted "risk-based audits" to strengthen program integrity and will continue to do so in 2017. However, the OIG responded that the targeted risk-based audits are not capturing errors such as those identified in this report and, therefore, continues to recommend that CMS review provider incentive payments and supporting documentation to determine which providers did not meet meaningful use requirements.

While this report makes clear the challenges in monitoring programs that rely on self-reported compliance, it also demonstrates that documentation and truthful reporting are essential for healthcare providers receiving any federal funds payments.

As CMS implements the Medical Access and Children's Health Insurance Program Reauthorization Act (MACRA), which modifies the incentive program, the OIG is pushing for stronger program integrity safeguards that will result in more oversight and less reliance on self-reporting. As a result, providers are reminded that maintaining supporting documentation when participating in these programs is vital.

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