

Reminder: Medical Providers Must Be Attentive to Credit Balances and Other Overpayments

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It has now been a number of years since the enactment of Section 6402(a) of the Affordable Care Act ("ACA"), which requires among other things that any recipient of a Medicare or Medicaid overpayment report and return it within 60 days after the date on which the overpayment was identified or by the date any corresponding cost report is due, if later. Moreover, the Centers for Medicare and Medicaid Services have since then finalized regulations pertaining to the overpayment reporting requirement—with the most recent portion pertaining to Medicare Parts A and B becoming effective on March 14, 2016 (collectively, the "Overpayment Rules").

However, it bears repeating that medical groups and other providers should ensure they have fully adjusted their policies and practices to these overpayment requirements. Without well-developed and implemented compliance plans, it is relatively easy for medical providers to fail to identify and return overpayments covered by the Overpayment Rules, and the government has clearly indicated its intent to pursue violators.

One enforcement action by the Department of Justice ("DOJ"), in particular, demonstrates that practices, such as inattentiveness to credit balances, can create major risks. In 2015, the DOJ announced a \$6.88 million settlement with pediatric home nursing provider Pediatric Services of America, Inc. ("PSA"), and several of its affiliates, after PSA allegedly failed to investigate and resolve credit balances owed to federal health care programs. DOJ alleged that some of the credit balances had been on PSA's books for several years and that PSA wrote off and absorbed into its revenue some credit balances that had resulted from overpayments.

Because credit balance issues, such as those alleged by DOJ in the PSA settlement, can be avoided through timely investigation and processing, providers should ensure their compliance plans address these and other overpayment issues. Furthermore, providers should ensure that appropriate personnel regularly review accounts for credit balances, which should be investigated, segregated from other accounts, documented, reported and refunded to the appropriate payors. Doing this will help providers ensure that unseen risks do not reside within their books.

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