

OIG PUBLISHES 2012 WORK PLAN

On October 5, 2011, the Office of Inspector General (OIG) published its proposed Work Plan for Fiscal Year 2012. As in the past, the Work Plan continues to identify compliance risk areas that subject Medicare and Medicaid providers to audit and enforcement initiatives. The 2012 Work Plan contains several new areas of focus by the OIG that potentially will impact current operating practices of nursing homes and hospices and the relationships between these types of providers. More specifically, areas of increased scrutiny are (i) nursing home compliance plans; (ii) billing patterns of Part B provider services during non-Part A nursing home stays; and (iii) hospice marketing practices and financial relationships with nursing facilities.

The OIG will review Medicare- and Medicaid-certified nursing homes to ensure the implementation of compliance plans as a part of their day-to-day operations. The compliance plans will be reviewed to ensure they contain the required elements of the OIG's compliance program guidance. Under the Affordable Care Act, nursing facilities must operate a compliance and ethics program to prevent and detect criminal, civil and administrative violations and to promote quality of care. The Centers for Medicare & Medicaid Services (CMS) is charged with overseeing the program and incorporating the requirements into the Medicare Requirements of Participation. CMS also must issue regulations by 2012, and nursing facility providers must have compliance programs in place by 2013.

Billing patterns of nursing facilities and Medicare Part B providers will be scrutinized to confirm that services provided by Part B providers to nursing facility residents during a non-Part A stay are billed directly by suppliers and providers. More particularly, the OIG will analyze podiatry, ambulance, laboratory and imaging services for conformity with this requirement.

Lastly, the OIG will closely examine and monitor hospices' marketing materials and practices and their financial relationships with nursing facilities. Recently, the OIG reported that a high percentage of hospice claims for services to Medicare Part A-eligible nursing facility beneficiaries did not meet the Medicare coverage requirements. Observations by MedPAC, an independent congressional agency that advises Congress on issues affecting Medicare, suggest that hospices and nursing facilities may be involved in inappropriate enrollment and compensation relationships. Consequently, practices of hospices with a high percentage of their patients in nursing facilities will undergo increased inspection as well as those hospices that aggressively market their services to nursing facility residents.

A complete copy of the 2012 Work Plan can be accessed at [Work-Plan-2012](#).

If you have questions or concerns regarding the foregoing or would like additional information, please contact your regular Hall Render attorney, or Todd Selby at tsselby@hallrender.com or 317.977.1440; Brian Jent at bjent@hallrender.com or 317.977.1402; or David Bufford at dbufford@hallrender.com or 502.568.9368.