

## OIG ALERT ON REASSIGNMENT RAISES CONCERN FOR PHYSICIANS

On February 8, 2012, the U.S. Department of Health and Human Services Office of Inspector General ("OIG") issued an Alert to physicians to exercise caution when reassigning their Medicare payments. Specifically, the OIG stated that physicians who reassign their rights to bill the Medicare program and receive Medicare payments by executing the CMS-855R application may be liable for false claims submitted by entities to which they reassigned their benefits. The Alert can be found here:

<http://oig.hhs.gov/compliance/alerts/guidance/20120208.pdf>

Medicare generally prohibits the reassignment of claims by suppliers, including physicians. The exceptions to this rule include payment to an employer, when the supplier is required as a condition of employment to turn over professional fees to the employer, and payment to an entity under a contractual arrangement. Under 42 CFR § 424.80, when payment is made to an entity under a contractual arrangement, both the supplier of the professional services and the billing entity are jointly and severally responsible for any Medicare overpayment to that entity. This liability relationship does not extend to physicians who reassign to an employer. However, both reassignment relationships are limited by the fact that the supplier who furnishes the services must have unrestricted access to claims submitted by the billing entity. This unrestricted access puts the burden on the physician supplier to take an active monitoring role in the billing for their reassigned services.

As detailed in the Alert, the OIG recently settled with physicians who violated the Civil Monetary Penalties Law by causing the submission of false claims to Medicare from an entity to which they had reassigned benefits. The failure of the physicians to monitor the services billed under their reassigned supplier numbers resulted in the submission of "false bills" to Medicare. The OIG noted that, "[p]hysicians have unrestricted access to claims submitted by an entity for services that the entity billed using the physicians' reassigned [supplier] numbers to provide added assurances that the services for which the entity billed Medicare were, in fact, performed and were performed as billed."

Physicians, therefore, are expected to monitor the services billed under their reassigned supplier numbers regardless of who is actually billing. Even though physicians are not jointly and severally responsible for overpayments received by their employers, physicians can be found responsible for the submission of false claims if they fail to properly monitor the claims submitted under the reassignment of benefits.

If you have any questions regarding the OIG Alert or this topic in general, please contact Regan E. Tankersley at (317) 977-1445 or [rtankersley@hallrender.com](mailto:rtankersley@hallrender.com) or your regular Hall Render attorney.