



2013 OIG Work Plan

October 4, 2012

On October 2, the Office of Inspector General (“OIG”) of the Department of Health and Human Services released its Work Plan for 2013. The OIG Work Plan outlines the OIG’s current focus areas and states the primary objectives of each project the OIG plans to undertake in the upcoming fiscal year. For health care providers, the OIG Work Plan identifies potential areas of legal/enforcement risk and potential areas of health care policy change for the future.

Projects identified on the OIG Work Plan tend to fall into two broad categories: (1) enforcement initiatives; and (2) policy considerations. The following is a brief summary of a handful of the key projects identified in each category in the 2013 Work Plan:

Enforcement Initiatives

▪ **Non Hospital-Owned Physician Practices Using Provider-Based Status**

The OIG will be examining whether practices/facilities billing under a provider-based status meet applicable CMS requirements. This project is particularly important as the number of hospitals creating outpatient hospital departments continues to increase as hospitals look for new and appropriate ways to increase their revenue.

▪ **Home Health Face-to-Face Requirement**

The OIG will determine the extent to which home health agencies are complying with the new statutory requirement under the PPACA that physicians (and other practitioners) who certify beneficiaries as eligible for Medicare home health services have a face-to-face encounter with the beneficiaries. This project is one of the first examples of the OIG monitoring of health care provider compliance with the new requirements imposed by PPACA and the regulations promulgated thereunder.

▪ **High Utilization of Orthopedic Implant Devices Used in Spinal Fusion Procedures**

The OIG will determine the extent to which physician-owned distributors (POD) provide spinal implants purchased by hospitals and are associated with high utilization of such implants. Although this project could also be considered a Policy Inquiry, it is certainly possible that this project will lead directly to



enforcement activities under the Medicare Anti-Kickback Statute (especially given the pressure being put on the OIG by the Senate Finance Committee to increase its enforcement efforts in connection with PODs).

Policy Considerations

■ Diagnosis Related Group Window

The OIG plans to analyze potential Medicare savings if the current three day payment window for inpatient services were to be extended to 14 days. Such a policy change would have a significant impact on hospital outpatient departments and hospital-owned or operated physician practices as claims within 14 days of admission would be bundled into the inpatient stay.

■ Hospital Acquisition of Ambulatory Surgery Centers

The OIG is going to determine how hospitals' acquisition of Ambulatory Surgical Centers and subsequent conversion to outpatient hospital departments impacts reimbursement of services and beneficiary cost sharing.



- **Location Requirements for Critical Access Hospitals and Rural Health Clinics**

The OIG will be evaluating the extent to which current Critical Access Hospitals and Rural Health Clinics no longer meet basic location requirements. This evaluation is being performed to assess whether policies should be changed to allow the removal of CAH and RHC designation when location requirements are no longer satisfied.

- **Payments for Cancelled Surgical Procedures**

The OIG will be investigating the costs associated with Medicare's payment of inpatient admission for cancelled surgical procedures to determine whether payment policies should be modified to prevent these payments. This investigation overlaps with current RAC and other audits of these services for medical necessity concerns.

The complete 2013 OIG Work Plan is available on the OIG's website at <https://oig.hhs.gov/reports-and-publications/workplan/index.asp#current>. The Lathrop Gage LLP healthcare department has attorneys available to assist your organization in identifying current risk areas under the Work Plan and incorporating those risks into your compliance strategy for next year.