

HFMA MA-RI Chapter- Hot Topics In Compliance



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Kelly is a Partner with nearly 20 years of experience in the health care industry. She specializes in providing regulatory compliance and risk services in the health care industry. This experience has given Kelly both a broad and deep understanding of health care entity operations (e.g. hospital, physician/clinic, skilled nursing facilities, home health, hospice and other outpatient services) and the impact of changing regulations. Kelly has also worked on projects in areas such as short stays and medical necessity, including government investigations, RAC—related projects and various OIG audits and hospital/physician compliance reviews that typically involve documentation, coding and billing. Kelly has also served several academic medical center and health system clients as an interim chief compliance officer and as an interim director of internal audit . She has assisted numerous clients with CIA—readiness, government investigations, OIG audits, and self—disclosures regarding documentation, coding and billing matters and has led a number of Independent Review Organization (IRO) engagements.

She is a frequent national speaker on compliance programs, coding and billing matters, internal controls and other regulatory topics. She also regularly conducts training and education sessions for clients and boards on a broad array of topics.



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Mr. Bennett currently serves as Vice President, Chief Compliance and Privacy Officer at Lahey Health System, a non-for-profit integrated health care delivery system affiliated with Tufts University Medical School. Lahey Health provides care across the entire health care continuum through a robust and distributed network of acute care hospitals, ambulatory centers, physician practice sites (both employed and private practice), behavioral health facilities, home health organizations, and care management centers. Mr. Bennett is responsible for the day-to-day operations of the systems compliance and privacy program at Lahey Health to promote compliance and best business conduct practices and solutions to prevent occurrence of illegal, unethical, or improper conduct.

Mr. Bennett also served as Director of Corporate Compliance at Beth Israel Deaconess Medical Center (BIDMC), and Director of Compliance and Privacy Officer at Boston Children's Hospital, both not-for-profit teaching and research hospitals affiliated with Harvard Medical School in Boston, Massachusetts. Prior to health care, Mr. Bennett served as Director at John Hancock Financial Services and was responsible for managing the company's business unit dedicated to reviewing and investigating interactions with consumers and regulatory agencies in response to complaints involving alleged sales practice issues and financial crime. Mr. Bennett is also a Senior Lecturer at Northeastern University in Boston and teaches courses in Health Care Operations, Health Care Policy and Health Law. Mr. Bennett received his law degree from New England School of Law, Master's from Suffolk University and Bachelor's degree from University of Massachusetts. Mr. Bennett resides in Winchester, Massachusetts with his wife Alexis and their two college-age children.

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David Tolley is a partner in the Boston office of Latham & Watkins, with an emphasis on representing clients in the Health Care and life sciences industries.

Mr. Tolley advises and defends Health Care and Life Sciences organizations, including hospitals, pharmacy organizations, health IT companies, medical device manufacturers and other organizations in a variety of regulatory, compliance and litigation matters.

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Donna Schneider is a progressive, visionary health care executive with demonstrated accomplishments in corporate compliance, privacy, internal audit, managed care contracting, physician relations, and quality improvement. She has comprehensive experience in hospital operations, involvement in inpatient, and ambulatory and physician group practice management in an integrated Health Care delivery system. Donna also has managed care and self-insured employer group health plan experience in conjunction with a messenger model physician delivery network tenure. She is a Registered Nurse with an Masters in Business Administration and certifications in quality, compliance and Health Care privacy. She has worked for non-profit acute care hospital at the community hospital and system level, non-profit and for-profit managed care organizations and physician organizations including an individual practice associations (IPA) model. Donna currently works for Lifespan as the Vice President, Corporate Compliance and Internal Audit; Lifespan Compliance & Privacy Officer. Lifespan is a (4) hospital system in RI comprised of (1) Level One Trauma Center; (2) Magnet Status Community Hospitals; and (1) Pediatric/Psych Hospital. Lifespan also includes 300+ clinics, 19 residential locations and 2,700 practicing/partnering Physicians. Donna's team is comprised of 17 individuals which include Internal audit, Compliance and Privacy and two administrative staff. Out of the 17 professionals, 4 are Compliance professionals and 3 are from Privacy and Compliance Operations.

Donna is married with three grown daughters. She is an avid runner with fifteen plus (15 +) marathons to her credit, including running the Boston Marathon as a qualified runner four (4) times.

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Discussion Topics

- Emerging Risks
- Culture of Compliance
- Opioid Crisis

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Emerging Risks

Ranking elements
Numbered arrows



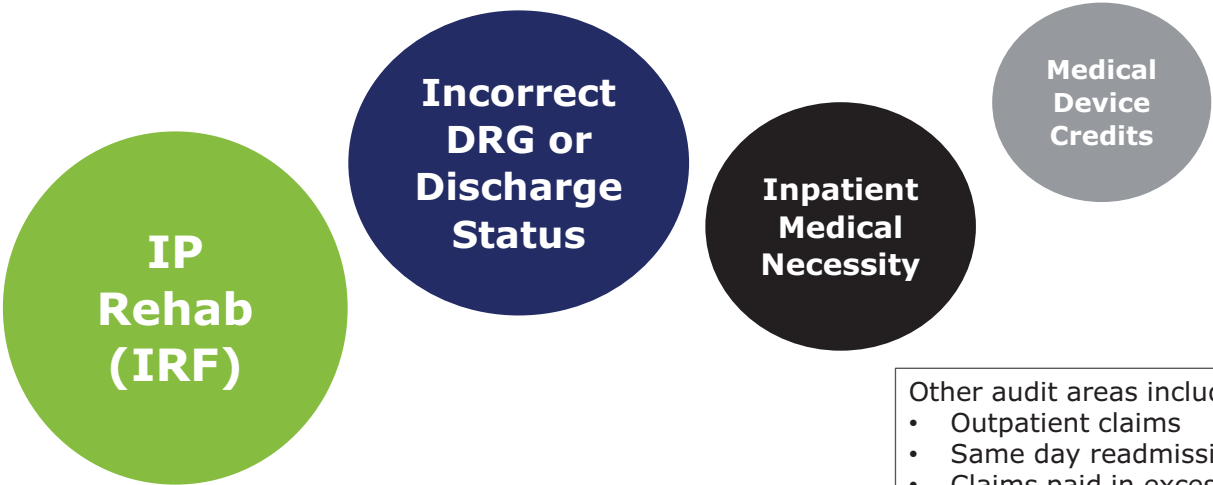
Where should you look to identify risks?



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OIG Medicare Compliance Reviews

In recent reports from January and February, the following audit areas became the focus of three Medicare compliance reviews:



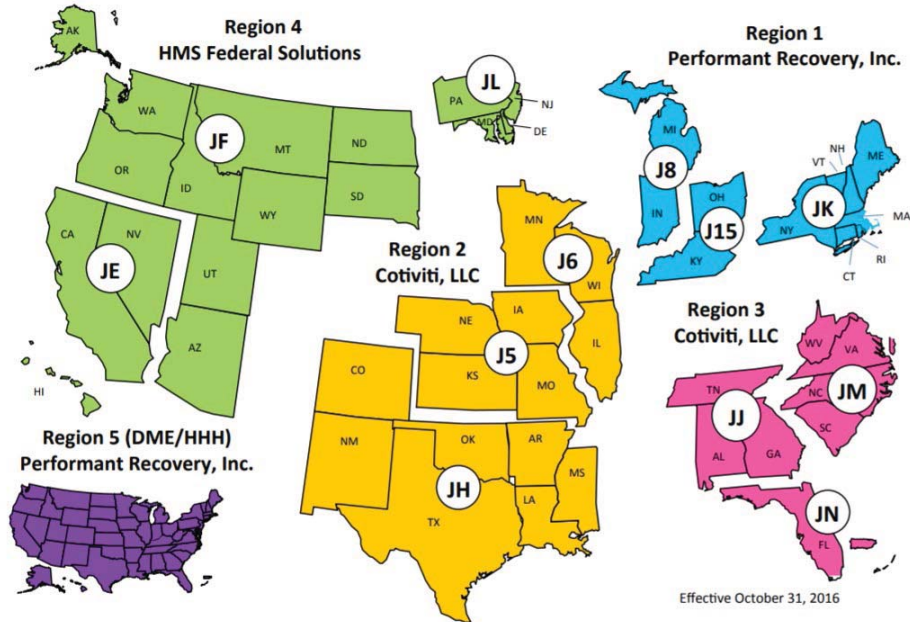
- Other audit areas included:
- Outpatient claims
 - Same day readmissions
 - Claims paid in excess of charges
 - Outpatient claims/Modifier 59

*Circle sizes correlate with overpayment amounts based on errors

Medicare RACs

Regions

Medicare Fee-for-Service RAC Regions



Source: <https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Recovery-Audit-Program/Downloads/Medicare-FFS-RAC-map-November-2018-clean.pdf>

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Medicare RACs

Recent CMS approved audit topics

* Denotes a complex review. All others are automated reviews.

RAC Audit Area	1 Performant
Facility vs non-facility reimbursement	√ - 09/14/2018
Skilled Nursing Facility (SNF) consolidated billing Part B - Partial	√ - 09/20/2018
SNF consolidated billing Part B - full	√ - 09/20/2018
Transthoracic echocardiography: medical necessity*	√ - 10/12/2018
Improperly paid modifiers TC and 26	√ - 10/12/2018
IRF stays: meeting requirements to be considered reasonable and necessary*	√ - 10/12/2018
Home visits physician services overlapping inpatient stay	√ - 10/16/2018
Automated arthroscopic limited debridement	√ - 10/19/2018
Modifier 57 for procedure with a zero (0) and ten (10) day global indicator	√ - 11/02/2018
MCP (Monthly Capitation Payment) for ESRD (End-Stage Renal Disease) receiving four (4) or more visits per month	√ - 11/12/2018
Endoscopy procedures: diagnostic and surgical same day	√ - 11/27/2018
Outpatient hospice-related services	√ - 11/28/2018

Sources: https://performantrac.com/audit-issues/?order=desc&filter=date_approved; <https://www.cotiviti.com/healthcare/who-we-serve/cms-approved-issues>; <https://racinfo.hms.com/Public1/NewIssues.aspx>

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OIG work plan

FY 2019

Previously, the OIG updated its public-facing work plan to reflect adjustments once or twice each year to meet priorities and anticipate and respond to emerging issues

Effective June 15, 2017, the OIG updates its work plan website monthly

Recently Added Items

Announced	Agency	Title	Component	Report Number(s)
November 2018	Centers for Disease Control and Prevention	CDC's Oversight of the President's Emergency Plan for AIDS Relief Funds	Office of Audit Services	W-00-19-57301
November 2018	Centers for Medicare & Medicaid Services	Assessing Inpatient Hospital Billing for Medicare Beneficiaries	Office of Evaluation and Inspections	OEI-02-18-00380
November 2018	Centers for Medicare & Medicaid Services	Involuntary Transfer and Discharge in Nursing Homes	Office of Evaluation and Inspections	OEI-01-18-00250
November 2018	Centers for Medicare & Medicaid Services	Protecting Medicare Hospice Beneficiaries From Harm	Office of Evaluation and Inspections	OEI-02-17-00021
November 2018	Centers for Disease Control and Prevention	Grantees' Use of President's Emergency Plan for AIDS Relief Funds	Office of Audit Services	W-00-19-57300
November 2018	Centers for Medicare & Medicaid Services	Adverse Events in Hospitals: National Incidence Among Medicare Beneficiaries - 10-Year Update	Office of Evaluation and Inspections	OEI-06-18-00400

Sources: <https://oig.hhs.gov/reports-and-publications/workplan/index.asp>; <https://oig.hhs.gov/reports-and-publications/workplan/updates.asp>

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OIG work plan (continued)

Active work plan items

Added FY 2019

- CDC's Oversight of the President's Emergency Plan for AIDS Relief Funds
- **Assessing Inpatient Hospital Billing for Medicare Beneficiaries**
- Involuntary Transfer and Discharge in Nursing Homes
- Protecting Medicare Hospice Beneficiaries From Harm
- Grantees' Use of President's Emergency Plan for AIDS Relief Funds
- **Adverse Events in Hospitals: National Incidence Among Medicare Beneficiaries - 10-Year Update**
- **Child Care and Development Fund: Provider Compliance with State Criminal Background Check Requirements**
- **Data Brief: Early Results from the Opioid State Targeted Response Grants**
- Medicaid Capitation Payments Made on Behalf of Incarcerated Individuals
- CMS Medicare Beneficiary Identifier Card
- States' Use of the Child Welfare Information Systems To Monitor Medication Prescribed to Children in Foster Care

Sources: <https://oig.hhs.gov/reports-and-publications/workplan/active-item-table.asp>

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Opioid Crisis

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Curbing the Opioid Epidemic – Federal takedown of improperly prescribing clinicians

- In the largest ever national health care fraud takedown, of **over 600** individuals charged in conjunction with the **June 2018 takedown, 162 defendants, including 76 doctors**, were charged for their roles in prescribing and distributing opioids and other dangerous
- OIG analyzed Medicare Part D data and released a data brief highlighting that about **15,000 beneficiaries** appeared to be “**doctor shopping**.” Those beneficiaries received high amounts of opioids, received their opioids from multiple prescribers and pharmacies, and did not have cancer or were not in hospice care.
- OIG’s review of **five states** found that **one in three children** in **foster care** who were treated with psychotropic medication did not receive required treatment planning or medication monitoring. OIG recommended that ACF develop a comprehensive strategy to improve States’ compliance in this area.
- OIG released a “**toolkit**” to assist our public- and private-sector partners with combating the opioid crisis through data analysis.

Source: Semiannual Report to Congress – April 1, 2017, through September 30, 2017
<https://oig.hhs.gov/reports-and-publications/archives/semiannual/2018/2018-fall-sar.pdf>

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Curbing the Opioid Epidemic – Early 2018 OIG Testimony Highlights

On May 23, 2018, Gary Cantrell from the OIG's Office of Investigations Provided testimony before the House of Representatives Committee on Opioid misuse amongst older Americans

Key Statistics

- More than 60,000 Americans died from drug overdoses in 2016, of which 66% reportedly involved opioids.
- According to CDC, approximately 3 out of 4 new heroin users report having abused prescription opioids prior to using heroin
- Prescription drug diversion is a serious component of this epidemic

OIG's Opioid Fraud Enforcement Efforts

- July 2017 OIG data brief, *Opioids in Medicare Part D: Concerns about Extreme Use and Questionable Prescribing*:
 - 1 in 3 Part D beneficiaries received opioids in 2016 (14.4 M beneficiaries)
 - Approximately 500,000 beneficiaries received high amounts of opioids (by looking at morphine equivalent doses received)
 - Beneficiaries with cancer diagnosis and those in hospice were excluded from the analysis
 - OIG identified approximately 90,000 beneficiaries at serious risk of opioid misuse or overdose via 1) receiving extreme amounts or 2) doctor shopping and also identified 400 providers with questionable opioid prescribing patterns

Source: <https://oig.hhs.gov/testimony/docs/2018/cantrell-testimony052318.pdf>

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Curbing the Opioid Epidemic – OIG Efforts Currently Underway

OIG currently has seven audits or evaluations underway which address the following issues:

- Questionable prescribing patterns in Medicaid
- Medicaid program integrity controls
- CDC's oversight of grants to support programs to monitor prescription drugs
- The FDA's oversight of opioid prescribing through its risk management programs
- The Substance Abuse and Mental Health Services Administration's oversight of opioid treatment program grants
- Beneficiary access to buprenorphine medication-assisted treatment
- Opioid prescribing practices in the Indian Health Services

Source: <https://oig.hhs.gov/testimony/docs/2018/cantrell-testimony-01172018.pdf>

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Culture of Compliance

Q&A

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