

## OIG WORK PLAN FOR 2010 - NURSING HOMES

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Each year the Federal Department of Health and Human Services Office of Inspector General ("OIG") issues a detailed work plan for the upcoming fiscal year. The work plan is a comprehensive document that covers every aspect of HHS' public health and human services programs as well as HHS' Centers for Medicare and Medicaid Services ("CMS") which administers the Medicare and Medicaid programs. The OIG conducts audits, inspections, investigations and enforcement actions for the government in these programs.

Every year the OIG work plan is carefully reviewed by the healthcare community for insight into what areas OIG will place their resources in the upcoming year. This article covers only the OIG work plan for nursing homes for 2010.

### Medicare Nursing Home Payments: Part B Services for Mental Health and Psychotherapy

OIG will review Medicare Part B payments for psychotherapy services provided to nursing home residents during non-covered Medicare Part A skilled nursing facility stays. Certified nursing homes are required to provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being for each resident. A previous OIG review found that approximately 31% of outpatient claims for Part B mental health services did not meet coverage guidelines resulting in \$185 million in inappropriate payments. OIG will determine the medical necessity of such services, appropriateness of coding and adequacy of nursing home documentation.

### Medicare Requirements for Quality of Care in Skilled Nursing Facilities

OIG will investigate which SNFs have developed proper plans of care; have provided services pursuant to such plans and have planned for beneficiaries' discharges. OIG will review SNFs' use of the standardized Resident Assessment Instrument ("RAI") to develop nursing home residents' plans of care. Prior OIG reports found that about 25% of residents' needs for care, as identified through the RAI, were not reflected in their care plans and that nursing home residents did not receive all psychosocial services identified on care plans.

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### Criminal Background Checks for Nursing Facility Employees

Federal regulations prohibit Medicare and Medicaid long-term care facilities from employing individuals found guilty of abusing, neglecting or mistreating residents. OIG will determine whether and the extent to which nursing facilities have employed individuals with such criminal convictions and will categorize the types of crimes for which such employees have been convicted.

### Medicaid Nursing Home Minimum Data Set Information

The Social Security Act requires nursing homes to conduct accurate comprehensive assessments for Medicaid residents including the gathering of information about the resident's physical and cognitive functioning, health status and diagnosis, preferences and life care wishes into what is known as "minimum data set" or "MDS" data. CMS began gathering this data in July 1998 and began posting quality performance information for nursing homes based on this data on its Nursing Home Compare Website in 2002. About half of the states also use MDS data as the basis of their Medicaid payment system. OIG will review CMS's processes for insuring that nursing homes submit accurate and complete MDS data in the coming year.

### Transparency of Nursing Facility Ownership

OIG will review the ownership structures of investor-owned nursing homes which are increasingly being purchased by private equity or other for-profit investor firms. Prior OIG reviews showed that in some cases new owners created a complex web of ownership that essentially left the operators of the nursing facility with no assets. A determination of which entity is legally liable for patient care can be made difficult because of this ownership structure. Also in some cases new owners have reduced staffing levels and made other cost cutting actions that increase profit at the expense of quality of care.

### Quality of Care Review

OIG will review Medicaid data to identify nursing homes that have provided substandard care resulting in patient's subsequent hospital admissions especially for pressure sores, infections or both. Part of this review will include CMS's review of Medicaid incentive payments that States have made to nursing homes based on the home's quality of care performance measures. OIG will determine whether States have sufficient controls to assess nursing facilities quality-of-care performance measures and whether these incentive payments were made in accordance with program requirements.

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