

## Report in Brief

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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG Did This Audit

Bariatric surgery helps those with morbid obesity to lose weight by making changes to their digestive system. A prior OIG audit found that a hospital's claims for bariatric surgeries performed in 2015 and 2016 did not fully meet a Medicare contractor's eligibility specifications. Because eligibility specifications varied among the Medicare contractors, we conducted this nationwide audit of hospitals' inpatient claims for bariatric surgeries performed from January 2018 through July 2019 (audit period), for which Medicare paid approximately \$279 million.

Our objective was to determine whether hospitals' inpatient claims for bariatric surgeries met Medicare national requirements and Medicare contractors' eligibility specifications.

### How OIG Did This Audit

Our audit covered \$275.2 million in Medicare payments for 24,821 inpatient claims for bariatric surgeries performed during our audit period. We stratified the claims into four strata (which we refer to as "groups") based on the Medicare contractor jurisdictions that had similar eligibility specifications for bariatric surgery. We selected for review a statistical sample of 120 claims to determine whether the claims met Medicare national requirements in the Centers for Medicare & Medicaid Services' (CMS's) national coverage determination (NCD) and eligibility specifications in local coverage determinations (LCDs) or local coverage articles (LCAs).

## Hospitals Did Not Always Meet Differing Medicare Contractor Specifications for Bariatric Surgery

### What OIG Found

Not all hospitals' inpatient claims for bariatric surgeries met Medicare national requirements or Medicare contractors' eligibility specifications. Specifically, of the 120 sampled inpatient claims, 86 met NCD requirements and applicable eligibility specifications for bariatric surgery, and 1 claim was not reviewed but treated as a non-error because it was under review by a CMS contractor. However, of the remaining 33 claims, 32 claims met the NCD requirements but not the eligibility specifications, and 1 claim did not meet the NCD requirements.

Differing eligibility specifications for bariatric surgery contributed to differences in the number of claims that did not meet the specifications among Medicare contractor jurisdiction groups. Jurisdiction groups with more restrictive specifications had more claims that did not meet the eligibility specifications and more specifications that were not met. The Medicare contractors may have issued differing eligibility specifications because CMS's NCD requirements were not specific. On the basis of our sample results, we estimated that Medicare could have saved \$47.8 million during our audit period if Medicare contractors had disallowed claims that did not meet Medicare national requirements or Medicare contractor specifications for bariatric surgery.

### What OIG Recommends and CMS's Comments

We recommend that CMS: (1) determine whether any eligibility specifications in the Medicare contractors' LCDs and LCAs should be added to the NCD for bariatric surgery and, if so, take the necessary steps to update the NCD; (2) work with the Medicare contractors to review the eligibility specifications in the applicable Medicare contractors' bariatric surgery LCDs and LCAs and determine which, if any, of those additional specifications should be requirements rather than guidance; and (3) educate hospitals on the NCD requirements for bariatric surgeries if the NCD has been updated in response to our first recommendation.

CMS did not concur with our recommendations and stated, among other things, that: (1) CMS will continue monitoring scientific evidence related to bariatric surgery procedures and will evaluate whether an update to the NCD is necessary, and (2) the Social Security Act does not mandate that LCDs be uniform across all jurisdictions and there are valid reasons that variation at the local Medicare contractor level is appropriate. After reviewing CMS's comments, we maintain that our recommendations are valid.