Report in Brief
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U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Opportunities Exist for CMS and Its Medicare Contractors To Strengthen Program Safeguards To Prevent and Detect Improper Payments for Drug Testing Services

Why OIG Did This Audit

Patients in active treatment for substance use disorder may also be treated for a variety of medical conditions. Medicare Part B covers these patients' drug testing services when reasonable and necessary. For 2019, Medicare paid $180 million for such services provided to 274,000 beneficiaries with substance use disorders nationwide. Although the 2019 Medicare fee-for-service improper payment rate was 7.3 percent, the improper payment rate was 58.9 percent for the drug test with the highest Medicare fee schedule amount. We conducted this audit to evaluate how the Centers for Medicare & Medicaid Services (CMS) and its Medicare contractors addressed the risk for improper payments for drug testing services.

Our objective was to assess the Medicare contractors' program safeguards for ensuring that Medicare claims for drug testing services for beneficiaries with substance use disorders comply with Medicare requirements.

How OIG Did This Audit

Our audit covered Medicare Part B claims for drug testing services provided in 2019 for beneficiaries with substance use disorders. We interviewed CMS officials and reviewed requirements for drug testing services in all seven Medicare contractors' Local Coverage Determinations (LCDs). We also interviewed staff from seven selected laboratories and analyzed claims data to determine the potential impact of weaknesses we identified.

What OIG Found

We identified three weaknesses in the Medicare contractors' established program safeguards for preventing and detecting improper payments for drug testing services and promoting provider compliance with Medicare requirements. Specifically, the contractors did not have: (1) clear and consistent requirements or guidance for laboratories to use when determining the number of drug classes to bill for definitive drug testing services, (2) procedures for identifying or limiting the frequency of drug testing services (e.g., the number of drug tests performed per year) for each beneficiary across all Medicare jurisdictions, and (3) consistent requirements in their LCDs or any procedures for identifying claims for direct-to-definitive drug testing. If CMS and its contractors cannot ensure that laboratories' claims for drug testing services comply with Medicare requirements, laboratories may receive improper payments, and beneficiaries with substance use disorders may receive medically unnecessary drug testing services.

What OIG Recommends and CMS Comments

We recommend that CMS work with its Medicare contractors to: (1) take the necessary steps to determine whether clinical evidence exists to support a single, specific reasonable and necessary standard for drug testing services, and if such evidence exists, establish a National Coverage Determination or develop LCDs with more consistent requirements for drug testing services; (2) clearly indicate in LCDs, Local Coverage Articles, or other instructions how laboratories should determine the number of drug classes for billing definitive drug testing services; (3) implement a system edit or procedure to identify and limit the frequency of drug testing services per beneficiary across all Medicare jurisdictions; (4) determine whether a postpayment medical review is necessary for laboratories that have been paid for excessive definitive drug tests (e.g., more than one test) in a 1-week period for the same beneficiary; and (5) consider adding a modifier to claims for definitive drug tests indicating whether a test was based on results obtained from a presumptive drug test.

CMS concurred with our fourth and fifth recommendations and provided information on actions that it had taken or planned to take to address them. However, CMS did not concur with our first three recommendations. After reviewing CMS's comments, we maintain that these recommendations are valid, but we refined our first and second recommendations.