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

Why OIG Did This Audit

Under CMS's two-midnight rule, implemented in FY 2014, CMS generally considered it inappropriate for hospital stays not expected to span at least two midnights to be billed as inpatient. OIG issued a report about the effect of this rule on short inpatient stays (i.e., stays that lasted less than two midnights) for FY 2014. According to the report, hospitals were still billing for many short inpatient stays that were potentially inappropriate under the two-midnight rule, and Medicare paid almost $2.9 billion for these stays. Given the high payment amount at risk for noncompliance identified in that report, we focused this audit on program safeguards for claims for short inpatient stays for calendar years 2016 through 2020 (audit period).

Our objective was to assess program safeguards for ensuring that Medicare claims for short inpatient stays complied with Medicare requirements.

How OIG Did This Audit

Our audit covered $19.7 billion in Medicare Part A claims with dates of service during our audit period for 2.5 million short inpatient stays at 3,340 acute-care hospitals. We interviewed CMS officials and one Beneficiary and Family Centered Care–Quality Improvement Organization (BFCC-QIO) to obtain an understanding of program safeguards for short inpatient stays and policies and procedures for reviewing claims for short inpatient stays.

CMS Could Strengthen Program Safeguards To Prevent and Detect Improper Medicare Payments for Short Inpatient Stays

What OIG Found

For our audit period, we identified three weaknesses in the established program safeguards for preventing and detecting improper payments for short inpatient stays and recovering overpayments. Specifically, CMS did not have: (1) adequate information to identify short inpatient stays at risk for noncompliance with the two-midnight rule, (2) prepayment edits for claims at risk for noncompliance with the two-midnight rule, and (3) adequate policies and procedures to review claims at risk for noncompliance with the two-midnight rule and to recover overpayments.

These weaknesses occurred because, among other reasons, CMS relied primarily on postpayment reviews conducted by BFCC-QIOs to ensure compliance with the two-midnight rule. Although BFCC-QIOs reviewed thousands of claims for short inpatient stays and denied $49.2 million in improper payments during our audit period, these reviews denied only 0.6 percent of the $7.8 billion in improper payments estimated by CMS's Comprehensive Error Rate Testing reviews. Without strengthening program safeguards, CMS and its contractors may not be able to prevent or detect improper payments for short inpatient stays and recover overpayments for claims that did not comply with Medicare requirements.

What OIG Recommends and CMS Comments

We recommend that CMS work with its contractors to: (1) add information to inpatient claims indicating any stay that did not span two or more midnights because of an unforeseen circumstance, (2) develop a list of inpatient procedure codes associated with the outpatient procedure codes on the inpatient-only procedures list, (3) implement prepayment edits for claims for short inpatient stays at risk for noncompliance with the two-midnight rule, and (4) update policies and procedures for postpayment reviews to focus on claims for short inpatient stays identified as at risk for noncompliance with the two-midnight rule and to focus on overpayment recoveries. The full text of the recommendations is in the report.

In written comments on our draft report, CMS did not state whether it concurred with our recommendations but said that it will take our findings and recommendations into consideration as it determines appropriate next steps. CMS also provided information on actions that it had taken related to our recommendations. After reviewing CMS's comments, we maintain that CMS should implement our recommendations to address the findings in our report.

The full report can be found on the OIG website.