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

Why OIG Did This Review

According to section 1861(i) of the Social Security Act, to be eligible for coverage of posthospital extended care services, a Medicare beneficiary must be an inpatient in a hospital for not less than 3 consecutive calendar days (3-day rule) before being discharged from the hospital. Prior OIG reviews estimated that $169 million in Medicare payments for skilled nursing facility (SNF) services did not meet the 3-day rule in calendar years (CYs) 1996 through 2001. Though the Medicare contractors generally agreed with our findings, the Centers for Medicare & Medicaid Services (CMS) told the SNFs not to recover improper payments because CMS could not determine whether SNFs were "at fault" in not meeting the 3-day rule.

Our objective in this followup review was to determine whether CMS paid SNF claims with dates of service during CYs 2013 through 2015 when the 3-day rule was not met.

How OIG Did This Review

Our review covered $134.9 million in Medicare payments for more than 22,000 SNF claims for beneficiaries who had preceding acute-care inpatient hospital stays of less than 3 consecutive calendar days. We selected a random sample of 100 SNF claims with payments totaling $779,419. We reviewed Common Working File (CWF) records and medical records submitted by the SNFs and associated hospitals for the sampled claims.

CMS Improperly Paid Millions of Dollars for Skilled Nursing Facility Services When the Medicare 3-Day Inpatient Hospital Stay Requirement Was Not Met

What OIG Found

CMS improperly paid 65 of the 99 SNF claims we sampled when the 3-day rule was not met. Improper payments associated with these 65 claims totaled $481,034. On the basis of our sample results, we estimated that CMS improperly paid $84 million for SNF services that did not meet the 3-day rule during CYs 2013 through 2015.

We attribute the improper payments to the absence of a coordinated notification mechanism among the hospitals, beneficiaries, and SNFs to ensure compliance with the 3-day rule. We noted that hospitals did not always provide correct inpatient stay information to SNFs, and SNFs knowingly or unknowingly reported erroneous hospital stay information on their Medicare claims to meet the 3-day rule. We determined that the SNFs used a combination of inpatient and non-inpatient hospital days to determine whether the 3-day rule was met. In addition, because CMS allowed SNF claims to bypass the CWF qualifying stay edit during our audit period, these SNF claims were not matched with the associated hospital claims that reported inpatient stays of less than 3 days.

What OIG Recommends and CMS Comments

CMS should ensure that the CWF qualifying inpatient hospital stay edit for SNF claims is enabled when SNF claims are processed for payment. In addition, CMS should require hospitals to provide beneficiaries a written notification of the number of inpatient days of care provided during the hospital stay and whether the hospital stay qualifies subsequent SNF care for Medicare reimbursement so that beneficiaries are aware of their potential financial responsibility before consenting to receive SNF services. CMS should require SNFs to obtain a written notification from the hospital and retain it as a condition of payment for their claims. Further, CMS should educate both hospitals and SNFs about verifying and documenting the 3-day inpatient hospital stay relative to supporting a Medicare claim for SNF reimbursement.

CMS concurred with our recommendations concerning the CWF qualifying inpatient hospital stay edit and educating hospitals and SNFs but did not concur with the remaining recommendations related to a coordinated notification mechanism among hospitals, beneficiaries, and SNFs. After reviewing CMS's comments, we maintain that our findings and recommendations are valid. Without a coordinated notification mechanism, CMS will continue to make improper payments when the 3-day rule is not met.