



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



The Honorable Tom Coburn
United States Senate
Washington, DC 20510

Dear Dr. Coburn:

In a January 2013 letter, you requested that the Office of Inspector General (OIG) undertake new work to determine the prevalence of Medicare claims tied to deceased doctors. It asked that OIG analyze Medicare claims for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) to identify any claims with service dates after the ordering/referring physicians' or nonphysician practitioners' dates of death. Hereinafter, we collectively refer to physicians and nonphysician practitioners as physicians. As shown in prior OIG work and Congressional testimony, Medicare claims listing deceased physicians have historically been an issue. This work aligns with our report entitled *Medicare Payments Made on Behalf of Deceased Beneficiaries in 2011*, OEI-04-12-00130.

Since receiving your letter, our office has analyzed Medicare claims for DMEPOS items from 2009 to 2011 to identify those with service dates after ordering/referring physicians' dates of death. The results of this analysis are enclosed. Briefly, we found that a small percentage (less than one-tenth of a percent) of DMEPOS claims listed deceased ordering/referring physicians from 2009 to 2011 and amounted to \$25 million. However, because the filling or refilling of a valid order by a supplier after the ordering/referring physician's death can be appropriate and certain DMEPOS items require an updated order every 12 months, we incorporated a 1-year window to identify claims that raise greater concern. Claims with service dates at least 1 year after ordering/referring physicians' dates of death amounted to \$8.2 million and the number of these claims increased by 34 percent from 2009 to 2011.

If you have any questions or comments, please contact me or your staff may contact Chris Hinkle, Director of Congressional and Regulatory Affairs, at (202) 401-2206 or via email at Christina.Hinkle@oig.hhs.gov.

Sincerely,

Daniel R. Levinson
Inspector General

Enclosure

ENCLOSURE: OIG Response to January 2013 Congressional Request Regarding Medicare Claims for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Listing Deceased Ordering/Referring Physicians, OEI-04-12-00131

SUMMARY

Your office requested that the Department of Health and Human Services Office of Inspector General (OIG) analyze Medicare claims for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) to identify any claims submitted by suppliers with service dates after ordering/referring physicians' or nonphysician practitioners' dates of death. Hereinafter, we collectively refer to physicians and nonphysician practitioners as physicians. The listing of deceased physicians on Medicare claims has historically been an issue, as shown in prior OIG work and Congressional testimony. In total, we identified 277,330 DMEPOS claims with service dates after ordering/referring physicians' dates of death. Claims with service dates after ordering/referring physicians' dates of death represented a small percentage (less than one-tenth of a percent) of all DMEPOS claims from 2009 to 2011 and amounted to \$25 million.

Because the filling or refilling of a valid order by a supplier after the ordering/referring physician's death can be appropriate and certain DMEPOS items require an updated order every 12 months, we incorporated a 1-year window to identify claims that raise greater concern. Claims with service dates at least 1 year after ordering/referring physicians' dates of death amounted to \$8.2 million. The number of these claims increased by 34 percent from 2009 to 2011, a period during which the total number of claims for DMEPOS items increased by 4 percent. The number of suppliers and deceased ordering/referring physicians associated with claims having service dates at least 1 year after ordering/referring physicians' dates of death also increased, as well as the length of time between claims' dates of service and ordering/referring physicians' deaths, from 2009 to 2010. The Centers for Medicare & Medicaid Services (CMS) has created—but not yet implemented—edits that will deny claims with national provider identifiers (NPIs) for ordering/referring physicians that do not meet certain requirements. However, these edits rely on accurate physician-provider-enrollment information. Certain CMS contractors are tasked with ensuring that only qualified physicians, which excludes those who are deceased, are enrolled in Medicare.

BACKGROUND

The listing of deceased physicians on Medicare claims has historically been an issue, as

shown in prior OIG work and Congressional testimony.^{1,2} For example, in 2007, Medicare paid \$5 million for claims with dates of service after the dates of death of referring physicians.^{3,4}

Medicare Coverage of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies

From 2009 to 2011, Medicare paid \$33.9 billion to 110,385 suppliers for DMEPOS items.⁵ DMEPOS items are covered under Medicare Part B and include items such as hospital beds, wheelchairs, respirators, walkers, artificial limbs, and diabetic testing supplies.⁶ Medicare covers DMEPOS items only when they are ordered for a beneficiary by a physician.^{7,8}

Generally, an order is valid until the DMEPOS item is no longer medically necessary, Medicare coverage limits are met, and/or a new order is required. A new order is required in the following situations: “there is a change in the order for the accessory, supply, drug, etc.; on a regular basis (even if there is no change in the order) only if it is so specified in the documentation section of a particular medical policy; when an item is replaced; and when there is a change in the supplier.”⁹ For example, diabetic testing supplies require an updated order from the ordering/referring physician every 12 months.¹⁰ In addition, State law largely governs the circumstances under which

¹ OIG, *Medical Equipment and Supply Claims With Invalid or Inactive Physician Numbers*, OEI-03-01-00110, November 2001. See also OIG, *Medicare Payments in 2007 for Medical Equipment and Supply Claims With Invalid or Inactive Referring Physician Identifiers*, OEI-04-08-00470, February 2009.

² Testimony of Robert Vito, Regional Inspector General for Evaluation and Inspections, OIG, before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate, 110th Cong., July 9, 2008. Accessed at http://oig.hhs.gov/testimony/docs/2008/r_vito_testimony.pdf on April 22, 2013. See also, U.S. Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, *Medicare Vulnerabilities: Payments for Claims Tied to Deceased Doctors*, July 9, 2008. Accessed at <http://www.hsgac.senate.gov/download/psi-report-medicare-claims-tied-to-deceased-doctors> on April 22, 2013.

³ OIG, *Medicare Payments in 2007 for Medical Equipment and Supply Claims With Invalid or Inactive Referring Physician Identifiers*, OEI-04-08-00470, February 2009.

⁴ Medicare payment refers to total Medicare-allowed amounts, which are 100 percent of the payment made to a provider (e.g., physician) by both Medicare and the beneficiary. Medicare pays 80 percent of allowed charges, and the beneficiary is responsible for the remaining 20 percent.

⁵ OIG analysis of 2009-2011 National Claims History DMEPOS Files.

⁶ Social Security Act §§ 1832, 1834, and 1861.

⁷ CMS, *Medicare Program Integrity Manual*, Pub. No. 100-08, ch. 5, § 5.2.1.

⁸ CMS, *Medicare Enrollment Guidelines for Ordering/Referring Providers*, March 2013. Accessed at http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/MedEnroll_OrderReferProv_FactSheet_ICN906223.pdf on April 10, 2013.

⁹ CMS, *Medicare Program Integrity Manual*, Pub. No. 100-08, ch. 5, § 5.2.4.

¹⁰ CMS, *Medicare's Coverage of Diabetes Supplies & Services*, August 2012. Accessed at <http://www.medicare.gov/Pubs/pdf/11022.pdf> on April 11, 2013.

prescriptions or orders can be written and the length of time for which they are valid.¹¹ Thus, depending on State law, the filling or refilling of a valid order by a supplier after the ordering/referring physician's death can be appropriate.

Before submitting a claim for DMEPOS items to Medicare, the supplier must have certain documents on file, including a detailed written order signed and dated by the ordering/referring physician.¹² If the supplier does not have the detailed written order, Medicare will deny the claim.¹³ For DMEPOS items that are supplied as refills to an original order, the supplier must contact the beneficiary prior to dispensing the refill.¹⁴ This contact ensures that the refilled item remains reasonable and necessary.¹⁵

Requirements for Ordering/Referring Physicians

Generally, to order and refer services and items, physicians must (1) be enrolled in Medicare; (2) have an individual, nonorganizational NPI; and (3) be of a specialty type that is eligible to order and refer. CMS has created edits that will deny claims with NPIs for ordering/referring physicians that do not meet these three requirements; however, in April 2013, CMS announced that the implementation of these edits was temporarily delayed due to technical issues.¹⁶ As of October 2013, CMS had not announced a new implementation date for these edits. Upon activation of these edits, services and items requiring an ordering/referring physician will not be paid by Medicare if the physician's NPI is not listed on the claim or, if listed, any of the three requirements is not met.

CMS Oversight of Physician Enrollment

CMS relies on its contractors to ensure that only qualified physicians are enrolled in Medicare.¹⁷ These contractors are required to review State licensing board information for each State within their jurisdictions on a monthly basis to determine whether any of their currently enrolled physicians have, within the previous 60 days, had their medical licenses revoked, suspended, or inactivated (because of retirement, death, or voluntary surrender of license) or otherwise lost their medical licenses or have had their licenses expire.¹⁸ Contractors must revoke individual billing privileges for physicians who no longer have valid medical licenses.

¹¹ For example, a Medicare claims processing contractor states that a new order for DMEPOS items is needed when State law requires a prescription renewal. CGS Administrators, LLC., *Jurisdiction C Supplier Manual*, ch. 3, p. 16 (Apr. 1, 2013). Accessed at <http://www.cgsmedicare.com/jc/pubs/pdf/Chpt3.pdf> on June 14, 2013.

¹² CMS, *Medicare Program Integrity Manual*, Pub. No. 100-08, ch. 5, § 5.2.

¹³ CMS, *Medicare Enrollment Guidelines for Ordering/Referring Providers*, March 2013.

¹⁴ CMS, *Medicare Program Integrity Manual*, Pub. No. 100-08, ch. 5, § 5.2.6.

¹⁵ *Ibid.*

¹⁶ CMS, *Medicare Learning Network Matters Number: SE1305*, April 2013. Accessed at <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/SE1305.pdf> on October 23, 2013.

¹⁷ Contractors that process enrollment include carriers, fiscal intermediaries, Medicare Administrative Contractors, and National Supplier Clearinghouse Medicare Administrative Contractors.

¹⁸ CMS, *Medicare Program Integrity Manual*, Pub. No. 100-08, ch. 15, §§ 15.7.5.1. and 15.7.5.1.A.

METHODOLOGY

Using the National Plan and Provider Enumeration System, we identified physicians and their individual NPIs. We determined whether these physicians were deceased using the Social Security Administration's Death Master File.¹⁹ We then analyzed CMS's National Claims History DMEPOS Standard Analytical File from 2009 to 2011. We identified claims submitted by suppliers with beginning dates of service (i.e., service dates) after ordering/referring physicians' dates of death. We limited our analysis to claims with payment amounts greater than zero.

We then determined how long physicians had been deceased before the service dates on the claims. Because the filling or refilling of a valid order by a supplier after the ordering/referring physician's death can be appropriate and certain DMEPOS items require an updated order every 12 months, we incorporated a 1-year window to identify claims that raise greater concern (i.e., those submitted by suppliers with service dates at least 1 year after the deaths of the ordering/referring physicians). We determined the number of suppliers, the number of ordering/referring physicians, and the Medicare payments associated with these claims by year and overall. We also determined the average length of time between service dates on the claims and ordering/referring physicians' dates of death. Additionally, we analyzed claims with service dates at least 1 year after ordering/referring physicians' dates of death by procedure code.²⁰

RESULTS

A small percentage of DMEPOS claims listed deceased ordering/referring physicians from 2009 to 2011. Claims with service dates after ordering/referring physicians' dates of death represented a small percentage (less than one-tenth of a percent) of all DMEPOS claims from 2009 to 2011. In total, we identified 277,330 claims with service dates after ordering/referring physicians' dates of death. Medicare paid \$25 million for these claims. Of these claims, 97,212 had service dates at least 1 year after ordering/referring physicians' dates of death and amounted to \$8.2 million. The number of claims with service dates at least 1 year after ordering/referring physicians' dates of death increased by 34 percent from 2009 to 2011. Further, Medicare payments associated with these claims increased by 47 percent from 2009 to 2011. In comparison, the total number of claims and Medicare payments for DMEPOS items increased by 4 percent and 1 percent, respectively, from 2009 to 2011. The average number of days between the service dates on these claims and ordering/referring physicians' dates of death increased by 26 percent.

From 2009 to 2011, Medicare paid \$8.2 million for DMEPOS claims with service dates at least 1 year after ordering/referring physicians' deaths. Medicare paid \$8.2 million to 4,539 suppliers for 97,212 DMEPOS claims with service dates at least 1 year after ordering/referring physicians' dates of death. Overall, Medicare payments and the

¹⁹ The Social Security Administration records death information in its Numerical Identification (i.e., Numident) System, which is used to create a national record of death information called the Death Master File.

²⁰ Procedure codes for DMEPOS items are alpha-numeric codes that are primarily used to identify products, supplies, and services when used outside a physician's office.

number of claims with service dates at least 1 year after ordering/referring physicians' dates of death, as well as the number of suppliers and deceased ordering/referring physicians associated with these claims, increased from 2009 to 2011. Table 1 shows information on claims with service dates at least 1 year after ordering/referring physicians' dates of death by year.

Table 1: DMEPOS Claims With Service Dates At Least 1 Year after the Ordering/Referring Physicians' Dates of Death, 2009-2011

Year of Claim	Medicare Payments	Number of Claims	Number of Suppliers	Number of Deceased Ordering/Referring Physicians	Average Day Count Between Ordering/Referring Physicians' Dates of Death and Service Dates
2009	\$2,191,810	27,136	2,234	1,022	642
2010	\$2,798,840	33,585	2,651	1,427	725
2011	\$3,212,048	36,491	2,880	1,750	810
Total	\$8,202,698	97,212	4,539*	2,261*	734

*Column sum exceeds total because suppliers and ordering/referring physicians were associated with claims from multiple years.
Source: OIG analysis of DMEPOS claims, 2013.

Suppliers had an average of 21 claims listing deceased ordering/referring physicians during the 3-year period. Four suppliers were paid for over 1,000 claims with service dates at least 1 year after ordering/referring physicians' dates of death. One supplier had 6,774 claims—the most of any supplier—for which Medicare paid a total of \$381,905.

On average, less than 1 percent of suppliers' claims listed deceased ordering/referring physicians. However, 75 percent of claims submitted by 1 supplier from 2009 to 2011 had service dates at least 1 year after ordering/referring physicians' dates of death. Medicare paid \$55,000 for this supplier's claims, representing 88 percent of this supplier's total Medicare payments from 2009 to 2011.

From 2009 to 2011, we identified 2,261 deceased ordering/referring physicians on claims submitted by suppliers at least 1 year after their dates of death. The number of deceased physicians increased by 71 percent, from 1,022 in 2009 to 1,750 in 2011. On average, deceased ordering/referring physicians were listed on 43 claims. Six deceased ordering/referring physicians were each listed on 600 or more DMEPOS claims at least 1 year after their deaths. From 2009 to 2011, 1 deceased ordering/referring physician was listed by 26 different suppliers on 778 claims, amounting to \$61,598 in Medicare payments.

The average number of days between ordering/referring physicians' dates of death and the service dates on the submitted claims also increased from 642 days in 2009 to 810 days in 2011. Table 2 shows the number of claims by length of time between the ordering/referring physicians' dates of death and the service dates on the submitted claims. Although most claims had service dates between 1 and 2 years after ordering/referring physicians' dates of death, 3,520 claims had service dates more than 4 years after physicians' dates of death.

Table 2: DMEPOS Claims by Length of Time Between Ordering/Referring Physicians' Dates of Death and Service Dates on Claims Submitted by Suppliers, 2009-2011

Year of Claim	1-2 Years	2-3 Years	3-4 Years	More Than 4 Years
2009	19,048	6,996	1,067	25
2010	19,878	9,208	3,885	614
2011	19,206	9,588	4,816	2,881
Total	58,132	25,792	9,768	3,520

Source: OIG analysis of DMEPOS claims, 2013.

Diabetic testing supplies and certain respiratory equipment accounted for approximately 50 percent of DMEPOS claims with service dates at least 1 year after ordering/referring physicians' deaths. Approximately 50 percent of DMEPOS claims submitted by suppliers with service dates at least 1 year after ordering/referring physicians' dates of death were for diabetic testing supplies and certain respiratory equipment. Diabetic testing supplies (e.g., blood glucose testing strips, lancets) accounted for nearly 26 percent of submitted claims listing deceased ordering/referring physicians. Certain respiratory equipment (e.g., oxygen concentrators, nebulizers) accounted for about 25 percent of submitted claims listing deceased ordering/referring physicians.

Table 3: Procedure Codes of DMEPOS Claims With Service Dates At Least 1 Year After Ordering/Referring Physicians' Dates of Death, 2009-2011

Procedure Code	Description	Number of Claims	Percentage of Claims
Diabetic Testing Supplies			
A4253	Blood glucose test or reagent strips for home glucose monitor, per 50 strip	10,778	11.1%
A4259	Lancets, per box 100	7,310	7.5%
A4256	Normal, low, and high calibrator solution/ chips	4,677	4.8%
A4258	Spring-powered device for lancet, each	2,315	2.4%
Subtotal		25,080	25.8%
Certain Respiratory Equipment			
E1390	Oxygen concentrator, single delivery port	8,849	9.1%
E0570	Nebulizer with compressor	4,885	5.0%
E0443	Portable oxygen contents, gaseous, 1 month's supply	4,740	4.9%
E0431	Portable gaseous oxygen system rental	4,422	4.6%
E0601	Continuous positive airway pressure (CPAP) device	1,669	1.7%
Subtotal		24,565	25.3%
Total		49,645	51.1%

Source: OIG analysis of DMEPOS claims, 2013.

CONCLUSION

We analyzed Medicare claims for DMEPOS items from 2009 to 2011 to identify claims submitted by suppliers with service dates after ordering/referring physicians' dates of death. In total, we identified 277,330 DMEPOS claims with service dates after ordering/referring physicians' dates of death. These claims represented a small percentage (less than one-tenth of a percent) of all DMEPOS claims from 2009 to 2011 and amounted to \$25 million. Of these claims, 97,212 had service dates at least 1 year

after ordering/referring physicians' dates of death and amounted to \$8.2 million. The number of claims with service dates at least 1 year after ordering/referring physicians' dates of death, the number of suppliers and deceased ordering/referring physicians associated with these claims, and Medicare payments all increased from 2009 to 2011. The increase in claims with service dates at least 1 year after ordering/referring physicians' dates of death, relative to the increase in all DMEPOS claims, indicates potential vulnerabilities to the Medicare program. The length of time between these claims' dates of service and ordering/referring physicians' deaths also increased. CMS has created—but not yet implemented—edits that will deny claims with NPIs for ordering/referring physicians that do not meet requirements. However, these edits rely on accurate physician enrollment information. Certain CMS contractors are tasked with ensuring that only qualified physicians, which excludes those who are deceased, are enrolled in Medicare. Additionally, we will refer information on certain suppliers and the NPIs of certain deceased physicians described in this memorandum for appropriate followup.