



APR 08 2010

TO: Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services

FROM: Stuart Wright /S/
Deputy Inspector General
for Evaluation and Inspections

SUBJECT: Memorandum Report: *Medicare Payments for Medical Equipment and Supply Claims With Identical Referring Physician and Supplier National Provider Identifiers*, OEI-04-10-00110

This memorandum report provides information on Medicare payments for medical equipment and supply claims with identical national provider identifiers (NPI) for the referring physician and the supplier that provided the equipment or supplies.¹ The Centers for Medicare & Medicaid Services (CMS) began requiring suppliers to include NPIs for the supplier and the referring physician on Medicare claims on May 23, 2008.² However, CMS instituted a temporary provision allowing suppliers to use their own NPIs in the field required for the referring physician NPI if they cannot obtain it.^{3, 4} We identified payments for claims for which suppliers used their own NPIs in place of the referring physician NPI from the date the requirement went into effect (May 23, 2008) through September 30, 2009. This review is a followup to a February 2009 Office of Inspector General (OIG) report that noted that the temporary provision represents a claims-processing vulnerability and recommended that CMS determine the earliest date to end

¹ The referring physician is the person who ordered the medical equipment and/or supplies. "Referring physician" includes any practitioner who is eligible to order medical equipment and supplies for Medicare beneficiaries, including physician assistants and nurse practitioners.

² According to the final rule at 69 Fed. Reg. 3434 (Jan. 23, 2004), May 23, 2007, is the compliance deadline. However, CMS issued guidance stating that, through May 23, 2008, CMS will not impose penalties on covered entities, including suppliers, if they act in good faith to come into compliance and implement contingency plans. CMS Release, *Guidance on Compliance with HIPAA National Provider Identifier (NPI) Rule After the May 23, 2007, Implementation Deadline*, April 2, 2007.

³ CMS, *Medicare Program Integrity Manual*, ch. 14, § 14.5. Accessed at <http://www.cms.hhs.gov/manuals/downloads/pim83c14.pdf> on February 11, 2010.

⁴ CMS, *The NPI is here. The NPI is now. Are you using it?* June 2, 2008. Accessed at <http://www.cms.hhs.gov/NationalProvIdentStand/Downloads/6-June08Message.pdf> on June 24, 2008.

the provision while maintaining beneficiary access to services.⁵ On January 3, 2011, CMS intends to implement changes to its claims-processing system that will end the temporary provision.⁶ However, the implementation date of these changes has been postponed twice.⁷ As of April 2010, nearly 2 years after the temporary provision was effective, suppliers are still able to submit claims without the referring physician's NPI.⁸

Medicare pays for medical equipment and supplies only when the items are ordered by eligible physicians and meet coverage requirements. However, as a result of CMS's temporary provision, we found that Medicare paid a total of \$87 million for medical equipment and supply claims with identical referring physician and supplier NPIs over approximately 16 months. Although these payments were permissible under the temporary provision, they represent a potential vulnerability because CMS's claims-processing systems did not verify that the equipment and/or supplies associated with these payments were ordered by an eligible physician as required.

Medicare payments for medical equipment and supply claims with identical referring physician and supplier NPIs were concentrated in certain Healthcare Common Procedure Coding System (HCPCS) and geographic locations. Ten HCPCS codes accounted for half of the \$87 million that we identified, although Medicare paid for this type of claim under approximately 1,200 HCPCS codes during the period of our review. We also found that 10 counties represented 19 percent of the Medicare payments that we identified nationwide. In contrast, these 10 counties represented only 9 percent of Medicare payments for all medical equipment and supplies provided during the period of our review. Three of the 10 counties are among the 7 areas that the Health Care Fraud Prevention and Enforcement Action Team (HEAT) has identified as areas of significant Medicare fraud.

Additionally, 26 percent of suppliers that received Medicare payments for claims with identical referring physician and supplier NPIs were paid by Medicare for this type of claim almost exclusively. These suppliers accounted for almost half (48 percent) of the Medicare payments we identified. Fourteen percent of suppliers that received Medicare payments for claims with identical referring physician and supplier NPIs submitted this type of claim in all six quarters we

⁵ Department of Health & Human Services (HHS) OIG, *Medicare Payments in 2007 for Medical Equipment and Supply Claims With Invalid or Inactive Referring Physician Identifiers*, OEI-04-08-00470, February 2009. Although that report focused on claims submitted in 2007, it discussed the transition to NPIs, including the May 2008 provision allowing suppliers to use their own NPIs.

⁶ CMS, *Transmittal 643, Change Request 6421*, February 26, 2010.

⁷ CMS, *Active Physician Regulatory Issues Team (PRIT) Issues, CR 6421, Orders for Medicare Services by Physicians Not Enrolled in PECOS*, Sept. 28, 2009, modified Feb. 23, 2010. Accessed at <https://www.cms.hhs.gov/PRIT/> on March 11, 2010. The implementation was originally planned for January 4, 2010, but was postponed until April 5, 2010, and again until the currently planned date, January 3, 2011.

⁸ *Ibid.* Testimony of Herb B. Kuhn, CMS Deputy Administrator, on Medicare Payments for Claims With Identification Numbers of Dead Doctors Before the Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations, July 9, 2008. Mr. Kuhn stated that suppliers would be allowed to use their own NPIs for a short period of time, but did not indicate a date the provision would be revoked.

reviewed. These suppliers accounted for more than half (53 percent) of the Medicare payments we identified. Medicare payments for claims with identical referring physician and supplier NPIs declined over the first 7 months the temporary provision was effective, but generally increased thereafter.

BACKGROUND

Medicare beneficiaries are eligible to receive medical equipment and supplies deemed medically necessary by a physician under Medicare Part B coverage. From the date suppliers were required to include their NPIs (May 23, 2008) through September 30, 2009, Medicare paid \$15 billion for all medical equipment and supply claims.

HEAT Initiative and Strike Force Cities

In May 2009, HHS and the Department of Justice (DOJ) created HEAT to fight fraud, waste, and abuse in Medicare. The HEAT initiative includes Strike Force Teams operating in cities with significant Medicare fraud. The Strike Force Teams focus on fraudulent activities by medical equipment suppliers and other health care providers in cities including Miami, Los Angeles, Houston, and Detroit. Types of fraud committed by these suppliers include billing for medical equipment and supplies that were not provided or were medically unnecessary and falsifying physician orders for medical equipment.⁹

Medicare Claims Processing and Provider Identifiers

Medical equipment suppliers are reimbursed for items that they provide to Medicare beneficiaries by submitting claims to the CMS contractors servicing their geographic areas. Historically, suppliers and other providers identified themselves on claims using a legacy provider identification number.^{10, 11} Medicare also required suppliers to provide the UPIN of the referring physician on claims.¹² Medicare payments for medical equipment and supplies are authorized only when the items are ordered by eligible physicians and meet coverage requirements.

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996 required the adoption of a standard unique health identifier, and CMS adopted the NPI as this new standard.¹³ Physicians and suppliers were required to apply

⁹ Ibid.

¹⁰ CMS, *MLN Matters Number MM4023*. Accessed at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/mm4023.pdf> on March 12, 2010.

¹¹ Legacy provider identification numbers include a variety of system identifiers including Online Survey Certification and Reporting system numbers, National Supplier Clearinghouse (NSC) numbers, Provider Identification Numbers, and Unique Physician Identification Numbers (UPIN).

¹² CMS, *Medicare Program Integrity Manual*, ch. 14, §§ 14.6 and 14.6.1 (prior to Transmittal 263, Change Request 6036 (July 25, 2008)).

¹³ 69 Fed. Reg. 3434 (Jan. 23, 2004).

for NPIs from CMS to bill Medicare. CMS began to issue NPIs in May 2005 and began accepting them on claims in January 2006.¹⁴

As of May 23, 2008, CMS requires suppliers to exclusively use NPIs on Medicare claims.¹⁵ In addition to their own NPIs, suppliers are required to provide the NPI of the referring physician. Some types of medical equipment and supplies may be provided by the referring physician. In these instances, the referring physician and supplier NPIs may be identical on the claim. However, CMS has stated that these instances are rare.¹⁶ Additionally, CMS's claims-processing systems do not identify such cases.

When these requirements went into effect on May 23, 2008, CMS noted that a large number of claims were rejected because suppliers had not submitted the referring physicians' NPIs. In response, CMS instituted a temporary provision that allows suppliers to use their own NPIs if, after reasonable effort, they cannot obtain the referring physicians' NPI.^{17, 18}

Provider identifiers are valuable program integrity safeguards. Medicare relies on physicians and other health care providers to ensure that beneficiaries receive medically necessary medical equipment and/or supplies. By including the referring physician NPI on a claim, the supplier indicates that a physician has ordered the equipment and/or supplies for the beneficiary. The referring physician NPI also enables CMS to determine who ordered the equipment and/or supplies as part of any payment reviews and investigations. The success of these program integrity activities may be limited without a referring physician NPI.

CMS plans to implement claims-processing system changes to require medical equipment suppliers to bill for items or services only when they are ordered by an eligible physician who is enrolled in Medicare.¹⁹ As part of these claims-processing changes, CMS will end the temporary provision allowing suppliers to enter their own NPI into the referring physician field if the supplier is unable to obtain the referring physician NPIs. On January 3, 2011, CMS intends to implement changes to its claims-processing system that will end the temporary provision.²⁰

¹⁴ CMS, *MLN Matters Number MM4023*, loc. cit. From January 3 through October 1, 2006, CMS accepted NPIs but also required an existing legacy Medicare number. Beginning October 2, 2006, CMS accepted an NPI and/or an existing legacy Medicare number.

¹⁵ CMS, *MLN Matters Number MM5595*, April 24, 2007.

¹⁶ CMS stated that “[t]here are few, if any, situations in which a referring physician would personally furnish DME and supplies to a patient, because doing so would require that the physician himself or herself be enrolled in Medicare as a DME supplier and personally perform all of the duties of a supplier as set forth in the supplier standards....” 72 Fed. Reg. 51012, 51019 (Sep. 5, 2007).

¹⁷ CMS, *The NPI is here. The NPI is now. Are you using it?*, loc. cit.

¹⁸ CMS, *Medicare Program Integrity Manual*, ch. 14, § 14.5. Accessed at <http://www.cms.hhs.gov/manuals/downloads/pim83c14.pdf> on February 11, 2010.

¹⁹ CMS, *Transmittal 643, Change Request 6421*, loc. cit.

²⁰ *Ibid.*

Related Office of Inspector General Work

OIG found that Medicare paid over \$34 million in 2007 for claims for medical equipment and supplies that had either invalid or inactive referring physician identifiers.²¹ OIG recommended that CMS determine the earliest date to end the temporary provision that allows suppliers to submit claims without referring physicians' NPIs while maintaining beneficiary access to services. CMS did not specifically address this recommendation in its comments on the report.

METHODOLOGY

Scope

We determined the extent to which Medicare paid medical equipment and supply claims received between May 23, 2008, and September 30, 2009, with identical referring physician and supplier NPIs.

Data Collection and Analysis

We obtained 100 percent of medical equipment and supply claims that CMS received from May 23, 2008, through September 30, 2009, from CMS's National Claims History File. We also used the National Claims History File to identify claims for all medical equipment and supplies during the period of our review for our analysis of geographic location and supplier payments.

We identified all claims that had the same NPI in both the supplier and referring physician fields. We calculated the total Medicare payments for the identified claims and determined the 10 HCPCS codes with the highest Medicare payments for these claims.²² We also analyzed monthly trends in these payments during our review period.

We identified the 10 counties, based on supplier location, with the highest payments for the identified claims. We used the NSC database to identify suppliers' ZIP Codes. Next, we matched the suppliers' ZIP Codes to the corresponding counties using SAS computer software. We also calculated Medicare payments for all medical equipment and supply claims in these counties. We then compared the percentage of identified payments to the percentage of all medical equipment and supply payments in these counties.

We identified the suppliers that received the highest payments for these claims. We also determined how frequently suppliers were paid for claims with identical referring physician and supplier NPIs.²³ Finally, we compared suppliers' payments for the identified claims to the Medicare payments that they received for all medical equipment and supply claims during the

²¹ OEI-04-08-00470, loc. cit.

²² By "Medicare payment," we refer to the Medicare-allowed amount. Medicare reimburses the supplier 80 percent of the allowed amount and the beneficiary is responsible for paying the remaining 20 percent.

²³ We divided the period under review (May 23, 2008, to September 30, 2009) into six periods. The first began May 23, 2008, and ended August 31, 2008. The next four periods occurred in the subsequent, consecutive 3-month increments from September 1, 2008, to August 31, 2009. The final period was September 1 to September 30, 2009. We refer to these periods as quarters.

review period. For these supplier-level analyses, we removed claims for which no identifying information for the suppliers was available.²⁴

Limitations

We did not determine whether the supplier may also have been the referring physician for any of the claims we identified with identical referring physician and supplier NPIs.

Standards

This inspection was conducted in accordance with the *Quality Standards for Inspections* approved by the Council of the Inspectors General on Integrity and Efficiency.

RESULTS

Medicare paid \$87 million for medical equipment and supply claims with identical referring physician and supplier NPIs between May 23, 2008, and September 30, 2009

Of the \$87 million Medicare paid for these claims, half (\$43 million) corresponds to 10 of the approximately 1,200 HCPCS codes under which Medicare paid for this type of claim during the period of our review. Table 1, on the following page, presents these 10 HCPCS codes and the corresponding Medicare payments, as well as each code's percentage of all payments for claims with identical referring physician and supplier NPIs during the period of our review.

²⁴ Suppliers of the claims we removed (1) used a generic NPI placeholder (999999992) and (2) were not in the National Supplier Clearinghouse database. Medicare paid \$3.4 million for the removed claims.

Table 1: Top 10 HCPCS Codes for Medicare Payments With Identical Referring Physician and Supplier NPIs

HCPCS Code	Description	Medicare Payments With Identical Referring Physician and Supplier NPIs	Percentage of Total Medicare Payments With Identical Referring Physician and Supplier NPIs*
E1390	Oxygen concentrator	\$8,853,321	10%
A5500	Diabetic shoe insert including fitting and custom preparation	\$8,010,672	9%
A5512	Diabetic shoe insert (prefabricated) molded for total contact with foot	\$5,980,864	7%
A5513	Diabetic shoe insert (custom fabricated) molded for total contact with foot	\$4,923,674	6%
V2020	Frame purchase for vision lenses	\$3,727,351	4%
K0823	Standard power wheelchair with captain's chair	\$3,427,307	4%
V2203	Spherocylinder bifocals for vision lenses	\$2,954,644	3%
L4360	Pneumatic, prefabricated walking boot	\$2,115,382	2%
V2200	Sphere bifocals for vision lenses	\$1,597,861	2%
L8030	Breast prosthesis, silicone or equal	\$1,498,309	2%
Total		\$43,089,385	50%

* Column does not sum to total because of rounding.

Source: 100 percent of medical equipment and supply claims from the National Claims History File from May 23, 2008, through September 30, 2009.

Oxygen concentrators (E1390) accounted for the greatest percentage of payments for claims with identical referring physician and supplier NPIs (10 percent). Diabetic shoe inserts (HCPCS codes A5500, A5512, and A5513) accounted for 22 percent of payments for claims with identical referring physician and supplier NPIs. Vision lenses (HCPCS codes V2020, V2203, and V2200) accounted for 9 percent of payments for these claims.

The highest amount a supplier received for claims with identical referring physician and supplier NPIs was \$1.6 million and the average was \$6,358. Nine suppliers, none of which appears to be a large, chain-based supplier, received over \$500,000 each. The supplier with the third-highest Medicare payments for claims with identical referring physician and supplier NPIs (\$853,000) was indicted for allegedly conspiring, from March 2007 through March 2009, to submit approximately \$3.9 million in false claims to Medicare for medical equipment and supplies, including power wheelchairs, wheelchair accessories, and motorized scooters.²⁵ This supplier is alleged to have billed Medicare for power wheelchairs and accessories for beneficiaries who did not need them.

²⁵ Medicare Fraud Strike Force, *Case Summaries for Indictments Unsealed on July 29, 2009*. Accessed at <http://www.stopmedicarefraud.gov/casesummaries072909.pdf> on December 31, 2009.

Ten counties represented 19 percent of Medicare payments for medical equipment and supply claims with identical referring physician and supplier NPIs

Ten counties represented 19 percent of the Medicare payments that we identified nationwide. In contrast, these 10 counties represented only 9 percent of Medicare payments for all medical equipment and supplies provided during the period of our review. Medicare paid over \$850,000 in each of these counties for medical equipment and supply claims with identical referring physician and supplier NPIs.

Three of the 10 counties include cities that HEAT has identified as areas of significant Medicare fraud and in which Strike Force Teams have been set up to combat fraud (Los Angeles, Houston, and Detroit). Los Angeles County accounted for 6 percent of these payments during our review period, but less than 3 percent of all medical equipment payments.

Twenty-six percent of suppliers that received Medicare payments for claims with identical referring physician and supplier NPIs were paid by Medicare for this type of claim almost exclusively

Over 13,000 suppliers were paid for at least one claim with identical referring physician and supplier NPIs during the period of our review. Twenty-six percent (over 3,500) of these suppliers were paid for this type of claim at least 95 percent of the time. That is, less than 5 percent of the claims for which Medicare paid these suppliers had referring physician NPIs that differed from the supplier NPIs. These suppliers accounted for 48 percent (\$40 million) of all Medicare payments for claims with identical referring physician and supplier NPIs during the period of our review.

Of the nine suppliers that received over \$500,000 each for claims with identical referring physician and supplier NPIs, five were paid for this type of claim at least 99 percent of the time. Medicare payments to these five suppliers totaled over \$5 million. Overall, 60 percent of all Medicare payments received by the top nine suppliers were for claims with identical referring physician and supplier NPIs.

Fourteen percent of suppliers that received Medicare payments for claims with identical referring physician and supplier NPIs were paid for this type of claim in all six quarters we reviewed

Fourteen percent of suppliers were paid for claims with identical referring physician and supplier NPIs at least once in each of the six quarters from the date the temporary provision was effective, through September 2009.²⁶ These suppliers accounted for 53 percent (\$44 million) of all Medicare payments for this type of claim during the period of our review.

Approximately 41 percent of suppliers that received Medicare payments for claims with identical referring physician and supplier NPIs were paid for this type of claim in at least three of the six

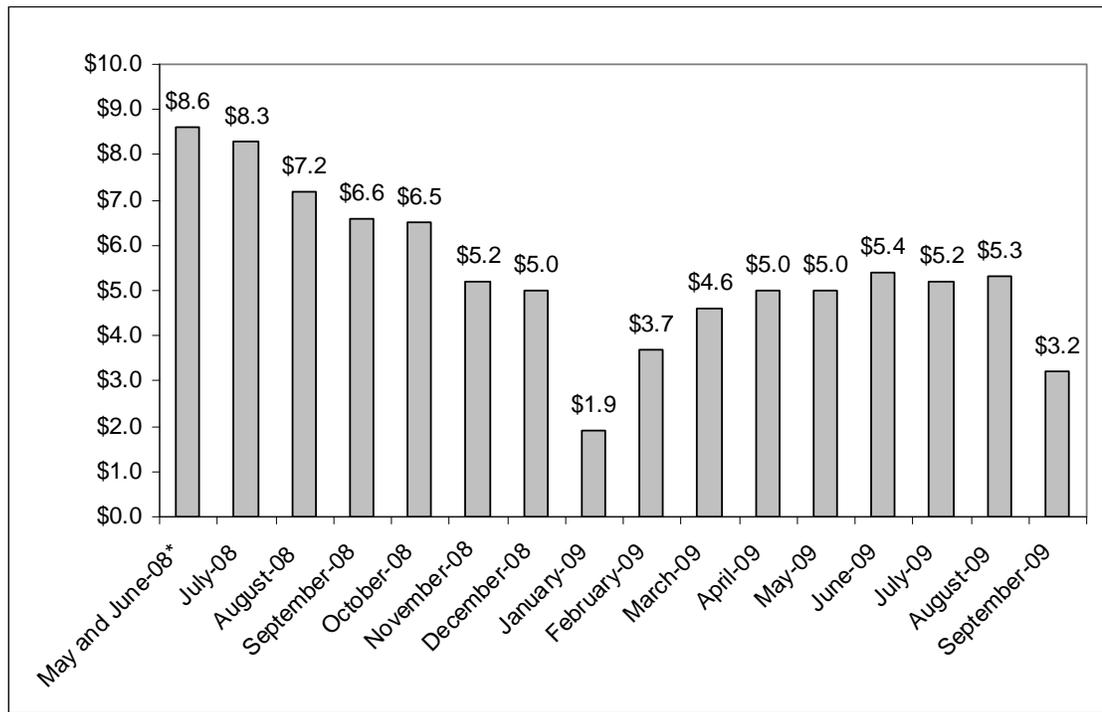
²⁶ The sixth quarter is shorter (September 1 to September 30, 2009) than the first five complete quarters.

quarters we reviewed. These suppliers accounted for 90 percent (\$75 million) of all Medicare payments for this type of claim during the period of our review.

Medicare payments for claims with identical referring physician and supplier NPIs declined over the first 7 months the temporary provision was effective, but generally increased thereafter

Figure 1 presents the monthly distribution of Medicare payments for equipment and supply claims with identical referring physician and supplier NPIs.

Figure 1:
Medicare Payments from May 23, 2008, through September 30, 2009, for Medical Equipment and Supply Claims With Identical Referring Physician and Supplier NPIs (in millions)



* May 23, 2008, through June 30, 2008.

Source: 100 percent of medical equipment and supply claims from the National Claims History File from May 23, 2008, through September 30, 2009.

Medicare payments for this type of claim declined from the time the temporary provision was effective until January 2009. However, payments generally increased thereafter until September 2009.²⁷ Overall, except for January and September 2009, Medicare paid at least \$3.7 million each month for claims with identical referring physician and supplier NPIs. In May 2009, a year after the provision went into effect, Medicare paid \$5 million for this type of claim.

²⁷ The final date to submit claims for medical equipment and supplies that were provided during our review period is September 30, 2010. We analyzed claims CMS had processed as of November 2009. Therefore, the population of claims we analyzed may not include all medical equipment and supplies provided during the period of our review.

CONCLUSION

This review is a followup to a February 2009 OIG report in which we noted that the temporary provision to allow suppliers to use their own NPIs in place of the referring physician's NPI represents a claims-processing vulnerability.²⁸ We recommended in that report that CMS determine the earliest date to end the temporary provision while maintaining beneficiary access to services. Although CMS intends to end the temporary provision in January 2011, the implementation date of these changes has been postponed twice. As of April 2010, nearly 2 years after the temporary provision was effective, suppliers are still able to submit claims without the referring physician's NPI. The \$87 million that Medicare paid for medical equipment and supply claims with identical referring physician and supplier NPIs was permissible under this temporary provision. However, CMS's claims-processing systems did not verify that the equipment and/or supplies associated with these payments were ordered by an eligible physician, including whether the referring physicians may have supplied the medical equipment. Therefore, we continue to believe that the provision is a program vulnerability and that CMS should end it at the earliest date possible while maintaining beneficiary access to services. We will forward information on suppliers that submitted claims with identical referring physician and supplier NPIs to CMS under separate cover.

This report is being issued directly in final form because it contains no recommendations. If you have comments or questions about this report, please provide them within 60 days. Please refer to report number OEI-04-10-00110 in all correspondence.

²⁸ OEI-04-08-00470, loc. cit.