

ACA Responds to OIG Report

EMPHASIZES THE PROGRESS MADE BY THE PROFESSION.

Dynamic Chiropractic Staff

On the heels of the release of the fifth [Office of Inspector General](#) (OIG) review of chiropractic claims submitted to [Medicare](#), which determined that Medicare inappropriately paid \$178 million for chiropractic claims in 2006 and that many claims contained errors including billing for maintenance therapy, coding errors, documentation errors and insufficient documentation of treatment, the [American Chiropractic Association](#) (ACA) has issued an official response to the May 2009 report.

In a June 9 response authored by Christine Goertz, DC, PhD, Susan McClelland and Jaime Mulligan, the ACA concludes that the latest OIG report "fails to provide the information necessary to evaluate the appropriateness of the claims review methodology they used to arrive at key conclusions regarding the level of inappropriate Medicare payments to doctors of chiropractic" and that "the window of time between the release of the [2005 OIG report](#) and the initiation of data collection in 2006 for this report did not allow sufficient time for meaningful changes to occur within the chiropractic profession, and that it is too soon to conclude that effort to stop Medicare payments for maintenance care have been unsuccessful," as was noted in the 2009 report.

As reported in [DC](#) following release of the 2005 report, the ACA and other chiropractic organizations took immediate action to address documentation issues within the profession; the ACA believes "significant progress has been made since that time." The association supports that belief in its response, making two specific observations regarding Medicare documentation by chiropractors in recent years: "1) the documentation error rate identified in the 2009 OIG Report was significantly lower than that presented in the 2005 Report and 2) CMS CERT Reports saw a drop in overall error rates from 16 percent in 2006 to 11 percent in 2007 for chiropractic services."

The ACA also comments on each of the four major findings in [the 2009 report](#) - that Medicare inappropriately paid \$178 million for chiropractic claims in 2006 (approximately 47 percent of all allowed chiropractic claims meeting study criteria); that efforts to stop payments for maintenance therapy have been largely ineffective; that claims data lack information to identify maintenance therapy; and that overall, chiropractors "often" do not comply with Medicare documentation requirements. Select comments from the ACA response regarding these four points include the following:

"It is important to note that the OIG restricted data collection to those episodes of chiropractic care that resulted in claims for more than 12 visits by the same doctor of chiropractic. This is a subpopulation of chiropractic claims they have previously identified as significantly more likely to meet their definition of maintenance care."

"[The ACA] feels it is too soon to assess whether or not efforts to stop payments for maintenance therapy have been effective. First, the use of the AT modifier was not widely implemented until 2005, only one year before the data provided in this report was collected. It is unclear if adequate training

occurred during this early implementation period. Second, because of the lack of information provided in the Report regarding claims review protocols, it is unclear to what extent the OIG findings are based on actual claims paid for maintenance care versus active care that was insufficiently documented."

"[We] disagree that claims data lack information to identify maintenance therapy. We believe that the AT modifier is the appropriate tool to use for this purpose. Gaps in appropriate use of the AT modifier identified in the Report can be attributed to 1) an understandable learning curve for the chiropractic profession in learning to use the AT modifier correctly from 2005 to 2006; and 2) documentation errors, which continue to be seriously addressed by the profession. It is also important to note the OIG Report states that, in order to identify active/corrective treatment and thereby distinguish it from maintenance therapy, it is useful to identify the start of a new treatment episode. However, claims data do not indicate when an episode begins. This information is already required in box 14 of the CMS claims form completed by doctors of chiropractic."

In responding to the OIG's fourth finding, that DCs fail to comply with Medicare documentation requirements, the ACA made clear the efforts [it and other chiropractic organizations have made](#) to address documentation deficiencies, and reiterated that the 2006 study period did not allow a sufficient window of time for positive changes to be reflected:

"The OIG Report released in June 2005 found that nearly 95% of chiropractic claims reviewed contained documentation errors. The response of the chiropractic profession, including the American Chiropractic Association (ACA), was immediate. A Task Force on this issue was formed as a collaborative effort between the ACA, the Association of Chiropractic Colleges (ACC), the Federation of Chiropractic Licensing Boards (FCLB) and the Congress of Chiropractic State Associations (COCSA). The ACA created a documentation manual and made it available to the profession, at cost, for two years. A webinar was created and made available to the profession at no charge and documentation standards were added to the ACA web site, which is also open to the profession.

"The ACC tightened up documentation standards requirements in chiropractic educational institutions, emphasizing Medicare requirements, and also distributed Medicare education articles. The FCLB encouraged member boards to require hours in documentation for re-licensure, and COCSA encouraged member associations to emphasize Medicare and documentation educational seminars. In addition, all four organizations met with CMS to discuss documentation requirements and attended a presentation by CMS contractors regarding medical review standards for chiropractic claims. These efforts were largely put into effect in 2006, too late to be reflected in the OIG claims review, which also occurred in 2006."

To read the entire 2009 Office of Inspector General report, "Inappropriate Medicare Payments for Chiropractic Services, visit www.oig.hhs.gov. Click on "Reports," on the right-hand toolbar, select "Office of Evaluation and Inspection Reports," and then click on the link for chiropractic reports.

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