

# Health Law Alert: Providers Beware-The Government Really Means It!

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## Enforcement and Technical Compliance: The Cornerstones of the 2011 OIG Work Plan

In its recently issued 2011 Work Plan, the Office of Inspector General (OIG) provides a detailed description of areas where the agency will focus its enforcement resources over the coming year. Some of the enforcement priorities defined in the 2011 Plan are based on statutory mandates to target particular areas, while others reflect the OIG's assessment of "relative risk" in the Medicare and Medicaid programs.

The 2011 Work Plan describes a sweeping array of initiatives, and suggests that the OIG will focus its efforts on: (1) ensuring compliance with certain highly technical billing and reimbursement requirements; (2) analyzing whether services are being provided at substandard levels of quality and with insufficient levels of documentation; (3) addressing compliance with some of the electronic health record provisions adopted in the 2009 Recovery and Reinvestment Act; and (4) implementing various program integrity standards enacted under 2010's Affordable Care Act. Meanwhile, the subtext of the 2011 Work Plan is a continued focus on targeting particular types of providers who, for one reason or another, are perceived to pose heightened risks of fraud and abuse. The 2011 Plan includes the following specific initiatives:

- Review of place of service coding for claims submitted under Medicare Part B in hospital outpatient departments and ambulatory surgery centers
- Determination of whether hospitals and outpatient clinics claiming provider-based status comply with regulatory requirements to establish sufficient levels of integration
- Review of potentially improper billing for outpatient diagnostic services provided within three days of patient hospital admissions
- Focus on whether certain providers, including home health agencies and durable medical equipment suppliers, are complying with Medicare enrollment requirements
- Review of whether independent diagnostic testing facilities (IDTFs) are meeting Medicare participation provisions and a general review of IDTF billing patterns
- Analysis of providers' implementation of HIPAA privacy and security requirements, including whether hospitals have implemented sufficient protections to prevent loss of patient information stored on laptops and other portable devices
- Determination of whether providers receiving electronic health record incentive payments are meeting necessary standards, including whether "meaningful use" metrics are satisfied
- Focus on quality of care in nursing facilities, including review of plans of care developed through beneficiary assessments and whether services are provided in accordance with plans, as well as analysis of inappropriate hospitalization of facility residents
- Analysis of whether providers are complying with Medicare assignment rules or are inappropriately charging beneficiaries excessive cost-sharing amounts
- Focus on reimbursement for services ordered or referred by providers excluded from Medicare
- Appropriateness of payments for diagnostic radiology services performed in hospital emergency departments

The full Work Plan can be found on the Office of Inspector General Web site and contains a variety of other initiatives in addition to the ones noted above. If you have questions about any of the OIG's 2011 enforcement priorities, please contact Jesse Berg ([jesse.berg@gpmlaw.com](mailto:jesse.berg@gpmlaw.com), 612.632.3374) or Tim Johnson ([tim.johnson@gpmlaw.com](mailto:tim.johnson@gpmlaw.com), 612.632.3208).

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## Related People



**Jesse A. Berg**

Principal  
Minneapolis, MN  
Direct: 612.632.3374  
[jesse.berg@gpmlaw.com](mailto:jesse.berg@gpmlaw.com)



**Timothy A. Johnson**

Principal  
Minneapolis, MN  
Direct: 612.632.3208  
[tim.johnson@gpmlaw.com](mailto:tim.johnson@gpmlaw.com)