

Payer Audits: An Update Since COVID/How to Defend Your Utilization and Documentation



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Disclaimer

- ❑ Partner, MYCKOWIAK ASSOCIATES, P.C.
- ❑ Specialize in representing interventional pain physicians and anesthesiologists in compliance, risk management, and business issues.
- ❑ Member, American Health Law Association, Health Care Compliance Association, Health Law Section of the American Bar Association.
- ❑ Frequent speaker and author on topics related to compliance and risk management for interventional pain practices.
- ❑ No outside funding or grants for this presentation.

Session Topics

- ❑ Update on Medicare audit activities
- ❑ Description of common Medicare audits with discussion of hot spots for interventional pain
- ❑ Practical steps to defend documentation and billing

Status of Payor Audits During COVID

- ❑ Medicare suspended most audits on March 30, 2020
- ❑ Medicare resumed all audits for all dates of services in August 2020
- ❑ Most commercial payors never stopped auditing during COVID



Status of Payor Audits

❑ OIG Semiannual Report

At-a-Glance FY 2020 Highlights

Statistic	FY 2020 (10/1/2019–9/30/2020)
Audit Reports Issued	178
Evaluations Issued	44
Expected Audit Recoveries	\$942.06 million
Questioned Costs	\$733.93 million
Potential Savings	\$2.89 billion
New Audit and Evaluation Recommendations	689
Recommendations Implemented by HHS OpDivs	286
Expected Investigative Recoveries	\$3.14 billion
Criminal Actions	624
Civil Actions	791
Exclusions	2,148

Status of Payor Audits

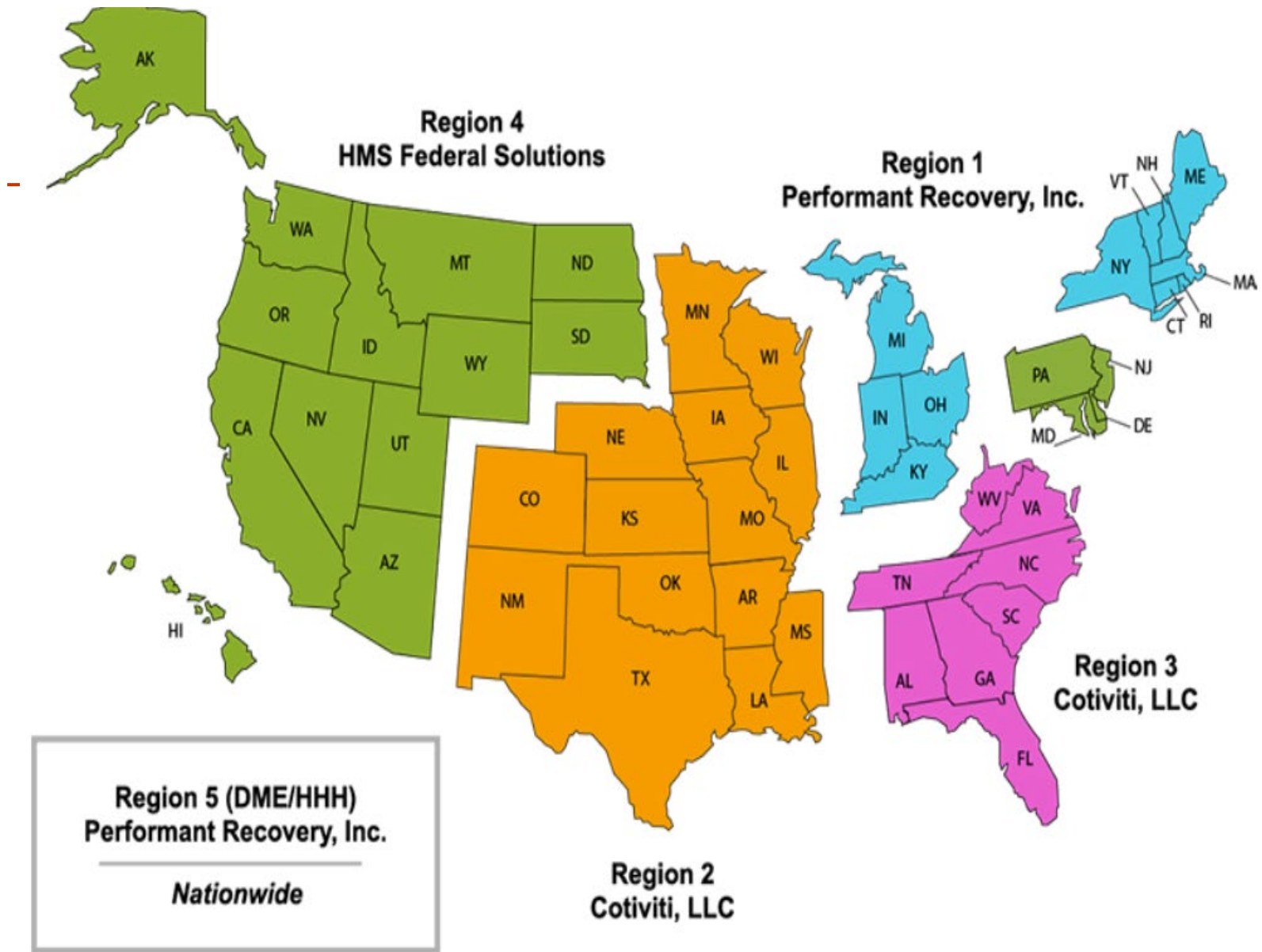
❑ OIG Semiannual Report

At-a-Glance FY 2021 Highlights

Statistic	FY 2021 (10/1/2020—9/30/2021)
Audit Reports Issued	162
Evaluations Issued	46
Expected Audit Recoveries	\$787.29 million
Questioned Costs	\$1.17 billion
Potential Savings	\$1.24 billion
New Audit and Evaluation Recommendations	506
Recommendations Implemented by HHS OpDivs	432
Expected Investigative Recoveries	\$3.00 billion
Criminal Actions	532
Civil Actions	689
Exclusions	1,689

RAC Audits

- ❑ Conducted by Recovery Audit Contractors
- ❑ Post-payment.
- ❑ Underpayments and overpayments.
- ❑ Bound by all Medicare authorities.
- ❑ Limited to a 3 year lookback from date of payment.
- ❑ Staff must include at least 1 physician and certified coders.
 - Medicare Fee for Service Recovery Audit Program | CMS



RAC Audits

- ❑ Audit topics must be approved by CMS
 - Facet joint injections
 - Transforaminal epidural steroid injections
 - Spinal cord stimulation
- ❑ Approved RAC Topics | CMS



Other Medicare Audits

- ❑ Targeted Probe and Education:
 - Pre-payment review
 - 3 rounds of review with education
 - ❑ Can be released early if the documentation shows the required improvement
 - If inadequate improvement in 3 rounds, MAC refers provider to CMS for additional action that can include:
 - ❑ 100% pre-payment review
 - ❑ Repayment with extrapolation
 - ❑ OIG referral
 - Targeted Probe and Educate | CMS

Other Medicare Audits

- ❑ Supplemental Medical Review (Noridian)
 - Must follow all applicable Medicare authorities
 - Determine whether the provider has complied with coverage, coding, payment, and billing requirements.
 - Noridian notifies CMS of identified improper payments. CMS initiates claims adjustments or overpayment demands.
 - CMS directed topics and time frames:
 - ❑ Facet joint injections
 - ❑ Transforaminal epidural steroid injections
 - ❑ Supplemental Medical Review Contractor (SMRC) - Noridian - SMRC (noridiansmrc.com)

Other Medicare Audits

- ❑ Comprehensive Error Rate Testing Program (CERT)
 - Reviews MAC to measure the error rate of improper payments to providers.
 - Request medical records from providers.
 - If a claim doesn't meet Medicare's coverage, coding, and billing it is counted as an improper payment.
 - MACs use CERT error rates to reduce improper payments by updating their internal processes and educating providers.
 - MACs can initiate repayment against the provider for improper payment.

Hottest Spot for Interventional Pain

- OIG Workplan

- **Spinal Pain Management Services**

- Facet joint injections, facet joint denervation sessions, lumbar epidural injections, and trigger point injections.
 - Sedation administered during these pain management services.

Practical steps to defend documentation and billing

- ❑ Maintain an active compliance program.
 - Obtain, review and understand payor rules and policies.
 - ❑ **Update your templates!**
 - Auditing and monitoring
 - ❑ To ensure that all services are medically necessary, accurately documented, within utilization requirements, correctly coded and billed, and appropriately paid.
 - ❑ Done annually or more often if there are changes in staff and/or payor policies.
 - ❑ Use auditors who understand interventional pain management.
 - ❑ Review medical record, CMS 1500, payment vouchers.

Practical steps to defend documentation and billing

■ Education

- At least annually but more often as needed and new employees before beginning work
- Internal, external, publications, specialty societies
- Special training for coders and billers
 - Coding standards and requirements
 - Claim development and submission

Practical steps to defend documentation and billing

- ❑ Do not wait until the last minute to prepare response
- ❑ Respond fully to payor audit request
 - Research and understand payor rules and policies
 - ❑ CMS manuals
(<http://www.cms.hhs.gov/Manuals/IOM/list.asp>)
 - ❑ NCDs and LCDs ([MCD Search \(cms.gov\)](#))
 - ❑ Commercial payor contracts and policies.
 - Review requested records for compliance

Practical steps to defend documentation and billing

- Send all records necessary to show medical necessity and appropriateness of treatment. May include:
 - Copy of other dates of service or medical information supporting the medical necessity of the requested services.
 - Medical rationale
 - Supporting policies, treatises, etc.
- Keep copies of all documents submitted in case an appeal is necessary.

Conclusion

- ❑ Interventional pain practices are often in the headlights of the OIG.
- ❑ Medicare audits are in full swing
- ❑ Maintaining a compliance program can ensure that the practice is up-to-date on, and complying with, payor policies.

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