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OIG: With Payments Skyrocketing, RPM Needs Safeguards; OIG Again Urges Incident-to Modifier

By Nina Youngstrom

Medicare watchdogs have their eyes on remote patient monitoring (RPM) because of its explosive growth and the way it's being billed, according to a new report from the HHS Office of Inspector General (OIG).[1] The report recommends more oversight of RPM and greater transparency—including a modifier for all incident-to billing, which sweeps in RPM because CMS lets providers use their own identification number for RPM services delivered by clinical or sometimes nonclinical staff.

CMS agreed with OIG's recommendations, although it didn't specifically mention the incident-to modifier, which OIG has requested before. CMS will consider the recommendations as it decides next program-integrity steps for RPM.

"This is clearly on the radar," said attorney Thomas Ferrante with Foley & Lardner LLP in Tampa, Florida. "If you're an RPM provider or a hospital with RPM in affiliated medical practices, it's important not to cut corners." Providers must ensure RPM is medically appropriate and necessary for the patient and they collect and interpret the data. "The biggest concern for the government is people are putting patients on RPM and it's just some sort of subscription payment and not helping patients," he said.

OIG's report came down a month after it announced what appears to be the first civil monetary penalty settlement with a provider over RPM billing. Florence Wellness PLLC and Florence Inc. in Arizona agreed to pay $194,754 for allegedly submitting claims to Medicare for RPM without getting at least 16 days of biometric readings in a 30-day period.[2] The settlement stemmed from Florence's self-disclosure to OIG.

In the report, OIG said 43% of Medicare enrollees on RPM didn't receive one of its three components. "Although CMS does not require that providers bill for all three components, the high percentage of enrollees who did not receive all components raises questions about whether these services are being used as intended," OIG said.

Medicare Spending Grows From $15M to $300M

RPM involves the use of a device to collect and transmit patient data (e.g., respiratory flow rate, blood pressure) remotely to their provider, who reviews the data and makes treatment decisions about the patient, such as adjusting their medication. The data must be collected for 16 days in a 30-day period.

The use of RPM has skyrocketed in traditional Medicare and Medicare Advantage. OIG said 570,000 Medicare enrollees received RPM in 2022, up from 55,000 in 2019. Payments were 20 times higher in 2022 than 2019—$300 million versus $15 million.

Most patients (94%) were on RPM for chronic conditions—more than half for hypertension. "Remote patient monitoring is likely to continue to grow, given that more than 60% of all Medicare enrollees have hypertension, yet a very small fraction of these enrollees currently receive it," OIG noted.

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There are three components of RPM:

- Enrollee education and device setup. They're billed with CPT code 99453 (initial set-up and patient education on use of equipment).
- Device supply (e.g., connected blood pressure cuffs, weight scales and pulse oximeters). This is billed with 99454 (30-day device supply with transmission of daily recordings or programmed alerts).
- Treatment management: That's CPT 99457 (RPM treatment management, at least 20 minutes of interactive communication with the patient or caregiver) and 99458 (each additional 20 minutes).

About 43% of people who received RPM didn't get all three services. "Most commonly, enrollees did not receive education and setup or the device," OIG said.

Sending Texts Doesn't Count as Interaction

Ferrante thinks OIG may perceive this as fraudulent billing even if it's allowed. But there are good reasons why a provider wouldn't always bill all three components, he said. For example, patients in a medical weight loss program may require RPM but won't have their weight monitored 16 times a month. "The physician wouldn't be able to bill for 99453 and 99454," but they could bill for the other codes, Ferrante said. It's not all or nothing.

However, he knows of troubling behavior by providers and/or the vendors that support their RPM services. For example, although CMS requires live, interactive communication (audio only or audiovisual) to bill CPT codes 99457 and 99458, providers may count a text as an interaction. "I have seen companies that mail the device to patients and maybe the patient uses it once and the company says, 'We sent reminders to use it and that counts as data transmittal,'" Ferrante said. They're billing these claims for months "and it isn't compliant from a reimbursement perspective and borders on fraud."

OIG has sounded alarm bells about RPM before. In November 2023, it posted a consumer alert warning that "unscrupulous companies are signing up Medicare enrollees for this service, regardless of medical necessity."[3] CMS has highlighted the risks posed by companies "cold calling" enrollees to sell RPM devices without having information to show a need for the device.

Ferrante hopes the bad actors aren't "saturating the industry"—e.g., sending devices to unwitting enrollees—because it could end up handcuffing RPM. "I don't want RPM to become similar to durable medical equipment. There was so much fraud the government started cracking down on it," he said.

OIG: ID Providers Who Don't Bill All Components

The report included several recommendations to protect Medicare from RPM abuse. For one thing, OIG suggested that CMS do a periodic analysis to identify providers who often bill for enrollees who don't get all three RPM components and follow-up on these providers.

"In addition, CMS should work to ensure that Medicare is paying for remote patient monitoring that is appropriate," OIG said. For example, CMS should do an analysis to flag providers who submit claims with diagnosis codes that don't represent a chronic or acute condition (e.g., "other specified counseling") and take action. "CMS should also work with Medicare Advantage plans to ensure that they have appropriate safeguards in place."

OIG also suggested that CMS:

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- Do more provider education. There's no national education on RPM and CMS should develop materials, such as an MLN publication.
- Require physicians or other qualified health professionals to order RPM. Their information should be on claims and encounter data. CMS noted this would require notice and comment rulemaking.
- Devise methods to collect more data about the kinds of monitoring Medicare is paying for. Providers only report general procedure codes "that do not indicate the type of health data being collected (e.g., blood pressure or weight) or the type of device that is used. Without this specific information in the claims and encounter data, CMS is unable to identify the types of monitoring in Medicare billing," OIG said. CMS said this may require notice and comment rulemaking.
- "Identify and monitor companies that specialize in remote patient monitoring."

In its written response, CMS agreed with OIG's findings and will take them into consideration when deciding its next moves.

Ferrante said providers should keep an eye out for an RPM order requirement in the proposed 2026 Medicare Physician Fee Schedule rule, which will come out next summer. Ferrante hopes it doesn't make an appearance because it's not comparable to an order for outside lab tests or drug prescriptions. "It would be odd to write an order for their own practices," he said. "That would add a significant layer of burden."

Providers also should be mindful that the buck stops with them even if they partner with a vendor to deliver RPM services, he noted. Make sure you're vetting the vendors "and not completely handing off responsibility" because it's the provider who will be on the hook for overpayments or fraud allegations.

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1 Christi A. Grimm, *Additional Oversight of Remote Patient Monitoring in Medicare Is Needed*, OEI-02-23-00260, Office of Inspector General, U.S. Department of Health and Human Services, September 2024, https://bit.ly/3MZ2vR6.
2 U.S. Department of Health and Human Services, Office of Inspector General, "Florence Wellness Agreed to Pay $194,000 for Allegedly Violating the Civil Monetary Penalties Law by Submitting Improper Claims for Remote Patient Monitoring," August 27, 2024, https://bit.ly/3XJ3ud0.
3 U.S. Department of Health and Human Services, Office of Inspector General, "Consumer Alert: Remote Patient Monitoring," last updated November 21, 2023, https://bit.ly/4bTSz6t.

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