

## The Senior Medicare Patrol is Here!



**(January 20, 2012):** The Department of Health and Human Services (HHS) has long used reports and complaints from affected patients to further conduct Medicare audits of possible Medicare fraud, waste and abuse. Last June, it was reported that HHS was planning on implementing a "Mystery Shopper" program, with a Federal contractor posing as a potential patient when calling a physician to inquire about possible care. While HHS quickly abandoned this program, it is important to keep in mind that the Centers for Medicare & Medicaid Services (CMS) has actively promoted its **"Senior Medicare Patrol"** (SMP) program since 1997.

### I. Senior Medicare Patrol:

For over a decade, CMS and the Administration on Aging (AoA) have educated Medicare beneficiaries and their caregivers about how to examine Medicare Explanation of Benefits (EOBs) and other forms they may receive in connection with their care. As part of this effort, seniors have been asked to keep an eye out for possible indications of fraud or abuse, such as double-billing or billing for services not rendered. Recently, CMS announced an additional \$9 million grant that will be used to bolster this Medicare audit program and teach more beneficiaries how to assist the government in stamping out fraudulent practices.

### II. States Involved in the Senior Medicare Patrol Program:

As expected, CMS has awarded a majority of grant monies to areas of the country that are hit hardest by Medicare fraud, including California, Texas, Florida, Louisiana, Illinois, Michigan and New York. However, every state is appropriated at least some funding to enhance this Medicare audit program. Moreover, if this program is effective at detecting and deterring fraudulent, wasteful or abusive billing, you can expect that it will be expanded (in terms of both funding and scope) in the future.

#### **IV. Impact on Your Practice:**

To be clear, we all applaud these grass-roots efforts to identify fraud. Educated seniors could eventually represent CMS' most effective line of defense in identifying fraud early, before significant harm can occur. Having said that, at this time, we are concerned that few Medicare beneficiaries are experienced or skilled in deciphering an EOB. As a result, many reports of possible wrongdoing cited by beneficiaries may merely be a mistake or a misunderstanding of the coding and billing process. Therefore, if you bill in an area that is complex or otherwise confusing (especially to the untrained eye of a beneficiary), there is an increased likelihood that your practice will be audited or reviewed.

#### **V. Avoiding a Medicare Audit:**

Hopefully, beneficiaries will continue to be trained on reading EOBs and CMS will continue its efforts to simplify the EOBs so that patients and their families can more easily understand what has been billed to Medicare. In the meantime, health care providers should diligently work to meet all applicable statutory and regulatory requirements. If you do not already have an effective Compliance Plan in place (as opposed to a non-personalized, non-provider specific plan based on a sample off of the internet), the first step would be for you to conduct a "GAP Analysis" of the services being billed. The gap analysis would also assess the propriety of your organization's business practices. Through the use of a gap analysis, you will be able to identify any areas of concern and take remedial action. This approach can significantly reduce your level of risk. While no practice is perfect, a GAP Analysis can greatly assist you in identifying problems - thereby increasing the likelihood that a Medicare contractor will find your claims payable if you are subsequently subject to a Medicare audit.

**Liles Parker attorneys are skilled in assisting providers with compliance challenges. We can conduct "GAP Analyses," design and implement effective Compliance Plans and provide compliance training to both your clinical and support staff. In addition, we regularly represent providers in appeals of Medicare postpayment audits of both Part A and Part B claims. Furthermore, our attorneys are often called upon to counsel providers on prepayment review issues, suspension actions and other possible enforcement sanctions. For a free consultation, please call us today at 1 (800) 475-1906.**