

\$3 Million Settlement for Hospital Upcoding Allegations

Richard P. Kusserow | September 30 2021

Key Points:

- **Whistleblower to receive nearly \$1 million dollars.**
- **Improper bundling and upcoding described in whistleblower's complaint.**

The Department of Justice (DOJ) [announced](#) a \$3.3 million settlement with John Peter Smith Hospital (JPS) to resolve allegations that it submitted upcoded claims to federal health care programs. The case was initiated as a *qui tam* action by the organization's former Director of Compliance, who filed a lawsuit alleging that the JPS improperly appended billing modifiers -25, -59, and -XU to hundreds of claims to obtain payments to which it was not entitled. Although the hospital's leadership was originally alerted to the potentially improper billing, JPS failed to reimburse payors for overpayments that resulted from the improperly coded claims.

In its [Compliance Program Guidance for Hospitals](#), the Department of Health and Human Services Office of the Inspector General (OIG) flagged upcoding and improper bundling as major compliance issue areas. This case follows a February 2021 [OIG report](#) that found Medicare upcoding to be a growing problem for the Centers for Medicare and Medicaid Services (CMS). The OIG reported that the practice is increasingly apparent for inpatient hospital stays at the highest severity (and most expensive) levels and recommended CMS conduct targeted reviews related to this issue area.

The settlement and report should serve as reminders to compliance officers to remain alert to upcoding issues and account for this risk area in annual work plans.

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