

## PATH is Still a High-Risk Compliance Area

### Tips for compliance officers to consider.

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Earlier this year, a medical practice associated with a children’s hospital agreed to pay financial penalties to settle allegations that it submitted claims for radiology services performed by residents without adequate supervision or review by teaching physicians. The Department of Health and Human Services Office of the Inspector General (OIG) applied its Civil Monetary Penalty (CMP) authority in making the settlement. The OIG alleged that the medical practice submitted claims for radiology services performed by a physician that allegedly “were not provided as claimed because the radiology images were reviewed, and the radiology reports were prepared, by residents without appropriate supervision and review by the physician.” This is one of a series of settlements with providers for allegations of submitting claims for services that were performed by residents without the physical presence of a teaching physician, or where teaching physicians improperly billed for services performed by residents under their supervision.

The settlement should serve as a reminder to compliance officers that physicians at teaching hospitals (PATH) remains a high-risk area for potential fraud and abuse. It was flagged by the OIG in its *Compliance Program Guidance for Hospitals* in 1998. The risk level is higher now due to the COVID-19 pandemic, which prompted the Centers for Medicare and Medicaid Services (CMS) to allow teaching physicians more flexibility to supervise residents virtually, thereby complicating coding and reimbursement protocols even further.

The question is: what should compliance officers be doing to address this high-risk area? As a starting point, consider reviewing the regulation, which can be found at [42 CFR Part 415](#);

the [Medicare Claims Processing Manual](#) (Chapter 12, Section 100); and the OIG's [A Roadmap for New Physicians](#). In addition, consider verifying that:

1. Ongoing monitoring for compliance with regulations and standards is being conducted by the program manager responsible for teaching physicians.
2. Written policies and procedures that include documentation requirements for residents and supervising teaching physicians for payment of Evaluation and Management (E/M) services are in place.
3. PATH policies are consistent with current CMS guidelines and regulations.
4. Residents and teaching physicians are trained on the PATH compliance policies.
5. Residents are documenting in the medical record when they provide an E/M service without a teaching physician's direct involvement.
6. Teaching physicians are documenting in the medical record their involvement in and oversight of the patient's care.
7. All documentation includes details about services that were provided.
8. Reimbursement professionals are reviewing medical records to verify that documentation is present for billing purposes.
9. Discrepancies in variance reports are resolved and documented by the billing office.

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