

OIG Issues Final Supplemental Compliance Program Guidance for Nursing Facilities

October 2, 2008

Skilled Nursing Facilities Be Aware

On September 30, 2008, the Office of Inspector General for the U.S. Department of Health and Human Services ("OIG") issued a supplemental compliance program guidance for nursing facilities ("Supplemental Guidance"). OIG issued the Supplemental Guidance to update its prior compliance program guidance ("CPG") first issued for nursing facilities in 2000. The Supplemental Guidance contains new compliance recommendations and an expanded discussion of risk areas. In particular, the new guidance identifies fraud and abuse risk areas, including the following:

- Maintaining sufficient staffing "necessary to attain or maintain the highest practical physical, mental and psychological well-being of residents";
- Developing comprehensive resident care plans;
- Maintaining proper medication management, including employing a licensed pharmacist to provide pharmacy consulting services;
- Assuring the appropriate use of psychotropic medications;
- Assuring resident safety through promotion of resident safety, resident interactions and staff screening; and
- Submitting accurate claims, including proper reporting of resident case mix by skilled nursing facilities; proper provision and reporting of physical, occupational and speech therapy services; screening for excluded individuals and entities; and proper billing for restorative and personal care services.

In addition, the Supplemental Guidance discusses risk areas involving the federal anti-kickback statute, including the provision of free goods and services, improper service contracts, swapping, price reductions, relationships with hospices, relationships with hospitals such as reserved bed arrangements, physician self-referrals, supplementation of Medicare or Medicaid payments with private pay and proper counseling regarding Medicare Part D plans.