



# Health Care Development Services, Inc.

Laboratory Strategic Planning Since 1981

Via Email

**DATE:** November 4, 2003  
**TO:** HCDS Clients and Friends  
**FROM:** Barry Portugal  
**SUBJECT:** Results of Survey Re: OIG Proposed Rules

In early October, we polled our hospital clients to gauge their concerns regarding the OIG's proposed rule related to the Medicare/Medicaid discriminatory billing prohibitions. The proposed rule includes detailed methodologies to compute usual charges, and defines how the OIG would determine a charge substantially in excess of a Medicare/Medicaid charge. The current rule prohibits health care providers from charging Medicare/Medicaid "substantially in excess" of its usual charge for a service.

The survey focused on our client's ability to gather information in order to calculate the "usual charges" of each test they bill Medicare and other government payors. We also asked whether the hospital's Finance Department has the ability to determine differences in billing/collection costs for individual payors. All one hundred thirty-seven responses were from hospitals with more than 200 staffed beds. Survey respondents were mostly geographically representative of the entire country.

## Survey Questions

1. Do you believe your hospital will be able to identify the test names for all laboratory outpatient tests/services billed to Medicare that are also billed to every non-Medicare/Medicaid payor?  
 Yes  No  Not Sure

On a scale of 1-10 (1=very easy, 10= very difficult), how would you rank the degree of difficulty in gathering this information?

2. Do you believe that your hospital will be able to identify the charge, discount, and volume for each test billed to every non-Medicare/Medicaid payor?  
 Yes  No  Not Sure

If you answered yes to question #2, how would you rank the degree of difficulty in gathering information?  
(1=very easy, 10= very difficult)

## Survey Responses

Response: One hundred percent of respondents believe they will be able to collect the information. Almost two-thirds of respondents rated the difficulty to identify the information as a "5" or higher, only 10% of respondents rated the difficulty as a "1".

Response: Thirty percent of respondents believe they will not be able to identify charge, discount, and test volume information. For the other respondents, almost half rated the difficulty factor of collecting the information as a "10" (very difficult). The remaining respondents rated difficulty in collecting information as either a 6, 7, or 8.

3. Does your hospital currently have software programs or systems that can organize the non-Medicare/Medicaid payor information above, and compute the “usual charge” for each laboratory test as described in the OIG’s proposed rule?  
 Yes  No  Not Sure

If you answered no or not sure to question #3, please estimate the degree of difficulty in developing those programs.  
(1=very easy, 10= very difficult)

If you answered no to question #3, how many manhours do you estimate it may take to calculate the usual charge for each laboratory test billed to a non-Medicare/Medicaid payor?

- 0-40 Manhours  
 40-80 Manhours  
 80 – 120 Manhours  
 120 – 160 Manhours  
 >160 Manhours

4. If you answered yes to question #3, do you plan to compare your hospital’s computed usual charge to the Medicare charge and estimate the potential impact to your hospital if it were required to reduce its charges to Medicare/Medicaid and/or increase its charges to other payors?  
 Yes  No  Not Sure  Not Applicable

5. If you answered yes to question #4, how many manhours do you estimate it may take to calculate 120% of the usual charge for each test and compare that charge to the Medicare fee schedule?

Response: Only 20% of respondents indicated that they currently have software programs or systems to organize information necessary to calculate “net revenue” per payor for individual laboratory tests. Almost 90% of respondents without such software or systems rated the degree of difficulty in developing those programs as “8” to “10.”

Almost half of respondents indicated that it would take them more than 120 manhours to calculate that information. About 30% of respondents indicated that the time necessary to calculate usual charges might range from 40-80 manhours

Response: Only 20% of respondents indicated they plan to compare their hospital’s computed usual charge to the Medicare charge.

Response: Respondents were equally split between 80-120 manhours and greater than 160 manhours to perform these calculations.



6. Does your hospital have information currently available concerning costs associated with billing and collecting claims from individual payors?  
 Yes  No  Not Sure

If your hospital does not currently have information regarding billing/collection costs specific to individual payors, please ask the hospital's Finance Department Director the degree of difficulty in estimating those relative costs. (1=very easy and 10= very difficult)

If the hospital does not have this information available, please estimate the number of manhours it may take to calculate billing/collection costs for specific, individual payors.

- 0-40 Manhours   
40-80 Manhours   
80 – 120 Manhours   
120 – 160 Manhours   
>160 Manhours

7. Are there other issues you believe may impact your hospital's laboratory as a result of the OIG's proposal rule?  Yes  No

Response: A little more than half (56%) of respondents believe they currently have information to distinguish billing/collection costs among individual payors. For those hospitals that do not have that information, about 25% rated the difficulty to collect the information as a "6", while the remaining 75% rated the difficulty as a "9" or "10." Half of those respondents believe it would require 40-80 manhours, one-fourth estimated it would require 80-120 manhours, and about one-fourth believe it would take more than 160 members to estimate specific billing/collection costs for each payor.

Response: The majority of responses concerned the administrative burden of collecting information, and the lack of parity in methodologies providers might employ to collect the information necessary to calculate usual charges and support for "good cause" exceptions. The OIG proposed rule suggests that an exception would be made for charges greater than 120% of their usual charge if the charge "is the result of increased costs associated with serving program beneficiaries." The OIG uses examples of good cause as "higher costs resulting from claims processing or delays and denials in payment associated with serving Medicare or Medicaid beneficiaries."



SUMMARY

Client responses seem to validate several of our key concerns. They confirmed that some hospitals may not have systems in place in order to calculate “usual charges” based on the methodology proposed by the OIG. For those hospitals that are able to collect and analyze that information, most project significant work in order to develop that information.

Lastly, most clients believe that there will not be comparable methodologies employed to collect information. If test volume, discounts, or billing/collection cost information is not collected and analyzed using the same methodologies, health care system and hospital executives will never have confidence in decisions to modify charges to non-Medicare payors.

It seems to us that the OIG may have grossly underestimated the prospective regulatory impact of the proposed rule. They indicate that “there are no additional substantive costs to implement the resulting provisions” even though hospitals and other health care providers will spend significant time and expend substantial resources in order to collect and analyze the required information. Based on survey responses, it seems that some hospitals may not be able to collect the appropriate information, and may need to create entirely new software and management programs to track, monitor, calculate, and report usual charge information.

We urge our clients to carefully study the proposed rule ([gpoaccess.gov](http://gpoaccess.gov), then Federal Register, then “page 53939”), and become familiar with its details. The deadline for comments is November 14, 2003 so it’s important to consider the implications of the proposed rule, and formulate your response.

If you would like to discuss the proposed rule, and the implications for your hospital laboratory, please call me at 847-498-1122, or email me at [consult@hcdsinc.com](mailto:consult@hcdsinc.com).

f:\citalert\memo email hcds clients 110303.doc



**Health Care Development Services, Inc.**  
*Hospital Laboratory Strategic Planning Since 1981*

---