The Legal Side of Pain & The Legal Pain Lab Present:

**PROVIDER CODING & COMPLIANCE ALERT**

*(initial application: CA, HI, NV - part B)*

**Purpose of Alert**

The purpose of this ALERT is to call your attention to the publication of an independent BILLING/CODING ALERT impacting qualitative drug screening. The Alert was published by Palmetto GBA, a Medicare carrier, on December 30, 2011, and is intended for billing and coding personnel and physician office laboratories (POLs).

**Jurisdiction of the Billing/Coding Alert & Need for Immediate Compliance Review**

The Palmetto Alert is limited to Jurisdiction I - Part B (California, Nevada, and Hawaii). However, it is our experience that when a Medicare carrier identifies problems like this the approach will shortly be the same system-wide and even carry over to commercial accounts. Palmetto GBA also has Jurisdiction 11 (eleven) - Part B (North Carolina, South Carolina, West Virginia and Virginia), so POLs in that jurisdiction should expect a similar alert in the near future and would be well-served to self-audit now.

Immediate compliance reviews are merited because the Palmetto Billing/Coding Alert references the potential for systematic up-coding and thus false claims and the potential for civil and criminal investigations. Directly and indirectly impacted POLs billing any of the “prohibited” codes listed below, should engage qualified coding, compliance, and legal counsel - representing their specific interests - and promptly undertake the audit process described herein. A failure to do so could lead to serious financial and regulatory consequences.

**Summary of the Palmetto Alert**

1. Palmetto published the Alert after the carrier detected (through edits and other claims review mechanisms) provider submissions of claims for reimbursement of POL services under quantitative codes or inappropriate screening codes. Upon further investigation it was discovered that the POLs were using chemistry analyzers purchased or leased from third-parties, and used to perform enzyme immunoassay (EIA) or similar analysis to produce preliminary qualitative or semi-quantitative drug screen results (the presence or absence of a drug/drug class).

2. The Alert makes clear that POLs that bill for drug testing services using quantitative codes may be at risk for an overpayment request (meaning the submission of such codes does not accurately reflect the service that was performed, represents the act of up-coding to obtain a higher level or reimbursement, and thus is improper resulting in an overpayment to the physician/provider).

3. The Alert acknowledges that physicians rely on drug testing to monitor prescribed medications and drugs of abuse. It also acknowledges that physicians are being marketed chemistry analyzers that provide preliminary qualitative or semi-quantitative test results for monitoring purposes, and that these analyzers and the reagents used to perform in-office drug testing are FDA cleared ONLY to obtain qualitative or semi-quantitative initial screen/preliminary results.

4. The Alert instructs that immunoassay (IA) and enzyme assay (EA or EIA) “are by definition MODERATE COMPLEXITY TESTS that produce qualitative and semi-quantitative results” and MAY NOT BE REPORTED WITH A QUANTITATIVE CODE.

5. The Alert makes clear that confirmation or quantification of the preliminary result is not usually produced in a point-of-care setting (POL setting).

6. The Alert provides the following SPECIFIC BILLING/CODING INSTRUCTIONS:

   A. The initial drug screen/preliminary screen result SHOULD be reported with HCPCS code G0434: Drug screen other than chromatographic; any number of drug classes), by CLIA waived test or moderate complexity test, per patient encounter.
B. Physician office laboratories using IA or EIA instrumentation SHOULD NOT REPORT the following codes for the performance of the initial screen producing the preliminary result:

**HCPCS code G0431** – Drug screen, qualitative; multiple drug classes by high complexity test method

CPT Chemistry section, codes 82000-84999

CPT Drug Testing section, codes 80100-80104

CPT Therapeutic Drug Assays section, codes 80150-80299

7. REPEAT CRITICAL NOTE: The Alert makes VERY CLEAR that Palmetto views the "use of the above [prohibited] codes to report preliminary qualitative or semi-quantitative test results" as SYSTEMATIC UP-CODING, which the carrier states may lead to criminal and civil penalties.

---

**Steps You Should Take if You Think You HaveSubmitted Errant Claims Using Quantitative Codes or Inappropriate Use of G0431**

If you believe your practice has submitted claims using the wrong codes, it may be in your best interest to take the following actions:

**Complete a Self-Audit**

A self-audit is a good first step. Gather information about your instrumentation and any written material provided to you by industry sales representatives of any company that encouraged you to use the quantitative codes with your chemistry analyzer or encouraged you to bill G0431 for your preliminary qualitative or semi-quantitative drug screens performed in your physician office laboratory.

You may need a copy of these items to show your good faith reliance on the same. However, you may not be able to make this claim if you failed to conduct your own due diligence and instead simply took the advice of a company sales representative.

Here are additional items to identify through the self-audit process:

- Identify incorrect submissions
- Establish a protocol to ensure no further claims contain the same errors
- Consider Self-Disclosure Protocol - Self-disclosure guidelines available on the OIG Web site

**Discuss these Issues with Qualified Legal Counsel and Compliance Experts**

Discuss all of these steps with your legal counsel before repayment or self-reporting. You will also want to discuss whether you have an actionable claim back against the company who sold/leased you the chemistry analyzer and guided you into this problematic billing situation. An attorney can help you work through the various issues in your business relationships with third parties. Looking ahead, you should take control of your drug testing and choose a laboratory partner that does not lead you into drug testing platforms and utilization pattern that increase your potential for financial loss or legal liability.

**Resources**


**Contact Us**

We will continue to track Medicare carrier positions on analyzers and qualitative drug screens and provide update alerts as necessary. For additional information, contact Jennifer Bolen, JD, at [jbolten@legalsideofpain.com](mailto:jbolten@legalsideofpain.com).