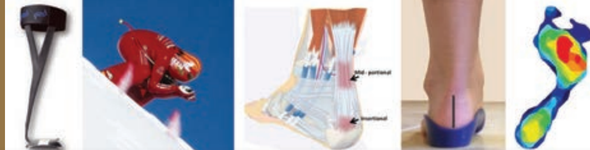

Comparative Billing Reports and Orthotics

Is this something I should be concerned about?

BY PAUL KESSELMAN, DPM

Periodically, Medicare issues Comparative Billing Reports (CBR) on a variety of coding/billing matters, most of which are unrelated to podiatric practice. This past February, Medicare issued a CBR on routine foot care billed with E/M visits and a 25 modifier. Certainly, that one is very podiatry-centric. Anyone who received that CBR will have their own report in addition to the general information about CBR, which will be provided here.

A June 2022 CBR entitled "Orthoses Referring Providers" is unique because it pertains to the referring provider as opposed to the entity providing the actual targeted services. You might at first have some question about why Medicare would care if I prescribed a patient orthotics? If you are thinking foot orthotics as the prescriber, you would be incorrect. Medicare does not care how many foot orthotics you prescribe, nor is it the subject of this CBR. One needs to read past the title of the CBR and dive into the nuances of the report to better understand why they issued this report and what impact, if any, this report may have on your practice. This month's article will also provide some insight into this specific CBR, while simultaneously providing the reader with a better understanding of CBR in general. The information provided may be helpful in interpreting any previous or future CBR you receive.

CBR Overview

The CBR essentially takes a small subset of CPT or HCPCS codes and studies your provider NPI, mostly related to billing utilization. What makes this particular CBR unique is that the targeted provider is the referring entity and not the one who may have provided the targeted services. CMS then compares how the individual NPI being studied performed in comparison to other NPI entities providing or referring those targeted services, both within the same state and nationally. The percentages projected will then determine whether the studied NPI (you) is either below, on par, or above your state and national averages—in other words, your peers. Typically, a CBR will also provide three years' worth of data to see how you compare to your peers both statewide and nationally during each of those time periods.

Not everyone will receive a CBR for a specific service or for ones pertinent to their specialty, because they may not fall within other thresholds or parameters required by the CBR. That is, the CPT/HCPCS codes may have had to have reached a certain financial or frequency threshold for your NPI to qualify you as the lucky recipient of such a report. Furthermore, CMS claims that the CBRs are purely educational with no indication of wrongdoing, and that they are not a precursor to any audit. Whether that is true or not is something one may wish to carefully consider. This is especially important if one receives multiple CBR reports, reflecting higher-than-normal percentages compared to one's peers. Furthermore, CMS states that a provider receiving a CBR has no requirement to respond to the CBR or other Medicare carrier. However, as the reader will see, that may not be entirely accurate, nor may it be wise to stay silent.

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Now that the reader has been provided with a basic understanding of what a CBR is, let's look at the current CBR entitled: "CBR # CBR202206 Orthoses Referring Providers." This specific CBR is looking at the NPI number of the prescribing (referring) entity for a targeted set of 15 HCPCS codes describing various types of orthotics. L1971 (Custom Fitted Hinged AFO) is the single targeted code which is within the scope of practice of podiatrists, The remaining 14 are not within the scope of a podiatrist to prescribe, including spinal, upper extremity, and knee orthoses. In addition to the

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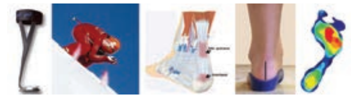

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codes being investigated, there is a financial litmus test. The referring provider's NPI would need to have been associated with a minimum of $50,000 or more in reimbursements for any combination of the targeted codes in order to qualify to have received a CBR.

If one does receive a CBR letter specific to CBR202206 Orthoses Referring Providers, one needs to carefully review it for accuracy. In order for CMS to have sent you a CBR report, as previously stated, your single type 1 NPI would have to have been responsible for $50,000 worth of claims for L1971. This is an unlikely event for the vast majority of podiatrists.

If indeed your practice generated many referrals for L1971 AFOs so as to warrant a CBR202206 and your practice also dispensed a high number of L1971 devices, there are other resources to review. It may be wise to check your practice's statistics and compare them with the Part B Utilization (BMAD) data, available from APMA. If such is the case, your documentation needs to be superlative, as it is unexpected for most DPMs to be prescribing (as the referring entity) that number of claims for a single HCPCS code.

Alternatively, if you received the recent CBR on Orthoses Referring Provider and only ordered a few of these devices, this is even more alarming. Your NPI may have been used illegally and hacked by another supplier or marketing company. In this situation, you should immediately report this to the CBR carrier and your Administrative Defense Carrier.

It is important to note that a CBR does not contain any specific claim or patient information. Thus, it is up to your office IT or claims personnel to verify whether the information in the CBR is accurate and respond to CMS and the CBR contractor, especially if you did not meet the HCPCS or financial litmus test.

The rationale for conducting the current CBR on those providers referring patients for orthoses is quite simple and revealed some impressive results. For the period of claims from calendar year 2021, there was an almost 29% error rate on DMEPOS, of which almost 77% of the improper payments are due to insufficient documentation (e.g., written proof of delivery and other NSC requirements), with 2% due to medical necessity error rates (e.g., lack of sufficient physician objective supportive data). CMS then projected that some of the HCPCS codes had a projected over-payment percentage ranging from 38% to over 66%. The improper payments ranged from $35 to $62M for only two of the HCPCS codes listed, with higher totals for all fifteen codes.

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The Nationwide Brace Scam

The Nationwide Brace Scam (AKA Operation Brace) involved offshore marketing companies working with prescribers who never saw these patients and who did not need these devices. This ultimately is what may be responsible for these alarming results. This may also have compelled CMS to initiate CBR202206 to a broader number of providers. It bears repeating that the likelihood of a podiatrist's type I NPI being associated with $50K worth of claims for HCPCS L1971 is unlikely. Thus, if you did receive this CBR, it is imperative that you review your claims history and immediately report any inconsistencies to the CBR carrier. If your NPI has been hacked, your ADC carrier should also be contacted for advice.

The CBR entitled CBR 202202, Podiatry Nail Debridement and Management Services, is certainly more likely to have impacted far many more podiatrists than this most recent one affecting orthoses referring providers.

While you cannot ask the CBR carrier to voluntarily provide any specific CBR analysis for your practice, you can find samples of CBR for a variety of previously conducted subject matters which may affect your practice. This and more information on CBR may be found on the CBR website at: CBR.CBRPEPPER.org. APMA has Part B BMAD data on many CPT/HCPCS codes with state and national analysis. All these tools are available to assist you with analyzing and comparing your billing patterns with your peers. This ultimately can guide you in developing stronger compliance strategies in the future. **PM**

Dr. Kesselman is board certified by ABFAS and ABMSP. He is a member of the Medicare Jurisdictional Council for the DME MACs' NSC and provider portal subcommittees. He is a noted expert on durable medical equipment (DME) and an expert for Codingline.com and many third-party payers. Dr. Kesselman is also a medical advisor and consultant to many medical manufacturers and compliance organizations.