

# **Results of the Corporate Integrity Agreement Survey August 2001**

## **ABSTRACT**

At the request of the Office of Counsel to the Inspector General (OCIG), within the Department of Health and Human Services (HHS), Office of Inspector General (OIG), we conducted a survey of Medicare and Medicaid providers who have entered into Corporate Integrity Agreements (CIAs). This survey provided an opportunity for OCIG to obtain input and advice from providers with CIAs. Overall, providers indicated they would continue to operate compliance plans and retain compliance officers after their CIAs expire. They also provided comments regarding various components included in the CIAs, including Independent Review Organizations, Confidential Disclosure Programs, Screening for Ineligible Persons, Audits and Claims Reviews, and Reporting.

### **PROVIDER SATISFACTION**

When asked if they would continue to operate a compliance plan after the CIA expires, 98 percent (113 of 115) of the respondents said yes, and 97 percent (112 of 115) said they would also continue to retain a compliance officer. Ninety-two percent (93 of 101) of the respondents were satisfied with OIG's responsiveness after the CIA was signed, and 93 percent (99 of 107) expressed satisfaction with overall communication. Eighty-seven percent (84 of 97) were satisfied with the professionalism of OIG staff who negotiated the CIA, and 95 percent (97 of 102) were satisfied with the professionalism of OIG staff that monitor their CIA. Providers were somewhat less satisfied with the negotiation process, specifically with the length of time spent negotiating the CIA, with 62 percent (61 of 98) indicating some degree of satisfaction.

### **CONFIDENTIAL DISCLOSURE PROGRAMS**

Of the providers who responded to our question about the establishment of a confidential or anonymous disclosure program, 88 percent (103 of 117) indicated they have a disclosure program in place. Providers have implemented a variety of disclosure programs to meet this requirement. Ninety-one are utilizing a telephone hotline, 29 use email, 14 use a confidential drop-box, 13 use a post office mail box, and 20 use a variety of other methods (e.g., regular office mail, company intranet). Sixty percent (71 of 117) of the respondents said they had received reports as a result of their disclosure program. When asked what percentage of their disclosures are compliance related, 64 percent (49 of 77) of the persons responding to the question said less than 25 percent were compliance related.

Of the providers responding to a question regarding the implementation of corrective action plans resulting from their disclosure program, 55 percent (50 of 91) said they have implemented such plans. Fifty percent (45 of 98) of respondents to a question regarding whether or not their organization's disclosure program has been effective said yes; 44 percent (43 of 98) said they

were unable to determine the effectiveness of their disclosure programs. Ten of those responding to this question said their disclosure program had not been effective. When asked if they would continue to operate a disclosure program after their CIA expires, 99 percent (98 of 99) of respondents said yes.

## **INDEPENDENT REVIEW ORGANIZATION (IRO) REQUIREMENTS**

Eighty-four percent (101 of 120) of the providers who responded to our survey said their CIAs required them to contract with an IRO to perform a review of their organization's billing and coding practices and compliance obligations pursuant to the agreement. Questions regarding the benefits of the IRO requirement prompted mixed responses. Most respondents believed the IRO accurately evaluated their organization's compliance with Federal regulations, but few respondents believed the IRO was cost effective or had been effective in identifying problems. While respondents provided little information regarding how they determine cost effectiveness of the IRO requirements, two recurring negative comments were: the results of the IRO do not justify its cost, and the IRO duplicates other internal audits.

Although the cost of an IRO was a concern for most of the providers responding to our survey, when asked if they would consider using a review organization identified by the OIG, and available to them at a discounted-price, 56 percent (60 of 108) of respondents said they would. Many questioned the impartiality of engaging an organization under contract with the OIG, preferring to pay a higher cost to avoid, in their opinion, a conflict of interest. When asked if they would waive their right to contest the findings and determination of the IRO the provider identified, 11 percent (12 of 106) of respondents agreed. Forty percent (42 of 104) of respondents said they would agree to waive their rights if provided the opportunity to dispute IRO conclusions they believed to be in error before the IRO's report was finalized. Several respondents commented that the right to contest or appeal findings is fundamental and that they should not be asked or required to waive such a right.

*Billing Engagement* - The purpose of a Billing Engagement is to identify any overpayments through an appraisal of paid claims submitted by the provider to the Medicare program or other affected Federal health care programs. Of the providers whose CIA requires them to conduct a Billing Engagement, 86 percent (69 of 80) of respondents agreed that it sufficiently assesses and evaluates their organization's billing and coding practices for compliance with Federal health care program requirements. Eighty-six percent (69 of 80) of respondents also believe it accurately reflects the organization's compliance with Federal health care billing requirements.

Fifty-three percent (43 of 81) of the respondents said the Billing Engagement had been effective in identifying problems, and 16 percent (13 of 81) of respondents believed it to be cost effective. Forty-three percent (35 of 81) said they were unable to determine its cost effectiveness. As such, 40 percent (16 of 40) of the respondents said they would continue to use an IRO to conduct a billing engagement after the expiration of their CIA.

*Systems Review Requirement* - The Systems Review is designed to determine the strengths and weaknesses in the provider's billing system and/or operations, coding systems and/or operations,

cost report, cost statement, information statement, and payment request preparation process. Ninety percent (37 of 41) of respondents said the Systems Review sufficiently assesses and evaluates their organization's billing and coding practices for compliance with Federal health care program requirements and 82 percent (23 of 28) of respondents believed it to accurately reflect the organizations' compliance with Federal health care billing requirements. Thirty-two percent (9 of 28) of the respondents said it was cost effective and 36 percent (10 of 28) were unable to determine its cost effectiveness. Thirty-three percent (12 of 36) of the respondents said they would continue to use an IRO to conduct Systems Reviews.

*Compliance Engagement* - The Compliance Engagement assesses the provider's compliance with the terms of the CIA. Ninety-five percent (72 of 76) of respondents whose IRO included a Compliance Engagement believe it sufficiently evaluates their organization's adherence to the terms set forth in the CIA. Many respondents questioned the effectiveness of the compliance engagement in identifying problems and cost-effectiveness. Thirty-five percent (15 of 43) of the respondents believed it effectively identified problems, and 39 percent (16 of 41) said it was cost effective.

### **SCREENING FOR INELIGIBLE PERSONS**

*HHS/OIG List* - Ninety percent (106 of 118) of the respondents indicated their organization's CIA requires them to screen all current and prospective employees and contractors against the HHS/OIG, "List of Excluded Individuals/Entities." Of the respondents answering a question which asked if they had experienced any problems with the list, 34 percent (35 of 102) of respondents indicated they had experienced problems with the HHS/OIG list. Problems identified included difficulty accessing the website, a lack of identifiers for common names, and incomplete data. Thirty-two of 104 respondents reported having discovered excluded individuals using the HHS/OIG list.

*GSA List of Excluded Individuals* - Seventy-nine percent (93 of 118) of the respondents reported operating under a CIA that requires their organization to screen current and prospective employees or contractors against the "GSA List of Parties Excluded from Federal Programs." Of those 93 providers, 34 percent (32) reported experiencing problems similar to those associated with the HHS/OIG list. Twelve of 92 respondents reported having discovered excluded individuals using this list.

When asked if they would continue to screen employees and contractors using both the HHS/OIG and GSA lists after their CIA expires, 92 percent (84 of 91) of the respondents said yes. Comments from the seven who said they would not continue to use these lists indicated that these respondents found screening against the lists too time consuming and not cost-effective.

## IMPLEMENTATION AND ANNUAL REPORTS

Seventy-eight percent (93 of 120) of respondents said their organizations's CIA required them to submit an implementation report, 66 percent (63 of 95) of whom said the implementation report aided them in preparing the required annual report. Forty-three percent (34 of 79) of respondents had accessed the OIG website when preparing their annual report, and 97 percent (33 of 34) of those indicated the website was helpful.

## AUDITS AND CLAIMS REVIEWS

To guide the OCIG in the development and negotiation of future CIAs, we gathered information regarding the audit provisions contained in the agreements. When asked if an initial review of 50 claims would be sufficient to draw a conclusion regarding the accuracy of their organization's Medicare billing and coding practices, 27 percent (30 of 110) of the respondents said they did not consider 50 claims sufficient, believing that number may not be representative and too simplistic to use in the extrapolation of errors. If a random sample of 50 selected claims indicated significant problems in an organization's billing practices, 86 percent (93 of 108) of respondents said they would agree to a review of a larger sample of claims to determine the extent and cause of detected problems.

Eighty-two percent (89 of 108) of respondents said they believe providers should be allowed to deduct underpayments from overpayments in determining financial error rates. They indicated reporting underpayments would provide a more accurate assessment of problem areas. Some respondents suggested the OIG define "underpayments" and the number of claims they would consider "significant."

*The information presented is based on a survey developed in concert with the OCIG and the Health Care Compliance Association and distributed to 292 providers under CIAs as of June 26, 2001. Hospitals, physicians, and physician groups accounted for 57 percent (167 of 292) of the providers included in our survey population. We received completed surveys from 41 percent (120 of 292) of these providers. Response rates were consistent across provider types, and we noted no strong deviations in responses based on provider type. We wish to note that many of the providers who responded to our survey failed to answer every survey question. As such, the percentages reported in this summary are based on the number of providers responding to each specific question, unless otherwise noted. Hospital outpatient laboratories were excluded from participating in the survey because their CIAs were unique to that industry.*

*Eighty percent (97 of 120) of the individuals completing the survey were compliance officers. Other respondents included physicians, chief executive or financial officers, in-house counsel, and management staff. Fifty percent (53 of 107) of the respondents had been associated with their current organization over 5 years. Fifty-four percent (65 of 120) of the respondents said their organization had a compliance plan in place before their current CIA was implemented. The overwhelming majority (93 percent) of the CIAs had been established for a 3 or 5 year period.*