

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**INPATIENT HEMODIALYSIS
PROCEDURE SERVICES PROVIDED BY
EAST BAY NEPHROLOGY MEDICAL
GROUP, INC.**



AUGUST 2001
CIN: A-09-01-00067

Office of Inspector General

<http://www.hhs.gov/progorg/oig>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HI-IS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Region IX
Office of Audit Services
50 United Nations Plaza, Room 171
San Francisco, CA 94102

CIN: A-09-01 -00067

August 14, 2001

Dr. Ellen C. Morrissey
East Bay Nephrology Medical Group, Inc.
2905 Telegraph Avenue
Berkeley, California 94705

Dear Dr. Morrissey:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "Inpatient Hemodialysis Procedure Services Provided by East Bay Nephrology Medical Group, Inc." A copy of this report will be forwarded to the action official noted below for his review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG, OAS reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to Common Identification Number A-09-01 -00067 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Ahlstrand", written over a faint circular stamp.

Lori Ahlstrand
Regional Inspector General
for Audit Services

Enclosures

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**OFFICE OF AUDIT SERVICES
REGION IX**

**INPATIENT HEMODIALYSIS
PROCEDURE SERVICES PROVIDED BY
EAST BAY NEPHROLOGY MEDICAL
GROUP, INC.**



Inspector General

AUGUST2001
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NOTICES

THIS REPORT IS AVAILABLE TO THE PUBLIC

at <http://www.hhs.gov/progorg/oig>

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as the other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Final determination on these matters will be made by authorized officials of the HHS divisions.





Region IX
Office of Audit Services
50 United Nations Plaza, Room 171
San Francisco, CA 94102

CIN: A-09-0 1-00067

August 14, 2001

Dr. Ellen C. Morrissey
East Bay Nephrology Medical Group, Inc.
2905 Telegraph Avenue
Berkeley, California 94705

Dear Dr. Morrissey:

The purpose of this report is to provide East Bay Nephrology Medical Group, Inc. (Group) with the results of our audit of inpatient hemodialysis procedure services provided to Medicare beneficiaries by the Group in Calendar Years (CY) 1998 and 1999. The objective of our audit was to determine whether hemodialysis services provided by Group physicians to beneficiaries residing in the State of California were allowable and documented in the medical records in accordance with Medicare requirements.

We reviewed a random sample of 100 hemodialysis services to determine if they met the inpatient hospital place of service and the physician's presence requirements. We found that all 100 services met the Medicare requirement for inpatient hospital place of service. However, six services did not meet the Medicare requirement for documenting the physician's presence during the hemodialysis procedure. As a result, we estimate that, of the \$380,596 paid to the Group for hemodialysis services in CY 1998 and 1999, at least \$3,418 was unallowable for Medicare reimbursement.

These overpayments occurred because the Group physicians failed to document their presence during the hemodialysis procedure in the medical records before billing hemodialysis services. In an effort to comply with Medicare requirements, in February 2001, the Group developed a Compliance Manual and implemented it.

We recommended that the Group ensure that the Compliance Manual is fully followed by the Group physicians, so that documentation requirements are met before billing hemodialysis services. In addition, we will provide the Medicare carrier with the results of our review, so that it can initiate the recovery process of the \$3,418 overpayment. In a written response to our draft report (see APPENDIX C), the Group agreed with our findings.

INTRODUCTION

BACKGROUND

The Medicare program, established by Title XVIII of the Social Security Act, provides health insurance coverage to people aged 65 and over, the disabled, and people with end stage renal disease (ESRD)¹. Administered by the Centers for Medicare & Medicaid Services (CMS)² within the Department of Health and Human Services, the program consists of two components - Hospital Insurance (Part A) and Supplementary Medical Insurance (Part B). Part B covers a multitude of medical services including physician services. The Medicare Carriers Manual (MCM), published by CMS, sets forth the billing requirements for paying physician services under Part B. Medicare claims for Part B are processed by “carriers” which are agents contracted by CMS.

In our audit, we reviewed physician services provided to Medicare beneficiaries with renal failure requiring dialysis services. There are two types of renal dialysis, hemodialysis³ and peritoneal dialysis⁴. Dialysis services can be provided at either an inpatient or outpatient setting. Our audit focused on inpatient hemodialysis procedure services provided by physicians.

The Physician’s Current Procedural Terminology (CPT)⁵ includes the following codes for hemodialysis services provided on an inpatient basis:

CPT 90935 - Hemodialysis procedure with single physician evaluation, and

CPT 90937 - Hemodialysis procedure requiring repeated evaluation(s) with or without substantial revision of dialysis prescription.

¹The term ESRD means that “stage of kidney impairment that appears irreversible and permanent and requires a regular course of dialysis or kidney transplantation to maintain life” [MCM §2230.1.A].

²The former name of Centers for Medicare and Medicaid Services (CMS) was Health Care Financing Administration (HCFA).

³ Hemodialysis is a process “[w]here blood is passed through an artificial kidney machine and the waste products diffuse across a man-made membrane into a bath solution known as dialysate after which the cleansed blood is returned to the patient’s body” [MCM §2230.1.B].

⁴ Peritoneal Dialysis is a process “[w]here the waste products pass from the patient’s body through the peritoneal membrane into the peritoneal (abdominal) cavity where the bath solution (dialysate) is introduced and removed periodically” [MCM §2230.1.B].

⁵ Current Procedural Terminology (CPT) is a listing of descriptive terms and identifying codes for reporting medical services and procedures performed by physicians. The CPT book is published by the American Medical Association annually.

For physicians to receive payments based on inpatient dialysis procedure codes, the MCM requires:

- < The place of service to be at an inpatient hospital [MCM §15062.1.D], and
- < The medical record must document that the physician was physically present with the patient at some time during the course of the dialysis [MCM §15062.1.C].

In the June 1988 Medicare Bulletin, the Carrier⁶ informed physicians of the presence requirement by stating, “[w]hen a physician bills Medicare for inpatient dialysis services, that billing must reflect the fact that **the physician was physically present with the patient at some time during the course of dialysis**. Hospital records **must** document the physician’s presence during the dialysis.”

The Group, located in Berkeley, California was incorporated on February 8, 1974. There were 17 physicians practicing under the Group in CY 1998 and 1999.

OBJECTIVE, SCOPE AND METHODOLOGY

OBJECTIVE

The objective of our audit was to determine whether hemodialysis services provided by Group physicians to California beneficiaries during CY 1998 and 1999 were allowable and documented in the medical records in accordance with Medicare requirements.

SCOPE

Our audit was conducted in accordance with generally accepted government auditing standards.

Our audit was limited to determining whether:

- < The place of service was an inpatient hospital, and
- < The medical record documented the physician’s presence with the patient during the hemodialysis procedure.

Our review of the Group’s internal control structure was limited to those controls relating to the submission of claims to Medicare. The objective of our audit did not require an understanding or assessment of the entire internal control structure at the Group.

Our field work included visits to hospitals in the San Francisco area, the Carrier, and the Group’s office in Berkeley from February 2001 to May 2001.

⁶ Blue Shield of California was the former Carrier which handled Medicare billings for the area where the Group was located. National Heritage Insurance Company is the current Carrier for the State of California.

METHODOLOGY

To accomplish our objective, we performed the following steps:

- < Reviewed the Medicare criteria related to hemodialysis services,
- < Interviewed appropriate CMS and Carrier officials to obtain an understanding of how the hemodialysis services should be documented in the medical records,
- < Identified the universe of Medicare Part B payments for CY 1998 and 1999 for the Group using the National Claims History Files (NCHF) for California beneficiaries,
- < Selected a random sample of 100 hemodialysis services based on our approved sampling plan,
- < Reviewed all other services provided to beneficiaries associated with the 100 services and determined if additional Evaluation and Management (E & M)⁷ services were paid to the same physician who received the payment for hemodialysis services,
- < Interviewed Group officials to obtain an understanding of how physicians care for patients during the hemodialysis procedure,
- < Collected medical records at hospitals where the services were provided and analyzed them to determine whether the services met the MCM requirements for billing Medicare Part B,
- < Utilized medical review staff from the Carrier to evaluate the services which did not appear to meet the billing requirements, and
- < Used a variable appraisal program to estimate the dollar impact of overpayments in the universe.

Details on our statistical sampling methodology are presented in APPENDIX A.

⁷ E & M services represent the classification of physicians' work. They are divided into broad categories such as office visits, hospital visits and consultations.

FINDINGS AND RECOMMENDATIONS

We reviewed a random sample of 100 hemodialysis services to determine if they met the inpatient hospital place of service and the physician's presence requirement as stated in the MCM. We found that all 100 services met the inpatient hospital place of service requirements. However, six services did not meet the Medicare requirement for documenting the physician's presence. For these six services, the Group billed and was paid for hemodialysis services even though the documentation in the medical records did not support the physician's presence during the hemodialysis procedure. As a result, we determined that, of the \$8,178 reviewed, \$211 was unallowable. We projected the results of the statistical sample to the population using standard statistical methods and estimated that at least \$3,418 of the \$380,596 in payments to the Group for CY 1998 and 1999 were ineligible for Medicare reimbursement. These overpayments occurred because the Group physicians failed to document their presence during the hemodialysis procedure in the medical records before billing hemodialysis services.

PHYSICIAN PRESENCE

We determined that 6 of the 100 services reviewed did not have sufficient documentation to support the physician's presence during the hemodialysis procedure. The MCM §15062.1.C.2 requires that the physician be physically present with the patient during the hemodialysis procedure and the medical record must document the physician's presence in order to be paid for the hemodialysis service. It also states that "If the physician visits the dialysis inpatient on a dialysis day, but not during the dialysis treatment, do not pay the physician on the basis of a [hemodialysis] procedure code. The nature of these services is the same as physicians' services furnished to any inpatient during a hospital visit. Therefore, use the same hospital visit codes that apply to any other physicians treating hospital inpatients."

For the six services that lacked documentation to support the physician's presence, we determined that these services would be allowable as subsequent hospital care services. Because payments for hemodialysis services are higher than those for subsequent hospital care, the Group received an overpayment, representing the difference between the payments for hemodialysis services and subsequent hospital care services. The following example illustrates the calculation of the overpayment for one service reviewed.

The physician billed a hemodialysis service (CPT 90935) and received a payment of \$77.94. As part of this audit, the Carrier determined that the documentation supported only a subsequent hospital care service (CPT 99232) for which the payment would have been \$46.81.

We allowed the payment for the subsequent hospital care service. We disallowed the difference between the payment made for hemodialysis service and the payment that would have been made for subsequent hospital care service.

Hemodialysis service	\$77.94	(Paid)
Subsequent hospital care service	<u>46.81</u>	(Allowed)
Unallowable	<u>\$31.13</u>	

The Group received a total overpayment of \$211 for these six services by billing hemodialysis services when subsequent hospital services should have been billed. Details of our findings are presented in APPENDIX B.

These overpayments occurred because the Group physicians failed to document their presence during the hemodialysis procedure in the medical records before billing hemodialysis services. In an effort to comply with Medicare requirements, in February 2001 the Group developed a Compliance Manual and implemented it.

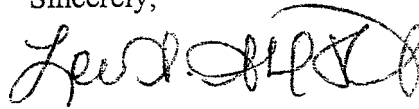
RECOMMENDATIONS

We recommended that the Group ensure that the Compliance Manual is fully followed by the Group physicians, so that documentation requirements are met before billing hemodialysis services. In addition, we will provide the Medicare carrier with the results of our review, so that it can initiate the recovery process of the \$3,418 overpayment.

GROUP COMMENTS

In a written response dated July 23, 2001 (see APPENDIX C) to our draft report, the Group agreed with our findings. The Group also stated that in the Year 2000, it developed a Compliance Manual, which was implemented in February 2001.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Ahlstrand". The signature is fluid and cursive, with a large loop at the end.

Lori A. Ahlstrand
Regional Inspector General
for Audit Services

APPENDICES

APPENDIX A

EAST BAY NEPHROLOGY MEDICAL GROUP, INC.

STATISTICAL SAMPLING METHODOLOGY

POPULATION		SAMPLE		ERRORS	
Items:	4,713	Items:	100	Items:	6
Payments:	\$380,596	Payments:	\$8,178	Payments:	\$211

PROJECTION OF SAMPLE RESULTS
at the 90 Percent Confidence Level

Point Estimate:	\$9,927
Lower Limit:	\$3,418
Upper Limit:	\$16,435

EAST BAY NEPHROLOGY MEDICAL GROUP, INC.

Sample Number	Billed CPT ⁷	Audited CPT ⁸	Paid Amount ⁹	Audited Amount ¹⁰	Difference (Paid-Audited)
1	90935	9093 5	\$83.46	\$83.46	\$0.00
2	90935	9093 5	\$83.46	\$83.46	\$0.00
3	90935	90935	\$83.46	\$83.46	\$0.00
4	90935	90935	\$83.46	\$83.46	\$0.00
5	90935	90935	\$83.46	\$83.46	\$0.00
6	9093 5	90935	\$77.94	\$77.94	\$0.00
7	90935	90935	\$77.94	\$77.94	\$0.00
8	90935	90935	\$83.46	\$83.46	\$0.00
9	9093 5	90935	\$77.94	\$77.94	\$0.00
10	90935	90935	\$83.46	\$83.46	\$0.00
11	90935	90935	\$77.94	\$77.94	\$0.00
12	90935	90935	\$77.94	\$77.94	\$0.00
13	90935	9093 5	\$83.46	\$83.46	\$0.00
14	90935	90935	\$83.46	\$83.46	\$0.00
15	9093 5	90935	\$77.94	\$77.94	\$0.00
16	90935	90935	\$77.94	\$77.94	\$0.00
17	90935	90935	\$83.46	\$83.46	\$0.00
18	90935	90935	\$77.94	\$77.94	\$0.00
19	90935	9093 5	\$83.46	\$83.46	\$0.00
20	90935	90935	\$83.46	\$83.46	\$0.00
21	90935	99232	\$83.46	\$46.37	\$37.09
22	90935	90935	\$83.46	\$83.46	\$0.00
23	90935	90935	\$77.94	\$77.94	\$0.00
24	90935	90935	\$83.46	\$83.46	\$0.00
25	90935	90935	\$83.46	\$83.46	\$0.00

⁷The term “Billed CPT” denotes the CPT code which was originally billed by and paid to the Group.

⁸The term “Audited CPT” denotes the CPT code allowed during our audit.

⁹The term “Paid Amount” denotes the amount paid by Medicare Part B.

¹⁰The term “Audited Amount” denotes the amount allowed during our audit.

APPENDIX B

Page 2 of 4

EAST BAY NEPHROLOGY MEDICAL GROUP, INC.

Sample Number	Billed Cpt	Audited CPT	Paid Amount	Audited Amount	Difference (Paid-Audited)
26	9093 5	90935	\$83.46	\$83.46	\$0.00
27	90935	90935	\$83.46	\$83.46	\$0.00
28	90935	9093 5	\$83.46	\$83.46	\$0.00
29	90935	90935	\$77.94	\$77.94	\$0.00
30	90935	90935	\$77.94	\$77.94	\$0.00
31	90935	9093 5	\$83.46	\$83.46	\$0.00
32	90935	90935	\$77.94	\$77.94	\$0.00
33	90935	99232	\$77.94	\$46.81	\$31.13
34	90935	90935	\$83.46	\$83.46	\$0.00
35	90935	99232	\$83.46	\$46.37	\$37.09
36	90935	99232	\$83.46	\$46.37	\$37.09
37	90935	90935	\$83.46	\$83.46	\$0.00
38	90935	90935	\$77.94	\$77.94	\$0.00
39	90935	9093 5	\$83.46	\$83.46	\$0.00
40	90935	90935	\$83.46	\$83.46	\$0.00
41	90935	90935	\$77.94	\$77.94	\$0.00
42	90935	90935	\$77.94	\$77.94	\$0.00
43	90935	90935	\$77.94	\$77.94	\$0.00
44	90935	9093 5	\$75.86	\$75.86	\$0.00
45	90935	90935	\$77.94	\$77.94	\$0.00
46	90935	90935	\$77.94	\$77.94	\$0.00
47	90935	90935	\$77.94	\$77.94	\$0.00
48	90935	90935	\$77.94	\$77.94	\$0.00
49	90935	90935	\$83.46	\$83.46	\$0.00
50	90935	90935	\$77.94	\$77.94	\$0.00
51	90935	90935	\$83.46	\$83.46	\$0.00
52	90935	90935	\$77.94	\$77.94	\$0.00
53	9093 5	90935	\$83.46	\$83.46	\$0.00
54	90935	90935	\$83.46	\$83.46	\$0.00
55	9093 5	90935	\$83.46	\$83.46	\$0.00
56	90935	90935	\$77.94	\$77.94	\$0.00
57	90935	90935	\$83.46	\$83.46	\$0.00

APPENDIX B

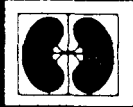
Page 3 of 4

EAST BAY NEPHROLOGY MEDICAL GROUP, INC.

Sample Number	Billed CPT	Audited CPT	Paid Amount	Audited Amount	Difference (Paid-Audited)
58	90935	90935	\$77.94	\$77.94	\$0.00
59	90935	99232	\$83.46	\$46.37	\$37.09
60	90935	90935	\$83.46	\$83.46	\$0.00
61	90935	90935	\$77.94	\$77.94	\$0.00
62	90935	90935	\$83.46	\$83.46	\$0.00
63	90935	90935	\$83.46	\$83.46	\$0.00
64	90935	90935	\$83.46	\$83.46	\$0.00
65	90935	90935	\$83.46	\$83.46	\$0.00
66	90935	90935	\$77.94	\$77.94	\$0.00
67	90935	90935	\$83.46	\$83.46	\$0.00
68	9093 5	90935	\$71.01	\$71.01	\$0.00
69	90935	90935	\$83.46	\$83.46	\$0.00
70	90935	90935	\$77.94	\$77.94	\$0.00
71	90935	90935	\$83.46	\$83.46	\$0.00
72	90935	90935	\$77.94	\$77.94	\$0.00
73	90935	90935	\$77.94	\$77.94	\$0.00
74	90935	99232	\$77.94	\$46.81	\$31.13
75	90935	90935	\$83.46	\$83.46	\$0.00
76	90935	90935	\$77.94	\$77.94	\$0.00
77	90935	90935	\$77.94	\$77.94	\$0.00
78	90935	90935	\$83.46	\$83.46	\$0.00
79	90935	90935	\$83.46	\$83.46	\$0.00
80	90935	90935	\$77.94	\$77.94	\$0.00
81	90935	90935	\$77.94	\$77.94	\$0.00
82	90935	90935	\$83.46	\$83.46	\$0.00
83	9093 5	90935	\$77.94	\$77.94	\$0.00
84	90935	90935	\$83.46	\$83.46	\$0.00
85	90935	90935	\$166.93	\$166.93	\$0.00
86	90935	90935	\$83.46	\$83.46	\$0.00
87	90935	90935	\$83.46	\$83.46	\$0.00
88	90935	90935	\$83.46	\$83.46	\$0.00
89	90935	90935	\$77.94	\$77.94	\$0.00

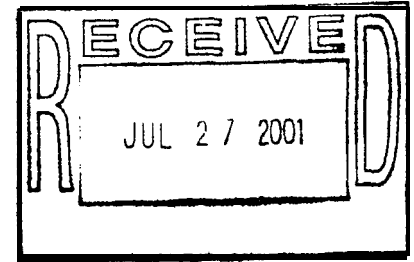
EAST BAY NEPHROLOGY MEDICAL GROUP, INC.

Sample Number	Billed CPT	Audited CPT	Paid Amount	Audited Amount	Difference (Paid-Audited)
90	90935	90935	\$77.94	\$77.94	\$0.00
91	90935	90935	\$83.46	\$83.46	\$0.00
92	90935	90935	\$77.94	\$77.94	\$0.00
93	90935	90935	\$77.94	\$77.94	\$0.00
94	90935	90935	\$77.94	\$77.94	\$0.00
95	90935	90935	\$83.46	\$83.46	\$0.00
96	90935	90935	\$83.46	\$83.46	\$0.00
97	90935	90935	\$83.46	\$83.46	\$0.00
98	90935	9093 5	\$77.94	\$77.94	\$0.00
99	90935	90935	\$83.46	\$83.46	\$0.00
100	90935	9093 5	\$83.46	\$83.46	\$0.00
Total			\$8,177.58	\$7,966.96	\$210.62



Care of Kidney Diseases
Dialysis
Hypertension
Transplantation
Critical Care
Dialysis Access Care Center

July 23, 2001



Lori A. Ahlstrand
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
50 United Nations Plaza
San Francisco, Ca. 94102

Re: CIN: A-09-0 1-00067

Dear Lori Ahlstrand:

This letter is in response to the draft report titled "Inpatient Hemodialysis Procedure Services Provided by East Bay Nephrology Medical Group, Inc."

East Bay Nephrology Medical Group accepts the findings of the Office Of Inspector General with respect to the audit of 1998 and 1999 hemodialysis services provided and billed. East Bay Nephrology has made compliance a priority. In the year 2000 we developed a compliance manuel. Implementation of our compliance program began in February 2001.

East Bay Nephrology Medical Group was hoping for "0" errors during this recent audit, however, we were pleased to see that previous efforts we have made with physician education are having results. The six errors that were discovered during the audit have been reviewed with the rendering physicians. In addition, we have reviewed the documentation requirements to bill procedure codes 90935 and 90937 with each of our physicians. Since implementation of our compliance program we are now monitoring our physicians on an individual basis, looking for further areas of physician education on billing and documentation. East Bay Nephrology Medical Group will continue to enforce the Compliance Manual to ensure further compliance with Medicare requirements.

Sincerely,

Ellen C. Morrissey, MD
President, East Bay Nephrology Medical Group

- Robert **B. Doud**, KD.
- Randall **L. Rasmussen**, M.D.
- Terry **M. Maher**, M.D.
- Rodney **Faucett**, D.O.
- Ellen **C. Morrissey**, M.D.
- Bryan **M. Wong**, M.D.
- Mario **Corona L**, M.D.
- Denise **M. Ricker**, M.D.
- Swati **P. Patol**, M.D.
- Terina **M. Miller**, M.D.
- Rica **D. Pagtalunan**, M.D.
- Oliver **K. Khakmahd**, M.D.
- Samuel **J. Wong**, D.O.
- Malcolm **L. Karlinsky**, M.D.
- Donald **A. Block**, M.D.
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- John **G. Mouratoff**, M.D.
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