Access to Care. The OIG identified two issues that are closely related to beneficiaries’ access to care. First, in MA, the OIG will try to determine whether MA plans inappropriately deny care to beneficiaries and will review CMS’s oversight of denied care. Coverage determinations/organization determinations, appeals and grievances are one of the most challenging clinical and administrative functions that MA plans and Part D plans undertake, and problems with CDAG/ODAG are common in CMS audit findings. The OIG weighing in on this issue could make an already challenging area more difficult, especially because CDAG/ODAG issues are often very fact specific and require clinical judgment. Second, in Part D, the OIG will continue to examine formularies to determine if they include drugs that are commonly used by dual-eligible beneficiaries, as required.

Drug Prices. The OIG identified many issues that relate to drug prices.

- **Rebates for 340B** - The OIG is considering whether drug manufacturers should pay rebates to Part D plans for drugs that are filled at 340B covered entities and contract pharmacies. Manufacturers often do not offer rebates on drugs sold by these entities because they are obtain the drugs at a discount from the manufacturers.

- **Part B Drug Rebates** - The OIG is examining how much money the Medicare program could save if it required manufacturers to provide inflation-indexed rebates on Part B drugs similar to the rebates required under the Medicaid program. Although this is a new topic for the Work Plan, the OIG has previously considered this and reported on it in 2013 as shown [here](#). Earlier this year CMS also announced its plan to [test new payment models](#) for Part B drugs. Part B drug prices are most often discussed under original Medicare Part B, but the OIG’s recommendations and the policy ultimately adopted by Congress and CMS will also most likely impact MA plans that either directly reimburse providers for Part B drugs or that provide Part B drugs to providers through a contracted supplier/pharmacy.

- **Part D Brand-Name Drugs** - The OIG is continuing to examine the price increases for brand-name...
Part D drugs between 2011 and 2015 and comparing the increase to inflation over the same time period. It appears that the OIG expects, and is likely, to find that the price of commonly used brand-name Part D drugs have increased at a greater rate than inflation. Based on the countless stories over the last twelve months concerning increasing drug prices, it seems likely that the OIG’s ultimate findings will be added fuel to the drug pricing fire.

- **Compounded Topical Drugs** - The increase in Part D spending on compound topical drugs has caused the OIG to select such drugs for closer scrutiny.

- **Risk Adjustment and Encounter Data** - The OIG is continuing to examine all aspects of data integrity as it relates to encounter data and risk adjustment data. For risk adjustment data, the OIG “will review the medical record documentation to ensure that it supports the diagnoses that MA organizations submitted to CMS for use in CMS’s risk score calculations and determine whether the diagnoses submitted complied with Federal requirements.” “Federal requirements” for risk adjustment are relatively vague (significant coding guidance has been issued by industry groups), so much so that years ago the OIG and CMS appeared to be operating with different standards when conducting the first RAD-V audits. The results of this examination are not expected until 2018; it will be very interesting to learn what “Federal requirements” the OIG ultimately uses in conducting this examination.

- **Part D P&T Committee** - The OIG is following up on its earlier findings that CMS had not adequately ensured that Part D sponsors complied with Federal conflict-of-interest requirements as applied to their P&T Committees. Interestingly, CMS removed P&T Committee from the Part D Program Audit in 2015. In removing it, CMS stated it would find other ways to monitor compliance with P&T Committee requirements. Presumably, the OIG’s examination will determine the “other ways” CMS is using to monitor P&T Committee operations, including monitoring for an avoiding conflicts-of-interest.

- **Payments After Death** - The OIG previously identified payments made in 2011 to MA and Part D plans after a beneficiary’s death. Such payments may be appropriate depending upon the timing of the individual’s death within a given month. The OIG is now going to determine whether the payments it identified for 2011 ($20 million for MA and $1 million for Part D) were made in accordance with Medicare requirements.

For a complete list of the topics the OIG identified in its Work Plan targeted at MA and Part D, please see the [Work Plan](https://www.natlawreview.com/article/2017-office-inspector-general-work-plan-medicare-plans). We will be releasing additional posts shortly reporting on other areas on which the OIG will focus.

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