

## Eli's Hospice Insider

### Audits: Incorrect Claim Determinations Abound In Latest OIG Audit

**Plus: Semiannual report to Congress touts hospital pay proration for early discharges to hospice.**

The trend of the OIG walking back its claims deemed improper in recent audits is stronger than ever in its latest audit report.

Out of 100 claims submitted by Hospice Compassus Inc. of Payson, Arizona, in 2014 through 2016, the HHS Office of Inspector General's contracted auditor originally said 70 were improperly paid.

After Compassus rebutted the findings, the OIG "revised our determinations for 32 claims," it says in the report. "This resulted in 31 claims being allowable because 1 of the 32 claims remains unallowable for another reason."

Despite that admission, "we maintain that our findings and recommendations, as revised, are valid," the OIG says. Compassus billed for ineligible patients, failed to document services provided, and upcoded for higher levels of care, the report alleges.



Compassus doesn't agree, it makes clear in the 19-page comment letter it filed for the report. "As OIG knows, just because a hospice patient does not pass away within six months of being certified as terminally ill does not mean that the patient did not qualify for hospice care or that the certifying physicians were wrong," Morgan Lewis attorney **Howard Young**, Compassus' counsel, says in the hospice's letter. "CMS has long recognized that issues of life and death do not always follow an exact trajectory or timeline."

That's especially true considering last year's AseraCare decision about physician determinations of terminal illness. "As the Eleventh Circuit ... decided and clarified in the AseraCare opinion, under the Medicare hospice benefit the certifying physician's certification of terminal illness ('CTI') must be given great weight," Young emphasizes in the hospice's response.

"Based on the independent review conducted ... OIG's draft report contains numerous incorrect and inaccurate conclusions," the letter says.

Private equity firm Towerbrook Capital Health and health system Ascension Health combined forces to acquire hospice chain **Compassus** for \$1.05 billion last year.

#### **OIG Celebrates Hospice Referral-Curbing Payment Mechanism**

Meanwhile, in its Semiannual Report to Congress issued Dec. 2, the OIG mostly gives hospices a pass for once. The watchdog agency does highlight its recommendation to prorate hospice DRG payments when patients transfer to hospice "early." Congress took up the suggestion and "beginning in FY 2019, discharges to hospice care would also qualify as a postacute-care transfer and be subject to payment adjustments," the report notes.

The reimbursement policy change will save Medicare \$500 million, the OIG estimates.

Note: The 44-page Compassus audit is at [www.oig.hhs.gov/oas/reports/region2/21601023.pdf](http://www.oig.hhs.gov/oas/reports/region2/21601023.pdf). The Semiannual Report is at <https://oig.hhs.gov/reports-and-publications/archives/semiannual/2020/2020-fall-sar.pdf>.

