

Eli's Hospice Insider

Compliance: Alternative Sanctions May Prove A Double-Edged Sword For Hospices

Warning: CMPs can put you out of business faster than decertification.

If you think alternative sanctions will lead to less punishing survey enforcement, you'd better think again.

The **HHS Office of Inspector General** and the **Government Accountability Office** agree: Medicare needs sanctions in addition to termination for hospice surveys.

However, Congress needs to grant the **Centers for Medicare & Medicaid Services** the authority to implement those sanctions, the GAO notes in its new report. Senate Finance Committee members **Ben Cardin** (D-MD) and **Rob Portman** (R-Ohio) introduced survey reform legislation, the Hospice Care Improvement Act (S. 2807), on Nov. 7, notes trade group **LeadingAge**.

The bill calls for a number of sanctions, including suspension for new admissions, directed plans of correction, and temporary management, says attorney **Meg S.L. Pekarske** with **Reinhart Boerner Van Deuren** in Madison, Wisconsin.

"We expect that House legislation will also address this area," says **Theresa Forster** with the **National Association for Home Care & Hospice**.

But hospices shouldn't expect that intermediate sanctions will necessarily be any better than the termination track. "I have seen instances in which the fines ... were so large that they basically drove providers out of business," warns Washington, D.C.-based healthcare attorney **Elizabeth Hogue**.

Attorney **Robert Markette Jr.** with **Hall Render** in Indianapolis relates the story of a home health agency that was "already \$270,000 in the hole when it was notified" about alternative sanction civil money penalties. "Most agencies can't survive that," he says.

HHS doubled CMP amounts in 2016, and they are adjusted for inflation every year. They now clock in at more than \$20,500 per day at the upper range.

Note: See CMP information and amounts at www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Civil-Monetary-Penalties-Annual-Adjustments.