

## Eli's Hospice Insider

### Compliance: Double-Check Your Nursing Home Relationships For Compliance

**OIG work plan for this year throws spotlight on this care setting.**

In a report earlier this year, the OIG heaped criticism on hospices serving a high percentage of patients who reside in nursing homes. Now it's turning that criticism into further action.

In the hospice section of its fiscal year 2012 work plan, the **HHS Office of Inspector General** says it will "review hospices' marketing materials and practices and their financial relationships with nursing facilities." The focus of the new review, says the OIG, will be "hospices that have a high percentage of their beneficiaries in nursing facilities."

Last July, the OIG issued a report casting grave suspicions on so-called "high percentage hospices," which were providing two-thirds or more of their hospice care to Medicare patients in nursing facilities in 2009 (see Eli's Hospice Insider, Vol. 4, No. 9, p. 60). The agency's analysis found that such hospices "typically enrolled beneficiaries whose diagnoses required less complex care and who already lived in nursing facilities. Together, beneficiaries with ill-defined conditions, mental disorders, and Alzheimer's disease accounted for over half (51 percent) of the beneficiaries served by high-percentage hospices," the report states. "In contrast, 32 percent of all hospice beneficiaries had one of these three conditions as their terminal diagnoses; beneficiaries with these conditions typically received routine home care, which is less complex and costly than other levels of hospice care."

But the OIG's data may not be an accurate representation of what's happening today, according to one industry expert. The OIG's data collection spanned from 2005 to 2009, but the new hospice Conditions of Participation took effect only in December 2008, and provided a lot of new requirements, including the face-to-face requirements for recertification, says **Jon Radulovic** of the **National Hospice and Palliative Care Organization**.

Consultant **Beth Carpenter** also points out that "there's nothing wrong with providing care if it's done appropriately and people qualify" for the care. "And it's quite possible that's what's going on in the designated [high nursing home volume] hospices" identified in the OIG report. "It's just that the spotlight is now being put on this particular setting for hospice care," adds Carpenter, in Lake Barrington, Ill.

Nurse **Cherry Meier**, senior VP of public affairs for **VITAS Healthcare Corp.**, notes that the eligibility requirements for hospice don't include diagnoses requirements. "The criteria state that the physician anticipates that the person has a six month prognosis or less if the disease follows its normal course." Thus, you have to look at each case independently, she adds.

"Just because someone has a primary diagnosis of dementia doesn't mean the person doesn't have other complicating factors," Meier says. "When you simply label people according to their diagnoses, you miss what they may actually require in terms of care. The OIG report focuses more on diagnoses rather than the complexities of the person that would make him or her eligible for hospice."

The various MACs do have local coverage decisions for hospice care, Meier says. "These are usually for non-cancer diagnoses where the MAC/FI provides guidelines to help hospice providers identify criteria that would qualify the patient," she says. "But the criteria are just guidelines -- they are not etched in stone anywhere. They help with your documentation, but if the physician finds the person is declining for other reasons, then they may be eligible for hospice," Meier adds.

Note: The OIG work plan is at <http://oig.hhs.gov/reports-and-publications/workplan/index.asp#current>. The OIG's July report is at <http://oig.hhs.gov/oei/reports/oei-02-10-00070.pdf>.

