

Eli's Hospice Insider

Compliance: Hospice Eligibility Is In The OIG's Crosshairs

Providers aren't thrilled to see newest Work Plan item.

Getting raked over the coals all over again may be in hospices' future.

Why? The HHS Office of Inspector General plans to conduct a nationwide review of hospice beneficiary eligibility, it says in a new addition to its Work Plan. The watchdog agency plans on "focusing on those hospice beneficiaries that haven't had an inpatient hospital stay or an emergency room visit in certain periods prior to their start of hospice care," according to the Work Plan entry.

"The nationwide audit likely will entail requests to hospices nationwide for individual Medicare hospice claims and supporting hospice records," explains attorney **Howard Young** with law firm Morgan, Lewis & Bockius in Washington, D.C. "We expect that those hospice records will then be reviewed by an Independent Medical Review Contractor (IMRC) contracted by OIG," Young says in Morgan Lewis' Health Scan blog.

The "OIG's focus on patients admitted to hospice without a preceding hospitalization or ER visit would suggest this audit may focus to a large degree on the beneficiary population with diagnoses such as dementia, chronic kidney failure, and heart disease," Young suspects. In other words, "those who may not frequently require an ER visit or hospitalization," he says.



The OIG "has performed several compliance audits of individual hospice providers in recent years, and each of those audit reports identified findings related to beneficiary eligibility," the agency notes. Terminal illness tends to be of particular concern.

"The certification of terminal illness for hospice benefits shall be based on the clinical judgment of the hospice medical director or physician member of the interdisciplinary group, and the beneficiaries' attending physician, if they have one, regarding the normal course of their illness," the OIG explains.

The problem is, just how much will those clinical judgments count? "It remains to be seen how much weight and deference, if any, OIG and its IMRC will place on the contemporaneous clinical judgment of the hospice physicians and attending physicians," Young says. "In the 11 previous hospice provider compliance audits completed in 2020 and 2021, it was not at all apparent that OIG and its IMRC placed significant weight on the hospice physicians' and attending physicians' clinical judgment reflected in the hospice certifications of terminal illness," he criticizes.

The OIG says it plans to issue a report on the topic in 2023. "This date could slip," however, Young points out.

Note: The Work Plan entry is at <https://oig.hhs.gov/reports-and-publications/workplan/summary/wp-summary-0000648.asp>.