

## Eli's Hospice Insider

### Compliance: OIG Outlines Latest Hospice Red Flag Areas

#### Increasing medical review, regulatory burdens ahead, report signals.

With the **HHS Office of Inspector General** indicating an ever-increasing interest in hospice oversight, providers should buckle up for a bumpy ride ☹️ and start keeping a close watch on themselves before auditors do it for them.

In its newly released "Compendium of Unimplemented Recommendations," the OIG lists a number of actions it urges HHS and the **Centers for Medicare & Medicaid Services** to take to curb hospice fraud, abuse, and waste.

"The hospice industry is coming under greater and greater scrutiny," stresses attorney **Robert Markette Jr.** with **Hall Render** in Indianapolis. "Hospice providers should look at what has happened to their colleagues in home health and begin to focus heavily on compliance," Markette urges.

Hospices should pay particular attention to the areas the OIG highlights in its recommendations:

- reformed hospice payments to reduce the incentive for hospices to target beneficiaries with certain diagnoses and those likely to have long stays (see sidebar, p. 52);
- more frequent surveys;
- a hospital transfer payment policy for early discharges to hospice care;
- modification of payment for nursing home residents receiving hospice;
- stepped-up monitoring for nursing home residents receiving hospice;
- increased oversight of General Inpatient (GIP) claims;
- "additional enforcement remedies for poor hospice performance";
- new physician documentation requirements for GIP;
- prepayment reviews for lengthy GIP stays;
- enhanced survey focus on care planning requirements;
- scrutiny of separate Part D payments for hospice patients' drugs;
- education on hospice revocations and discharges; and
- strengthened surveyor review of election statements and certifications of terminal illness.

The OIG gives special emphasis to the hospital stay proration recommendation and the payment reform suggestion, ranking them both in its top 25 unimplemented recommendations.

**Referral deterrent:** "Establishing a transfer payment rate policy for early discharges to hospice care would have saved Medicare approximately \$602.5 million in 2009 and 2010," the OIG estimates.

In other words, hospitals would have received \$600 million less reimbursement unless they delayed hospice referral past the proration point.

"CMS should change its regulations or pursue a legislative change, if necessary, to establish a hospital transfer payment policy for early discharges to hospice care," the OIG urges. CMS said it would consider implementing the policy, but to date hasn't proposed it in a hospital payment system rule, the report notes.

**What's ahead:** "As hospice utilization and spending continue to grow, CMS is going to continue to look more and more at hospice," Markette predicts. "Hospice will find the experience as unpleasant as home health has found it," he says.

**An example:** "I am already seeing [Unified Program Integrity Contractor] **AdvanceMed** begin to audit hospice providers with a greater frequency," Markette tells **Eli**.

**Do this:** Hospices can't sit back to wait and see how the increased scrutiny affects them. "Hospice providers need to look at the area(s) mentioned in this report and the last few OIG workplans and begin auditing their own performance in that area," Markette recommends. "Identifying and correcting your mistakes before OIG/auditors is an extremely important effort to avoid significant penalties and other negative impacts."

Note: See the compendium at <https://oig.hhs.gov/reports-and-publications/compendium/files/compendium2017.pdf>. Access the OIG work plans at <https://oig.hhs.gov/reports-and-publications/workplan>.