

## Eli's Hospice Insider

### Compliance: OIG Targets Hospice-SNF Relationships In The New Year

**Plus: Medicare may prorate hospitals' payment for patients transferred to hospice.**

The **HHS Office of Inspector General** continues to remain suspicious of hospice activities related to nursing homes and inpatient care, and the 2013 Work Plan reflects those concerns.

The OIG announces only two Medicare hospice topics for review for next year -- "Marketing Practices and Financial Relationships with Nursing Facilities" and "General Inpatient Care." Both are reviews carried over from the current year.

"In a recent report, OIG found that 82 percent of hospice claims for beneficiaries in nursing facilities did not meet Medicare coverage requirements," the agency notes. Potential problems may include inappropriate enrollment and compensation to the nursing home, as well as aggressive marketing toward residents. "We will focus our review on hospices that have a high percentage of their beneficiaries in nursing facilities," the OIG notes.

The OIG has an "ongoing emphasis on marketing and relationships with NFs," says attorney **Robert Markette Jr.** with **Benesch, Friedlander, Coplan & Aronoff** in Indianapolis. "OIG has made a lot of noise about this in the past year and mentions it again in this year's work plan," he adds. "Providers need to be carefully assessing the accuracy of their marketing materials and the appropriateness of care provided in SNFs."

In its review of 2011 GIP claims, "we will review hospice medical records to address concerns that this level of hospice care is being misused," the OIG pledges.

"Some hospices have used the general inpatient care benefit as a way to pay SNFs higher amounts for residents," Markette observes. "This can be quite lucrative to the SNF and result in referrals to the hospice."

Watch out: "Providers should be aware that this creates Antikickback Statute liability," Markette warns.

In the hospital: The OIG will address another hospice topic through a hospital lens -- "Acute-Care Inpatient Transfers to Inpatient Hospice Care." The OIG doesn't want Medicare to pay hospitals a full DRG when they transfer patients to hospice after a short stay.

"Medicare pays hospitals a reduced payment for shorter lengths of stay when beneficiaries are transferred to another PPS hospital or, for certain DRGs, to postacute care settings," the OIG points out. "If appropriate, we will recommend that CMS evaluate its policy related to payment for hospital discharges to hospice facilities."

Many home health agencies saw hospital referrals drop dramatically for patients in DRGs that CMS began prorating. Hospices could have the same experience.

The OIG also lists a hospice topic for Medicaid -- "Compliance With Reimbursement Requirements." The review appears to focus on beneficiaries' terminal illness.

Note: The Work Plan is at <https://oig.hhs.gov/reports-and-publications/workplan/index.asp#current>.