

Eli's Hospice Insider

Compliance: Protect Yourself From Audits With These 5 Tips

Make sure you can take ongoing scrutiny.

The heat is on, and not just because it's the middle of summer.

From April to June, the HHS Office of Inspector General has issued five hospice audit reports where it found billing error rates of up to 52 percent, mostly based on terminal prognosis failings (see Hospice Insider, Vol. 14, No. 7 and related story, p. 5). More are likely on the way as well.

"Auditors continue to gather 'low hanging fruit' from hospices," says Washington, D.C.-based healthcare attorney **Elizabeth Hogue**. "Hospices remain extremely vulnerable to audit activity" regarding "whether or not patients have a terminal illness with a prognosis of six months or less if diseases run normal course," Hogue tells AAPC.



Determining prognosis is a "battle of experts," such as this audit's conflicting opinions between the OIG reviewer and Franciscan's expert reviewer, notes attorney **Robert Markette Jr.** with Hall Render in Indianapolis. Denials based on prognosis "call into question the physician's professional judgment," Markette says.

No matter which reviewing entity the audit comes from, "every audit looks a lot like this," Markette maintains. "It's always terminal illness."

The government appears "ready to get back to scrutiny," Markette adds. The COVID-related hiatus in audits is over.

Consider this advice to combat the increasing scrutiny hospices are under:

1. Go back to basics on documentation. "Sound documentation [must] justify eligibility for services," emphasizes **Theresa Forster** with the National Association for Home Care & Hospice.

"Documentation is, of course, key for providers to prevail in audits," Hogue stresses. "Based on my review of hospice patients' medical records, it seems to me that hospice staff members are not 'telling patients' stories' or 'painting pictures of patients' conditions' through their documentation," she relates.

Pitfall: One big contributor to insufficient documentation is "the use of electronic medical records (EMRs) that tempt staff members to check boxes ... and to cut and paste narrative documentation," Hogue cautions.

Bottom line: Hospices must have "thorough, clear documentation," Markette advises.

2. Know your risks. Check to see where you stick out to reviewers like a sore thumb, Markette counsels. For many hospices, this may be in the areas of length of stay or non-cancer diagnoses.

If you know where you are an outlier, you can make sure your documentation thoroughly covers why the patient is still eligible for the hospice benefit and services.

However, "even if you're not an outlier, that doesn't mean you're safe," Markette cautions. "They're looking at everybody."

3. Run internal audits. "Routine conduct of internal audits [helps] ensure compliance with CMS requirements," Forster recommends.

You can use your audit findings to circle back and provide education on the subjects needed and to the staff indicated, experts counsel.

4. Maintain an effective compliance plan. Smart hospices will follow the OIG's compliance guidance. The agency's "voluntary compliance program guidance documents ... encourage the development and use of internal controls to monitor adherence to applicable statutes, regulations, and program requirements," the OIG says on its website.

"In addition to fulfilling its legal duty to ensure that it is not submitting false or inaccurate claims to Government and private payors, a hospice may gain numerous additional benefits by voluntarily implementing an effective compliance program," the OIG encourages in its hospice-specific compliance guidance at <https://oig.hhs.gov/authorities/docs/hospicx.pdf>.

However, realize a compliance plan doesn't make you bulletproof. Multiple targets of the recent OIG hospice audits also had robust compliance plans, they claimed in their report response letters, Markette points out.

5. Review records before submission. Hospice providers are stretched thin these days, but that shouldn't be an excuse to slack on responding to record requests from the OIG, UPIC, MAC, or other auditors.

"Hospices don't spend enough time reviewing records before submission to auditors to identify documentation that is inaccurate and incomplete and to fix it, if possible, by amending or supplementing the records," Hogue says.

Failing to take such steps on the front end may mean whopping overpayment demands on the back end, experts warn.