

## Eli's Hospice Insider

### Fraud & Abuse: OIG Targets These Hospice Hot Spots For Scrutiny In 2011

**Nursing home relationships, duplicate drug payments, and medical necessity will be some of the critical issues the federal watchdog addresses in 2011.**

Your nursing home relationships will be under increased scrutiny in the new year, thanks to one of four new reports the **HHS Office of Inspector General** plans about Hospice providers next year.

#### Monitor Nursing Home Relationships

"We will examine the characteristics of nursing facilities with high utilization patterns of Medicare hospice care and the characteristics of the hospices that serve them," the OIG says in its newly released 2011 Work Plan. "We will also assess the business relationships between nursing facilities and hospices and assess the marketing practices and materials of hospices associated with high utilization patterns."

Why? The OIG's recent report which found that 82 percent of hospice claims for beneficiaries in nursing facilities did not meet Medicare coverage requirements inspired this new study. The OIG also points to MedPACs findings that hospices and nursing facilities have incentives to admit patients likely to have long stays as a factor in the plan to look more closely at these arrangements.

"This is a handy reminder that you should be monitoring your relationships with nursing facilities," said attorney **Robert Markette** with **Gilliland & Markette** in Indianapolis, Indiana on the Home Care Law Blog.

**Take action:** Consider auditing your claims related to hospice patients in nursing homes, Markette suggests. Look for differences in lengths of stay and number of visits as compared to your home patients, he says. Also be cautious with sending aides or nurses to "help out" at the facility. "You may call it a professional courtesy [but] the OIG will call it a kickback," he says.

The OIG also intends to review "the services that hospices and nursing facilities provide to hospice beneficiaries residing in nursing facilities, including services by hospice-based home health aides," according to the work plan. By studying both hospice and nursing facility medical records, the OIG hopes to "determine the extent to which hospices and nursing facilities coordinate care and identify service and payment arrangements." And the OIG "will also assess the appropriateness of hospices' general inpatient care claims."

Response: Take a look at how you "determine what services are hospice and what are nursing facility services," Markette says. Your review should determine where this information is identified, how you handle payment to the nursing facility for additional services or vice versa, whether your contract with the facility covers the additional services, and how rates are set, he adds.

#### Keep an Eye on Drugs, Medical Necessity

The OIG plans to review "the appropriateness of drug claims for individuals who are receiving hospice benefits under Medicare Part A and drug coverage under Medicare Part D." This report will look to see whether Part D was billed for drugs that are covered under the hospice per diem payment. The OIG plans to "determine the extent of duplication between Part D payments and Part A hospice payments and [to] identify controls to prevent duplicate drug payments." The OIG's final study for hospice in 2011 will focus on determining whether Medicaid payments for hospice services were provided in accordance with Federal reimbursement requirements. The OIG plans to conduct a medical review of claims on a sample of Medicaid hospice care recipients to determine that services were reasonable and necessary.

Note: The Work Plan is online at [http://oig.hhs.gov/publications/workplan/2011/FY11\\_WorkPlan-All.pdf](http://oig.hhs.gov/publications/workplan/2011/FY11_WorkPlan-All.pdf). Read Markette's blog post at [www.homecarelawblog.com/my-blog/2010/10/oigs-fy-2011-annual-workplanhospice.html](http://www.homecarelawblog.com/my-blog/2010/10/oigs-fy-2011-annual-workplanhospice.html).