

Eli's Hospice Insider

HOME HEALTH: You Can Provide Unrelated Home Health Services to Hospice Patients

Find out how to provide services without attracting extra scrutiny.

Your hospice patients may have terminal illnesses, but that doesn't mean they can't -- or shouldn't -- benefit from your home health agency's (HHA) help.

The key to furnishing home health services to hospice patients is to avoid accidentally falling into kickback or fraud situations.

Let the Physician Make the Call

HHAs can supply hospice patients with services unrelated to patients' terminal illnesses -- "but it can be tricky," warns Washington, D.C.- based attorney **Elizabeth Hogue**. "The \$64,000 question is, of course, when something is related or unrelated," Hogue tells Eli.

Example: Hogue recalls a patient who had a long history of osteoporosis and metastatic cancer to the bone. When she broke her hip, was it due to the osteoporosis, the cancer (which was the reason for hospice), or both? The cause "was ultimately attributed to the terminal illness ... and the hospice paid for the repair," she says.

The Centers for Medicare & Medicaid Services (CMS) believes instances of HHAs furnishing services to hospice patients would be "rare but ... permissible," said **Janet Neigh** with the National Association for Home Care & Hospice in Washington, D.C.

Tip: "The physician would have to make the decision as to whether the conditions are related," Neigh said.

Careful Documentation Guards Against Fraud

But don't expect a simple physician determination to keep your claims clear, says attorney **Robert Markette, Jr.** with Gilliland & Markette in Indianapolis. You will need to document very carefully how the condition you're treating is unrelated to the terminal illness, he advises. "Otherwise, it looks like Medicare is paying twice," he warns.

HHAs considering furnishing services to hospice patients need to be careful not to "stumble into" kickback or fraud situations. "There are a lot of folks who get into trouble by accident," Markette tells Eli.

Red flag: It may be easy to document when nursing and other skilled services are unrelated to terminal illness. But showing when aide services are unrelated could get more complicated, Markette worries.

HHAs that want to avoid risky behavior may choose not to provide this kind of service altogether.

Reasoning: HHAs providing services to hospice patients is an uncommon practice and may raise eyebrows with regulators like the HHS Office of Inspector General. While hospices don't usually generate a lot of HHA referrals, they appear to be drumming up business for their own referrals from HHAs.

"Hospices and home health are under scrutiny already. Why raise the red flag?" Markette asks.

Hospices that participate in such arrangements should remember that the new hospice Conditions of Participation (CoPs) require them to coordinate with other healthcare providers, reminds attorney **Mary Michal** with Reinhart Boerner Van Deuren in Madison, Wis.

Good idea: Due to its unusual nature and risk for anti-kickback and other implications, Markette recommends running any such arrangements past legal counsel.

Keep in mind: Hospices can contract with HHAs to provide noncore hospice services, Michal adds. You just need to make sure the hospice pays fair market value for the HHA's services.