Eli's Hospice Insider

Industry News

Receiving early palliative care may not only improve the quality of care but also longevity. That's according to a new study published in the New England Journal of Medicine. Patients with metastatic lung cancer who received early palliative care instead of just standard oncology treatment had "significant improvements in both quality of life and mood," says the study headed up by Massachusetts General Hospital researchers in Boston. And "patients receiving early palliative care had less aggressive care at the end of life but longer survival -- about two months longer.

Patients receiving palliative care were in hospice programs longer, says the study, which is available for free at www.nejm.org/doi/pdf/10.1056/NEJMoa1000678.

• **Avoid this common mistake** with hospice Notice of Election (NOE) statements, or risk your reimbursement. Valid hospice NOEs must contain five elements, RHHI **Palmetto GBA** says in a new article about hospice technical denials: identification of the provider; an understanding of the nature of hospice care; waiver of certain Medicare benefits; effective date of election; and beneficiary (or rep) signature.

A common problem Palmetto finds on NOEs is that "the particular name of the individual hospice providing care is not identified," the intermediary cautions. "If the hospice belongs to a corporation or some other entity that has a different name, ensure the name of the particular hospice providing care is on the signed statement."

Another pitfall: Medicare doesn't allow a verbal hospice election statement, Cahaba stresses in an article about NOEs in this month's provider newsletter. "The Medical Review department has found there are providers who write in 'Verbal ok' for election, and this is not acceptable," Cahaba says. "For Medicare to pay for hospice services there must be a valid, signed election form."

The Cahaba article is on-line at www.cahabagba.com/rhhi/news/newsletter/201009_rhhi.pdf.

• **Gentiva Health Services Inc. has closed its blockbuster acquisition** of hospice chain **Odyssey Healthcare Inc.**

As planned, Atlanta-based Gentiva paid $1 billion for Dallasbased Odyssey. "The combination of Gentiva and Odyssey creates the largest U.S. healthcare provider of home health and hospice services based on revenue," Gentiva says in a release. The newly combined company has revenues of about $1.9 billion -- 59 percent from home health, 49 percent from hospice. The merged hospice operations have an average daily census of 14,000 in 30 states. The combined company provides service to 330,000 patients annually.

• **A payment system glitch could be holding up your claims,** but a temporary solution can get your payments flowing again.

"Hospice claims with Occurrence Span Code (OSC) 77 are receiving reason code 34923 in error," RHHI Palmetto GBA says on its website. OSC 77 indicates "noncovered days due to untimely certification," Cahaba GBA notes on its "Hospice Medicare Billing Codes Sheet" at www.cahabagba.com/rhhi/education/materials/quick_hospice_codes.pdf.

Why? "The number of non-covered units should be equal to the non-covered days identified by the date span reported with the occurrence span code 77," Cahaba explains on its website. "It appears that FISS is also including units reported on the discipline lines when counting the days." At Cahaba the claims are being suspended to status/ location S M4923, while at Palmetto they suspend to status/location SM770C.

Workaround: For the claims to process, providers can omit the discipline code (i.e., 055X, 057X, 056X, etc.) line items for dates of service that fall within the dates of OSC 77, Palmetto instructs on its website. "Providers should contact the Provider Contact Center ... to request these claims be Returned to Provider (RTP). Once these claims are RTP'd, the

provider can use the workaround to resubmit their claim(s)."

A system fix for this problem is scheduled for October, Cahaba says on its website.

• **You'd better beef up documentation** for your hospice patients whose conditions are holding steady, or face denials. In medical review of hospice claims by Medicare contractor NHIC, denials are often due to lack of terminal prognosis, NHIC's Dr. George Costantino told the hospice Provider Outreach and Education Advisory Group Aug.20 meeting. "Technically, all the pieces are on the claim," the meeting minutes note. "However, there are no serious changes in condition."

The problem: "There are patients whose health is declining, meet the need for hospice care, and receive the care they need," the minutes say. "They're taken off medications and stabilize --there's no allowance for this type of patient."

• **Is there really more healthcare fraud these days?**

In reality, healthcare may have become a lucrative new stomping ground for organized crime, say some legal experts. Attorney **Robert Markette Jr.** says he has, in fact, been claiming for the past couple of years that healthcare fraud perpetrated by organized crime is on the rise. "What we're seeing in Houston, Miami, and Louisiana is outright criminal conduct where witnesses, etc., are ending up dead," says Markette, in Indianapolis, Ind. "It's like 1920 Mafia stuff." He's also heard anecdotal accounts about foreign Mob elements opening up a home health agency to bill for non-existent services by using stolen identifiers from Medicare patients. As a result of such actions, "law-abiding healthcare providers are being hammered and portrayed unfavorably in the press," Markette says.

"There are more 'evil doers' purposefully defrauding Medicare" who set up storefronts and bill for services they didn't render, agrees attorney **Michael Cassidy,** in Pittsburgh, Pa. "Because Medicare pays within 30 days, the government doesn't figure out there's anything wrong until it's too late," he observes. "The system is easy to manipulate" in that way.

But Cassidy doesn't believe "there are as many haphazard or negligent violations by providers." And that's due to the available amount of education on compliance issues, he says.

• **Oregon's Death with Dignity Act** gives terminally ill patients the right to physician-assisted death, but most Oregon hospices do not fully participate in the act.

Hospices in the first state to legalize physician-assistance in dying either do not participate at all or participate in a limited way when patients request such assistance, according to a survey published in the September-October issue of the Hastings Center Report.

Study authors, **Courtney S. Campbell** and **Jessica C. Cox**, both with the Hundere Program at **Oregon State University**, examined materials developed by hospice programs affiliated with the **Oregon Hospice Association** that were created to address inquiries from patients interested in the Death with Dignity Act. The authors found that most hospice programs played a minor role in the decision making process that leads a patient to choose a physician-assisted death. The hospice programs studied generally provided information about the act in a neutral manor, and most said they would not provide medications necessary to hasten death.

The authors conclude that Oregon hospices are grappling with "questions of legal compliance and moral complicity [that] inhibit hospice collaboration with patients seeking physician-assisted death." Taking a position of "studied neutrality" toward the act may be the best way for hospices to move forward, the authors opine. "This approach can bring much-needed dialogue and transparency to a process that is unnecessarily opaque, permit hospice programs to acknowledge tensions in their core values, and promote efforts to assure congruence among values, policies, and procedures," they write.

• **Keep your eye on ZPICs,** as their audits may be more liable to close your doors than any other Medicare contractor's.

That's because the Zone Program Integrity Contractors are authorized to use statistical sampling to identify overpayments from providers. That means millions of dollars in overpayment demands can come from a relatively small

sample of claims.

ZPICs have generally focused on hospitals, physicians, skilled nursing facilities, physical therapists, and DME suppliers, notes ZPIC consulting firm **Jackson Davis HealthCare** on its website. But HHAs and hospices can be ZPIC targets too.

Case in point: The first reported ZPIC audit of a home care provider occurred in Louisiana in August, says the **Home Care Association of Louisiana**. The provider "received a request for 30 records, to be sent within 24 days," HCLA notes. The records span from mid 2008 to March 2010.

• **Providers often hear conflicting advice** regarding how long they must hang on to a patient's medical records, but CMS intends to clear up any misinformation with new MLN Matters article SE1022, issued this month.

Although many providers follow state laws when determining whether they can discontinue retaining a patient's records, it's important to keep in mind that you must hang onto the patient's records for at least six years, according to HIPAA laws. If your state requires a period longer than that, you must extend the length of time to meet state laws, but six years is the federal minimum.

"HIPAA administrative simplification rules require a covered entity... to retain required documentation for six years from the date of its creation or the date when it last was in effect, whichever is later," the MLN Matters article states. "HIPAA requirements preempt state laws if they require shorter period[s]. Your state may require a longer retention period."

For cost reports, you must retain the original or copies for at least five years following the cost report's closure, and Medicare managed care program providers must retain records for 10 years, the article notes. To read the complete MLN Matters article on record retention, go to www.cms.gov/MLNMattersArticles/downloads/SE1022.pdf.