

## Eli's Hospice Insider

### Per Beneficiary Cap: Medicare Presents A Convincing Argument On Cap Math

**Without sequestered funds in calculation, over-cap hospices aren't penalized by reduction, Medicare argues.**

Hospice proponents may be looking forward to the industry's day in court over the per beneficiary cap calculation methodology, regarding sequestered funds. But victory is far from a sure thing.

"This decision does not help those hospices that have had cap liabilities calculated in prior years," notes hospice accounting expert **Ted Cuppett** with **The Health Group** in Morgantown, West Virginia. "I wish they could have prevailed,"

Cuppett says of the recently handed down **Provider Reimbursement Review Board** decision endorsing the **Centers for Medicare & Medicaid Services'** use of sequestered funds in the hospice cap calculations (see story, cover).

CMS's lack of communication and clarity about the topic has led to a lot of confusion, judges consultant **Lisa Lapin** with **Simione Healthcare Consultants** in Sturbridge, Massachusetts.

But the methodology laid out in the PRRB decision shows how if CMS doesn't use the sequestered amount in cap calculations for the roughly 14 percent of providers that exceed their cap amounts, those hospices would be unaffected by the 2 percent sequestration reduction.

Hospices under their cap amounts have their payments reduced by their payment rates, which are calculated with the 2 percent payment reduction for sequestration, Cuppett explains. But hospices over their cap amounts do not see that same reduction because they just receive their cap amount. "Hospices over their cap lose nothing" due to sequestration, he illustrates.

That's why CMS and its contractors use the sequestered funds in the calculation, the PRRB explains in its decision.

"I would have loved it" if the hospices would have secured a favorable PRRB decision, Cuppett tells **Eli**. But CMS's math does hold up, if the intent of sequestration is to reduce all hospices' payments by 2 percent.

The math "seems clear," says Lapin, who "doesn't feel there's a strong case for a different methodology."

Cuppett hopes the plaintiffs may find policy grounds on which to contest their overpayments, he says.