

Eli's Hospice Insider

Regulations: Take 9 Steps To Avoid Drug Compliance Pitfalls

Pointer: Fine tune your formulary to walk the line between compliance and financial health.

Don't wait for takebacks and investigations to find you when it comes to drugs for hospice patients. Be proactive to head off reimbursement shortfalls and fraud and abuse suspicions.

Thanks to a new Dec. 6 memo from the Centers for Medicare & Medicaid Services (see story, p. 1), "hospices will be expected to be more vigilant in their decisions to cover and pay for prescription medications covered under their Medicare hospice per diem payment," judges law firm Morgan Lewis in a post about the memo on its website.

"There are new expectations based on these clarifications for Part D [drug plan] sponsors to prevent duplicate payments for drugs covered under the hospice benefit or waived through the beneficiary's hospice election," the National Association for Home Care & Hospice says in its analysis of the memo.

Heed this advice from the experts to prepare for beefed up scrutiny of drug costs for hospice beneficiaries:

1. Add Part D to your admission checklist. "Hospices should ask patients at admission if they are enrolled in a Part D plan, and if so, which one," NAHC offers. Unless you expect Part D to pay for no drug costs at all, you can count on collaborating with the plan on drug reimbursement.

2. Overhaul your policies and procedures. You need to figure out how your operations must change to avoid drug takebacks and possible fraud charges. "CMS expects sponsors and hospices to work directly with each other to resolve payment responsibility and recover amounts paid," the agency says in the memo.

And each plan can structure its prior authorization program differently, NAHC points out. Get in contact with each plan in your area and develop a working relationship.

"Hospices should begin planning communication strategies with the Part D plans in their service area should this clarification be finalized as written," the trade group advises.

3. Fine tune your formulary. Sometimes you may have to pay for drugs that aren't on your formulary, CMS orders in the memo (see story, p. 1). But you can decline to pay for medically unnecessary drugs that aren't on your formulary if you've got one. "If the hospice is not already utilizing a formulary, it should consider implementing one," NAHC counsels.

If you're already using one, review it in light of the new requirements. The memo "warns hospices about the use of narrow formularies, noting that hospices are required either to ensure that the formularies are sufficiently broad to cover drugs needed for the palliation of their patients' terminal conditions and symptoms or to provide off-formulary medications when appropriate," says law firm Morgan Lewis.

4. Set up IDG review of drugs. How do you decide which drugs are medically unnecessary? "The hospice does not have to provide [a] specific drug if the hospice interdisciplinary group determines that a medication on its formulary would work as well," CMS says in the memo.

The IDG also determines which existing drugs the patient no longer needs. "There may ... be some drugs that were for the treatment of the terminal illness and/or related conditions prior to the hospice election that will be discontinued as it has been determined by the hospice interdisciplinary group, after discussions with the hospice patient and family that those medications may no longer be effective in the intended treatment, and/or may be causing additional negative

symptoms in the individual," CMS says. "These medications would not be covered under the Medicare hospice benefit as they would not be reasonable and necessary for the palliation of pain and/or symptom management."

5. Review patients' meds frequently. "Implement or reinforce processes for medication review on each regularly scheduled hospice visit to ensure the hospice is aware of all medications the patient is taking," NAHC advises. "This is particularly important for patients residing in facilities."

6. Submit the Notice of Election ASAP. "Filing the NOE as soon as possible after election has been longstanding hospice policy," CMS reiterates in the memo. Part D plans won't know when to use preauthorization until they know a patient has elected hospice. "CMS expects hospices to comply with the requirement to submit the NOE as soon as possible after a patient elects the hospice benefit," the memo stresses.

7. Be ready with documentation. If you don't want to pay for your patients' non-related drugs, you'd better be ready with the documentation justifying why the drugs require separate payment. That way you can provide it to Part D plans immediately for prior authorization review. "CMS expects hospices and Part D sponsors to work cooperatively with each other to coordinate benefits and provide and obtain written documentation to fulfill the prior authorization requirements," it says in the memo.

8. Police yourself. Conduct audits to make sure you're complying with Medicare's drug requirements. Check to make sure documentation supporting non-related medications is clear and present in the medical record, NAHC urges.

"This CMS policy clarification requires hospice providers to more thoroughly consider and better document whether conditions and prescribed medications are unrelated to underlying terminal illnesses," Morgan Lewis notes.

9. Modify your compliance plan. If you don't feature drug coverage in your compliance plan, now's the time to change that. CMS's memo doesn't just have reimbursement ramifications, it also may trigger fraud and abuse concerns (see story, p. 1). "Hospices should modify their fraud and abuse compliance plans to take the content of this memo into account," Washington, D.C.-based health care attorney Elizabeth Hogue tells Eli.

Note: The 12-page memo is at

www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Downloads/Hospice-PartD-Payment.pdf.