

Eli's Hospice Insider

Reimbursement: Appeal Hospice Cap Inclusion Of Sequestration, Lawyer Urges

Warning: The cap calculation you turn in by March 31 isn't the final word on 2015 overpayments.

You've got only a few short weeks left to calculate and report your hospice cap and any related overpayment for 2015.

This year you appear to be on your own, notes attorney **Brian Daucher** with **Sheppard Mullin**. Last year, which was the first year for the new calculation and reporting requirement, Medicare Administrative Contractors lent more of a helping hand.

Sequestered funds continue to be a sticking point for cap calculations and overpayments, Daucher notes in analysis on the law firm's website.

MACs have been issuing revised cap determinations for 2012-2014, and "are increasing revenue by adding sequestered funds," Daucher reports. "Due to shifting allowances and sequestration, many hospices that did not face liability on the self-report are now seeing repayment demands. We believe that as many as 2/3 of hospices that face 2014 cap liability, for instance, faced no liability as of the early 2014 reporting period (i.e., February □ March 2015)."

Caution: "Hospices should bear in mind that their calculation of their estimated aggregate Cap will NOT include the impact of the sequester," stresses the **National Association for Home Care & Hospice** in its hospice newsletter.

Watch for: "When the MACs finalize the 2015 aggregate Cap determinations later this year, their calculations will include the sequester," NAHC explains. "Those hospices whose estimated Cap calculations put them over the Cap, or whose estimates put them close to their allowable aggregate Cap should plan accordingly for a potential Cap liability linked to the final MAC determination later this year."

You can estimate your potential cap liability by looking at your excess cap allowances as of the self-report window, Daucher advises. If they are less than 15 percent of revenue, then the hospice is in peril of cap liability for such year, he warns.

Take action: "These revised 2013 and 2014 demands should be appealed as, in our view, they unlawfully include funds never paid to the provider," Daucher says.