

Eli's Hospice Insider

Reimbursement: Brace For More Hospice Audits In Wake Of OIG Report On Nonhospice Spending

Hospice payment structure may be in need of an overhaul, watchdog agency suggests.

Getting hospices to shoulder more of a patient's medical costs continues to preoccupy the feds. And now the HHS Office of Inspector General has issued a data brief on the matter, reviewing statistics over 10 years.

The OIG found that Medicare paid nonhospice providers \$6.6 billion from 2010 to 2019 for hospice patients.

Why is that a problem? "The Centers for Medicare & Medicaid Services (CMS) has long taken the position that services provided to a hospice beneficiary that are unrelated to the beneficiary's terminal illness and related conditions should be exceptional, unusual, and rare given the comprehensive nature of the services covered under the Medicare hospice benefit," the OIG notes in brief A-09-20-03015.

"Almost half of the 1.2 to 1.6 million hospice beneficiaries each year received nonhospice items and services during a hospice period of care," the OIG notes.

However, the OIG buries in its report the fact that the \$6.6 billion at issue is actually only 4 percent of Medicare's hospice spending over that 10-year period.

And in any case, "hospices do not submit the claims for nonhospice expenditures and are not able to fully control them," the National Association for Home Care & Hospice points out in analysis of the brief. "But it is clear that the OIG and CMS continue to search for processes and possibly hospice payment reforms that will decrease the level of nonhospice expenditures."



To wit: One of the brief 's purposes is "to provide CMS with information to evaluate the need to potentially restructure the hospice payment system," the OIG says at the beginning of the report. Then the OIG repeats it two more times throughout the report.

The OIG also says it "plans to conduct additional audits related to nonhospice items and services provided during a hospice period of care to determine whether Medicare payments for these items and services were made in accordance with Medicare requirements." It notes that a past report on the topic found that 63 percent of durable medical equipment, prosthetics, orthotics, and supplies claims billed with the GW modifier and 58 percent of DMEPOS claims billed without the GW modifier were in error and should have been included in the hospice per diem payment.

Part B payments for nonhospice items, which include DMEPOS, increased 38 percent over the decade. In contrast, Part A payments for nonhospice items fell 45 percent.

While the report doesn't put forth new recommendations, it does reiterate recs from past reports to curb Part D nonhospice spending on drugs. The OIG also notes its previous suggestion to "study the feasibility of including palliative items and services not related to a beneficiary's terminal illness and related conditions within the hospice per diem" - a rec that remains unimplemented.

And the OIG acknowledges that "effective October 1, 2020, CMS implemented a policy for patient notification of hospice noncovered items, services, and drugs" - aka, the election statement addendum. "CMS stated that these changes should hold hospices accountable to their beneficiaries through benefit coverage transparency, which should reduce the need

for beneficiaries to seek care outside of the hospice benefit for services related to the terminal illness," the OIG says.

Bottom line: Still yet, "this report calls for increased scrutiny on nonhospice payments," says attorney **Alana Broe** with law firm King & Spalding in Atlanta. "OIG suggests that the high volume of nonhospice payments may represent inappropriate unbundling," Broe says in online analysis of the brief.

Note: The 21-page brief is at <https://oig.hhs.gov/oas/reports/region9/92003015.pdf>.