

Eli's Hospice Insider

Surveys and Certification: Avoid New Survey Pitfalls With These 7 Tips

Your survey history will be much more important going forward.

Watch out: Hospices that don't prepare for new hospice survey procedures proposed for implementation might find themselves fined out of existence, among other dire consequences.

Many of the survey changes are required by the Consolidated Appropriations Act enacted last December. Hospice industry experts thought the implementing regulations for those changes might appear in the hospice rule this year, which was finalized in late July, but they did not. Instead, they showed up in the Centers for Medicare & Medicaid Services' home health proposed rule published in the July 7 Federal Register.

The sweeping revisions include some provisions that will have a drastic effect on hospices. The new enforcement remedies of payment suspension and civil money penalties and the Special Focus Program (SFP) for "poor-performing hospice programs" top the list (see HOP, Vol. 14, No. 10 for more details on the revamp).

"For hospices, the consequences of withholding Medicare payment is exceptionally burdensome due to the fact that the majority of all hospice patients are serviced under the Medicare Hospice Benefit," points out **Kim Skehan** with SimiTree Healthcare Consulting (formerly Simione).

Hospices hoping for a reprieve from the new requirements in the home health final rule should resign themselves to their fate, experts maintain. While "some details of the survey process may change or be clarified some through [the regulatory commenting] process, hospice providers should assume that most of the rules will go through as substantively proposed," believes attorney **Liz LaFoe** with law firm Husch Blackwell. "Many of the changes in the proposed rules are required by statute and must take effect in either 2021 or 2022," LaFoe tells AAPC.

With many of the harsh mandates hitting nearly immediately, wise hospices should prepare now for them to take effect. Consider this advice from the experts:

1. Shift your priorities. Previously, the stakes for a survey were fairly low. "Historically for hospices, less-than-perfect survey performance may have resulted in minimal impact to operations - except in extreme cases," LaFoe notes. "The addition of ... new enforcement remedies will likely cause the impact of non-compliance to be felt at all levels of an organization," she warns.

That means hospices may have to allocate a lot more resources toward survey compliance efforts. "Now would be a good time for hospice providers to dedicate the resources (time, money, and experienced staff) to improvement," LaFoe advises.



2. Know your stuff. To achieve compliance with the hospice Conditions of Participation, you need to make sure your agency staff know them inside and out. "Hospices can best prepare by being certain they understand the Conditions of Participation fully and are implementing them as required," says **Katie Wehri** with the National Association for Home Care & Hospice.

Furnish "staff and management education regarding the Hospice CoPs and other regulatory requirements," Skehan recommends.

3. Don't stop at education. You can't ensure compliance with just training. "Coaching through home visits, clinical and personnel record reviews, interviews, and document review (such as QAPI, policies, etc.) are key," Skehan stresses.

Make sure your agency isn't missing its blind spots. "Mock surveys completed by objective parties" can turn up trouble areas, Wehri offers.

4. Target hot topics. Under the new regulations, surveyors are going to be gunning for certain high-profile and high-priority problems, including those related to quality of care and COVID, experts predict.

Expect "a focus on those Conditions of Participation CMS considers to be most closely related to patient care - 418.52 Patient Rights; 418.54 - Initial and Comprehensive Assessment of the Patient; 418.56 - IDG, Care Planning and Coordination of Care; and 418.58 - QAPI," Wehri counsels.

"In addition, hospices must ensure they can demonstrate effective implementation of infection control measures, adverse event monitoring, COVID-19 planning and response, and Emergency Preparedness/Pandemic Preparedness that includes the updated Appendix Z requirements as published in March 2021," Skehan advises.

5. Review past survey performance. How your hospice has scored in past surveys will affect you in a number of new ways. "Prior survey performance will impact enforcement remedies and SFP eligibility," Wehri highlights.

In other words: Your survey track record can figure into whether CMS puts you on its Special Focus Program requiring surveys every six months. It also is one of the factors surveyors will use to determine which enforcement remedies - including CMPs and payment suspensions - they will enforce and at what levels.

Possessing "a recent survey history that demonstrates a strong record of compliance" will be one of the reasons a hospice would "likely [be] in good shape when it comes to these new survey changes," LaFoe points out.

"Hospices should ... revisit their most recent surveys to ensure they have sustained compliance with any previous deficiencies, especially condition-level deficiencies," Wehri encourages.

6. Master ongoing compliance. If you wait for survey results before taking action on your weaknesses, it may already be too late. "Hospice agencies should implement an ongoing survey readiness program, using Appendix M of the CMS State Operations Manual as a guide," Skehan urges. "Proactively addressing potential survey issues" is crucial, she tells AAPC.

Hospices with a robust compliance program should be well positioned to face the new survey requirements, LaFoe expects.

7. Brace for more surveys. Under new survey processes, CMS will be conducting more checks of both state survey agency and accrediting organization surveys to ensure consistency and quality. That is going to translate to more re-surveys. "Hospices should be prepared for more surveys as a greater number of validation surveys are expected to be conducted," Wehri says.

Hospices under the SFP also will see more surveys.

Note: The 143-page proposed rule is at www.govinfo.gov/content/pkg/FR-2021-07-07/pdf/2021-13763.pdf - the survey section starts on p. 94 of the PDF file.