

Eli's Hospice Insider

Surveys & Certification: Check Out Your New Survey Changes In An Unexpected Place - The Latest Home Health Rule

Brace yourself for new survey penalties including CMPs and other alternative sanctions.

If you thought it was going to be a while until new legally mandated survey changes were going to hit because they weren't in the hospice payment rule for 2022, think again.

Background: The Consolidated Appropriations Act enacted last December requires sweeping hospice survey procedures, following two HHS Office of Inspector General reports critical of the process.

Hospice industry experts thought the implementing regulations for those changes might show up in the hospice proposed rule this year, but they did not. Now, they have appeared in the home health rule published in the July 7 Federal Register instead.

The changes include multiple revisions to accrediting organization processes; requiring multidisciplinary survey teams; prohibiting surveyor conflicts of interest; establishment of a hospice program complaint hotline; creation of a Special Focus Program (SFP) for poor-performing hospice programs; and perhaps most critically, alternative sanctions or "enforcement remedies" for noncompliant hospices, the Centers for Medicare & Medicaid Services notes in its fact sheet on the rule.



Those enforcement remedies include Civil Monetary Penalties (CMPs), payment suspension, temporary management, and directed in-service and plans of correction, notes Simone Healthcare Consultants in online analysis of the rule.

"I thought [CMS] would do a special hospice survey rulemaking, rather than put this here, but it achieves the same purpose," notes attorney **Robert Markette Jr.** with Hall Render in Indianapolis. Medicare officials wouldn't want to wait until the next hospice rulemaking cycle next spring to make the changes, Markette says.

"CMS is definitely taking the advantage of these rules to add in additional provisions that we would have expected to see in the proposed rule for those specific programs," says consultant **Angela Huff** with BKD in Springfield, Missouri. "They added a Home Health Quality element to the hospice proposed rule, which wasn't nearly as impactful as this Hospice Survey component is in the Home Health proposed rule," she points out.

"It feels like a trend that might stick with CMS going forward, which would seem to create a more rapid avenue for changes to be introduced into Home Health and Hospice," she predicts.

Note: The 143-page proposed rule containing the changes is at www.govinfo.gov/content/pkg/FR-2021-07-07/pdf/2021-13763.pdf. Comments on the rule are due Aug. 27.