

## MDS Alert

### Industry News: SNF Relationships Feature On Feds' Hospice Compliance Radar

**Plus: Medicare may prorate hospitals' payment for patients transferred to hospice.**

The HHS Office of Inspector General continues to remain suspicious of hospice activities related to nursing homes and inpatient care, and the 2013 Work Plan reflects those concerns.

The OIG announces only two Medicare hospice topics for review for next year -- "Marketing Practices and Financial Relationships with Nursing Facilities" and "General Inpatient Care." Both are reviews carried over from the current year.

"In a recent report, OIG found that 82 percent of hospice claims for beneficiaries in nursing facilities did not meet Medicare coverage requirements," the agency notes. Potential problems may include inappropriate enrollment and compensation to the nursing home, as well as aggressive marketing toward residents. "We will focus our review on hospices that have a high percentage of their beneficiaries in nursing facilities," the OIG notes.

The OIG has an "ongoing emphasis on marketing and relationships with NFs," says attorney **Robert Markette Jr.** with **Benesch, Friedlander, Coplan & Aronoff** in Indianapolis. "OIG has made a lot of noise about this in the past year and mentions it again in this year's work plan," he adds. "Providers need to be carefully assessing the accuracy of their marketing materials and the appropriateness of care provided in SNFs."

In its review of 2011 GIP claims, "we will review hospice medical records to address concerns that this level of hospice care is being misused," the OIG pledges.

"Some hospices have used the general inpatient care benefit as a way to pay SNFs higher amounts for residents," Markette observes. "This can be quite lucrative to the SNF and result in referrals to the hospice."

Watch out: "Providers should be aware that this creates Antikickback Statute liability," Markette warns.

In the hospital: The OIG will address another hospice topic through a hospital lens -- "Acute-Care Inpatient Transfers to Inpatient Hos-pice Care." The OIG doesn't want Medicare to pay hospitals a full DRG when they transfer patients to hospice after a short stay.

"Medicare pays hospitals a reduced payment for shorter lengths of stay when beneficiaries are transferred to another PPS hospital or, for certain DRGs, to postacute care settings," the OIG points out. "If appropriate, we will recommend that CMS evaluate its policy related to payment for hospital discharges to hospice facilities."

Many home health agencies saw hospital referrals drop dramatically for patients in DRGs that CMS began prorating. Hospices could have the same experience.

The OIG also lists a hospice topic for Medicaid -- "Compliance With Reimbursement Requirements." The review appears to focus on beneficiaries' terminal illness.

Resource: The Work Plan is at <https://oig.hhs.gov/reports-and-publications/workplan/index.asp#current>.

CMS Plans to Move Medicare SNF payments from Volume to Value-based

In June, CMS sent a report to Congress detailing its plans to implement a Value-Based Purchasing Program (VBP) for skilled nursing facilities. "We see the future of health care reimbursement moving from the current volume-based payment methodology to value-based purchasing," **David Gifford, MD, MPH**, senior vice-president quality and

regulatory affairs, for the **American Health Care Association** (AHCA), tells **Eli**. Both AHCA and the **National Center for Assisted Living** (NCAL) strongly support this move, he notes.

The report, which was required by Section 3006 of the Affordable Care Act, discusses the current state of various elements that would be part of a SNF VBP and where the agency will go from there, explains **Cassandra Black**, senior technical advisor for **CMS's Performance-Based Payment Policy Group**. These include the following:

- The agency's current quality measures and process for developing them;
- Additional quality measures that the agency may want to add;
- A description of the process for reporting the measures;
- How payments could potentially be structured;
- Types of incentive payments;
- Possible funding sources for the payments; and
- How the agency would share any information gathered with the public.

The report concludes with a roadmap for implementation of a SNF VBP. CMS will analyze the results of the recently concluded Nursing Home Value Based Purchasing demonstration project, expected to be ready in the fall of 2013, before moving forward with a SNF VBP, Black notes.

Gifford says that this report summarizes many of the ongoing demonstrations on VBP which is helpful guide as SNFs transition from fee-for-service to value based purchasing. Copies of the report are available at: [www.cms.gov/snfpps](http://www.cms.gov/snfpps).

#### Focus For Some SNF Patients Should Be On Palliative Care

Payment for palliative care should be incorporated into Medicare's skilled nursing facility benefit, suggests a new study in the Archives of Internal Medicine.

"Almost one-third of older adults receive care in a SNF in the last 6 months of life under the Medicare" benefit, notes the abstract published in the October issue of the journal. And one out of 11 beneficiaries die while enrolled in SNF care.

"Often our focus on these patients is trying to keep them functional or independent for as long as we can. What we may be overlooking is that they are on an end-of-life trajectory," said Dr. **Katherine Aragon**, the study's lead author from **Lawrence General Hospital** in Massachusetts, according to press reports.

The abstract is at <http://archinte.jamanetwork.com/article.aspx?articleid=1368358>.

#### Enthrall Your Cognitively Impaired Residents With Children's Books

You know you have to consider the person's unique preferences and not just his age when selecting activities. Children's books written at a 5, 6 and 7 year age level may work well for people in the mid stages of dementia, according to a Centers for Medicare & Medicaid Services' Webcast for surveyors and providers on revised survey guidance for activities.

In particular, consider using books that discuss non-childish topics or include beautiful art or photos. If the resident doesn't enjoy the books, he or she will push them away.