

HOME HEALTH AND HOSPICE NEWS

Federal and Texas legal issues affecting home health agencies and hospices, provided as a free service to our clients and friends
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OFFICE OF INSPECTOR GENERAL ISSUES 2007 WORK PLAN

The United States Department of Health and Human Services, Office of the Inspector General ("OIG"), today issued its plan for reviewing and examining various aspects of government-reimbursed health care delivery during federal fiscal year 2007. The Work Plan contains several provisions of interest to the home health and hospice sectors.

HOME HEALTH

One of the ongoing subjects of review by the OIG is therapy services furnished by home health agencies. HHAs receive higher payments when therapy services exceed the threshold number included in the "per episode" reimbursement amount. The number and duration of therapy services per episode will continue to be scrutinized for evidence that additional or unnecessary services were furnished during the 60-day episode, in order to receive increased payments.

In addition, the OIG will focus new efforts on rehabilitation therapy furnished by HHAs, and specifically, whether they are: (1) identified and furnished in accordance with the patient's Plan of Care; (2) medically necessary at the level and frequency provided; and (3) provided by appropriate staff. Reimbursement of medically unnecessary rehabilitation services is a focal point in the OIG's review. This underscores the need for providers to maintain complete and accurate information as identified in the POC (or as modified or revised), as well as supporting documentation for medical necessity, such as test and evaluation results, progress notes, and complete therapy records.

HOSPICE

Of particular interest to the OIG is the myriad of arrangements that hospices have with nursing facilities. The OIG has issued a fraud alert in the past addressing potentially improper arrangements between these provider types. In some instances, duplication of services (and, therefore, reimbursement) occurs when a NF resident receives hospice services in the facility, whereas, in other instances, services may be inadvertently reduced because neither provider furnishes them (the OIG has specifically identified nursing and nurse aide services).

A perennial concern to the OIG is whether such arrangements run afoul of the federal Medicare and Medicaid Anti-Fraud

and Abuse (or "Anti-kickback") laws where, for example, a hospice provider furnishes services to a NF resident that the facility is obligated to furnish. By "relieving" the NF of its duties, the hospice could be viewed as bestowing a benefit on the facility that, in turn, could improperly influence the facility to refer patients needing hospice services to that hospice provider, in violation of the law. Concerns may also be raised under the anti-kickback law and the inducements provisions where services such as chaplaincy, social work, or palliative care counseling, are furnished by a hospice "free of charge" to a nursing facility or its residents. Not all such arrangements are impermissible, but hospice providers may wish to take stock of their contractual and staffing agreements with nursing facilities to ensure compliance with the law. The delineation of duties between providers should be specifically addressed in written agreements.

OTHER HOME HEALTH AND HOSPICE ITEMS

In addition to the specific items discussed above, the OIG has indicated that it will continue its examination of patterns in HHA survey and certification deficiencies; the quality of medical, nursing and rehabilitative care furnished; and the propriety of CMS sanctions applied to noncompliant agencies. It will also review the accuracy (including updates and corrections) of information included on the Home Health Compare website, as well as HHA coding practices for Home Health Resource Groups, on the OASIS form. OIG will also examine whether hospice POCs accurately reflect assessments, and, through medical record review, whether hospices are accurately billing for services at the correct level of care, frequency and location, as set forth in the POC.

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