

Hospice Program Integrity

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1 Leading Person-Centered Care



Disclosure

The faculty for this educational event, Pam Saucier, has no relevant financial relationship(s) with ineligible companies to disclose.

2 Leading Person-Centered Care

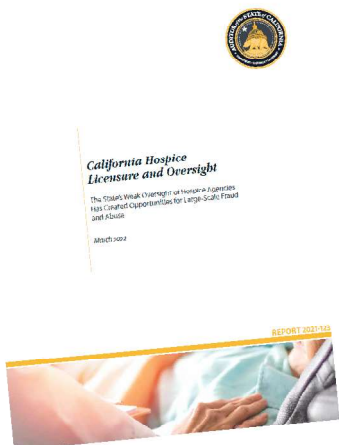


Objectives

- List the four states who have been identified for the provisional period of enhanced oversight
- Describe two ways the DOJ is using to identify hospice fraud
- Identify three strategies to avoid compliance issues

First Summary of Hospice Fraud Published in California

California State Auditor's Report - Released on March 29, 2022



- Report states: "Indicators strongly suggest that a network or networks of individual perpetrators in Los Angeles County are engaging in a large and organized effort to defraud the Medicare and Medi-Cal hospice programs. Such fraud places at risk the extremely vulnerable population of hospice patients."
- Explosive growth of for-profit hospice agencies in Los Angeles County, fueled by fraudulent providers.
- The County has 1,841 hospice agencies, a **1,589 percent increase** since 2010, and a flood of thousands more hospice applications.
- Van Nuys has 210 active hospice agencies located within 1 mile of each other.

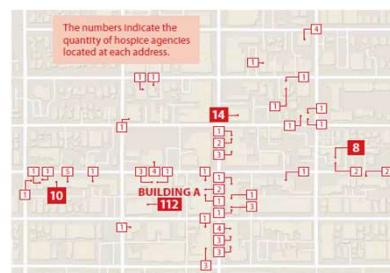
<https://www.auditor.ca.gov/pdfs/reports/2021-123.pdf>

Clusters of Hospices in LA County, CA

210 active hospices located within 1 mile of each other in Van Nuys, CA
 Similar clusters in Glendale, Burbank, and North Hollywood
 NO similar clusters found in Sacramento, San Diego, or the Bay Area

Source: [California Auditor's Report on Hospice](#), March 29, 2022

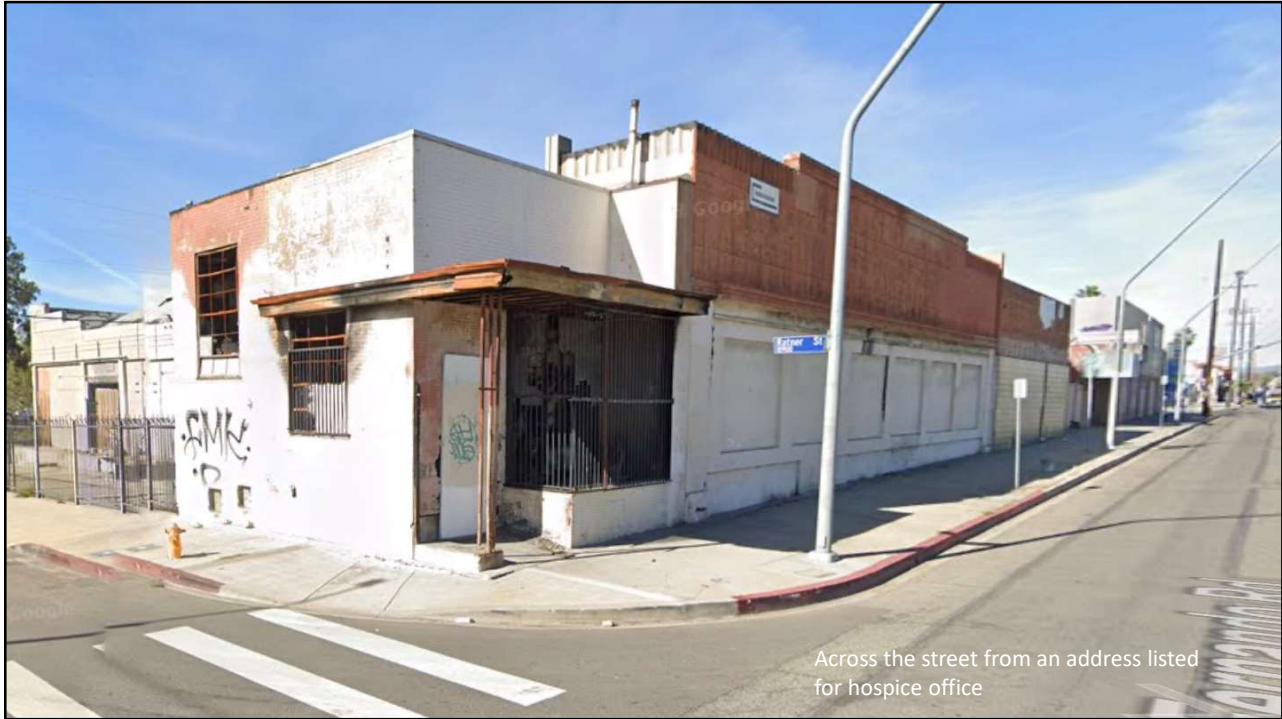
Figure 8
 Suspectiously High Numbers of Hospice Agencies Are Clustered in Specific Locations in Los Angeles County



There are business offices for 210 active hospice agencies located within 1 mile of each other in Van Nuys in Los Angeles County. We found similar clusters in the cities and communities of Glendale, Burbank, and North Hollywood in Los Angeles County. We reviewed data for the Sacramento area, the San Diego area, and the Bay Area and did not identify similar clusters of hospice agencies at a single address.

Source: Public Health's licensing data.

Building A appears to be a standard commercial office building. It lacks any exterior signage indicating any hospice agencies are housed inside. The large number of hospice and home health agencies that the licensing data show as located in this building and other businesses located in it appears to exceed its capacity. County building records show that the building has 22,500 square feet of space, and even less space is available for business offices after excluding the common areas of the building. Thus, based on the size of the building and our observations from visiting the building, there does not appear to be space for more than a total of 150 hospice agencies, home health agencies, and other businesses in the building.



14545 Friar Street, Van Nuys, CA

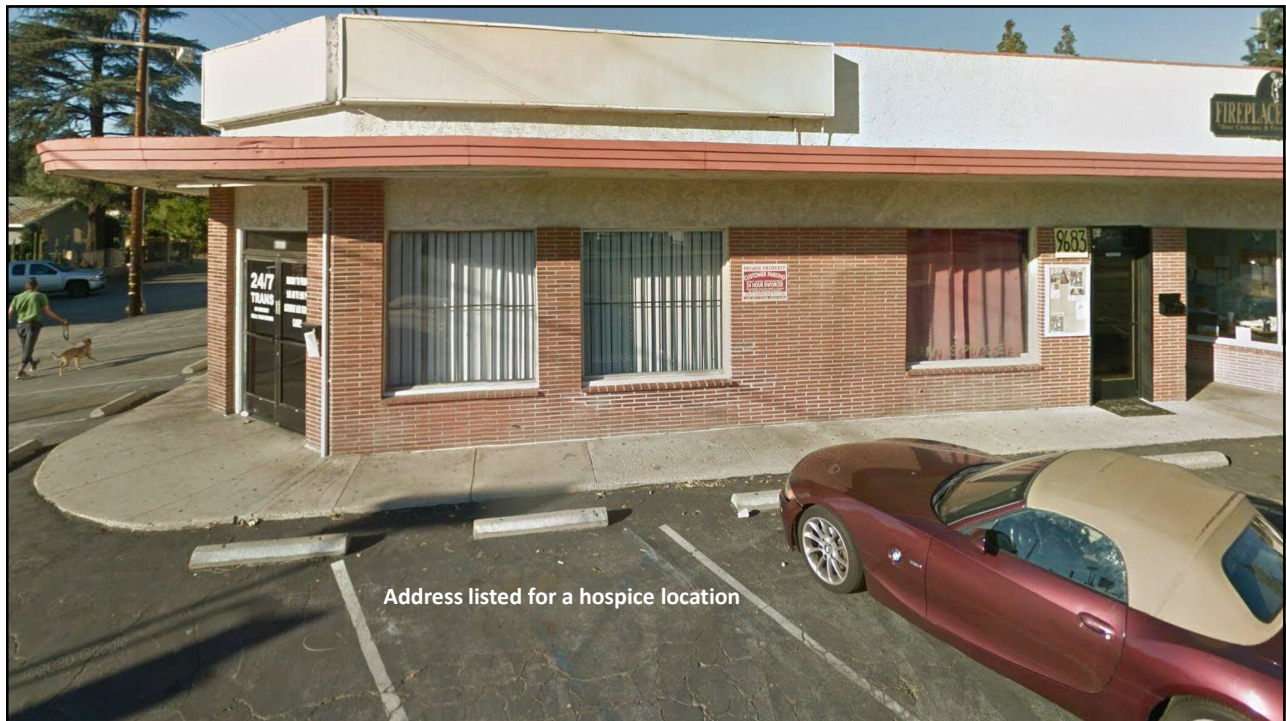
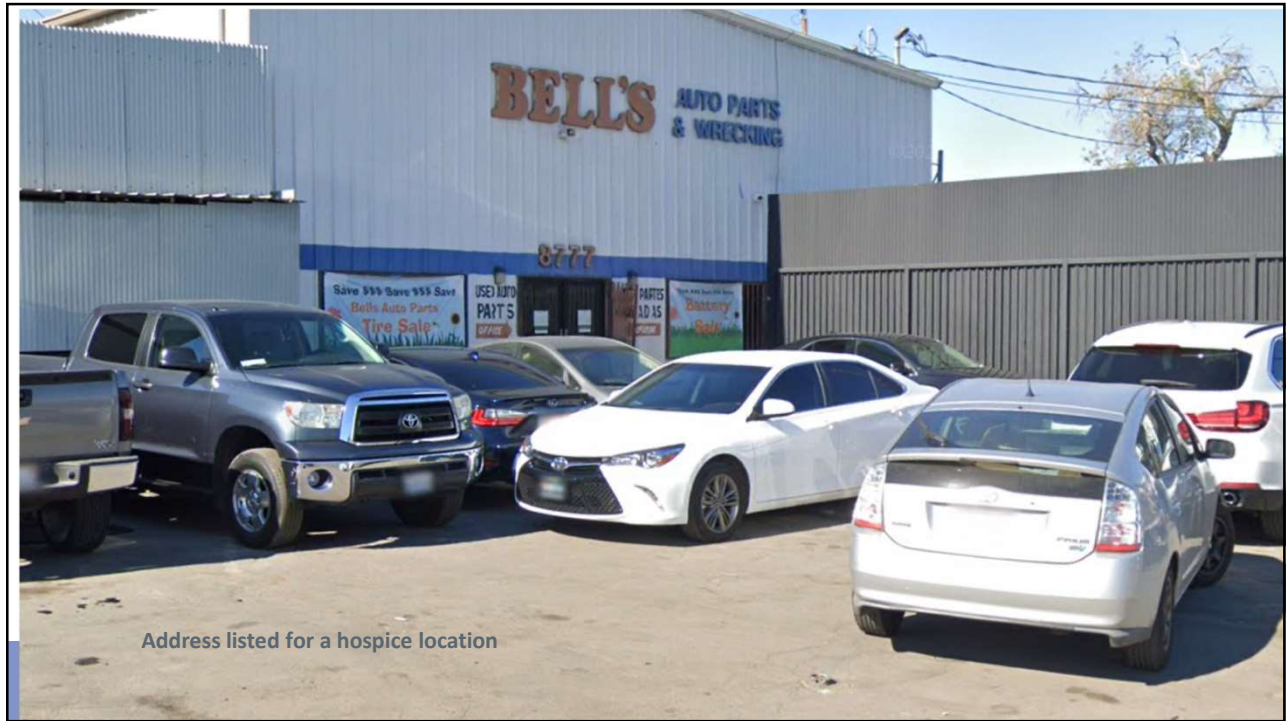


Number of Medicare certified hospices at this address: 93



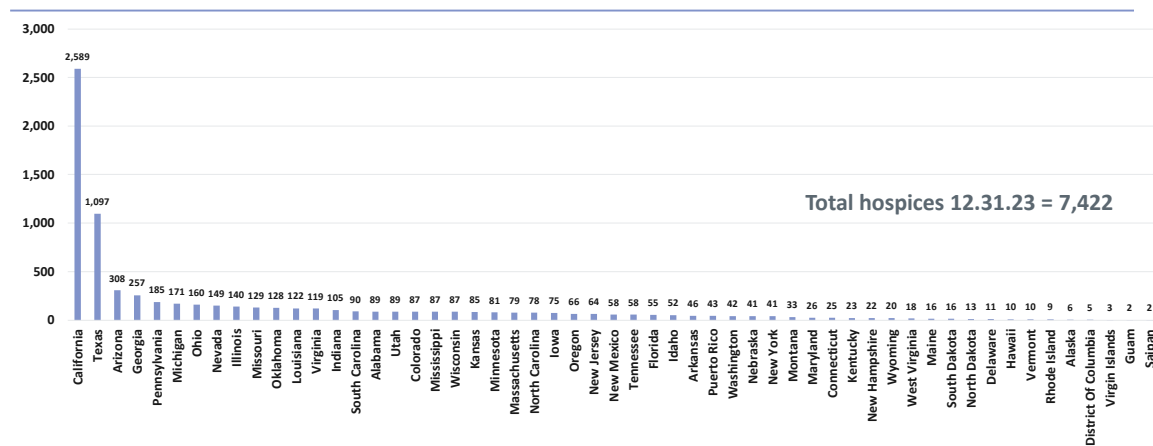
Number of Medicare certified home health agencies at this address: 85





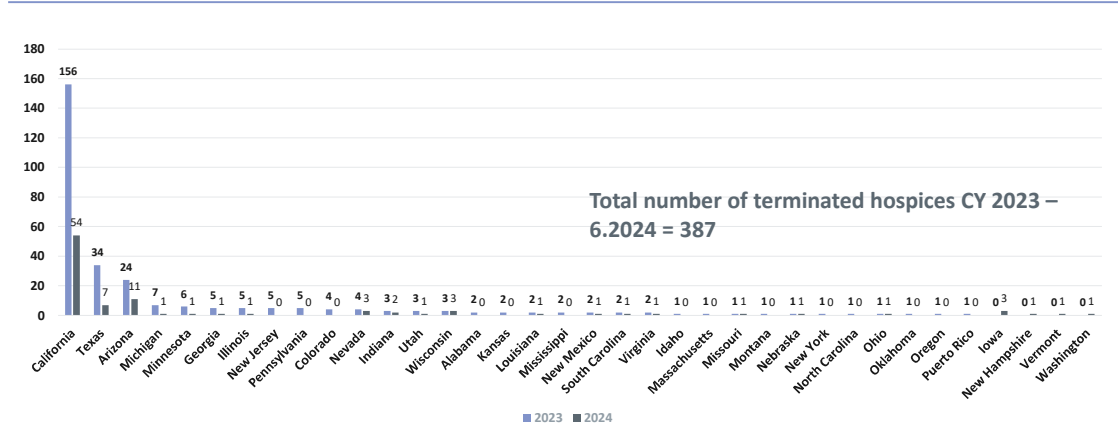
Medicare Certification Data by State

Total Number of Hospices by State 12.31.23



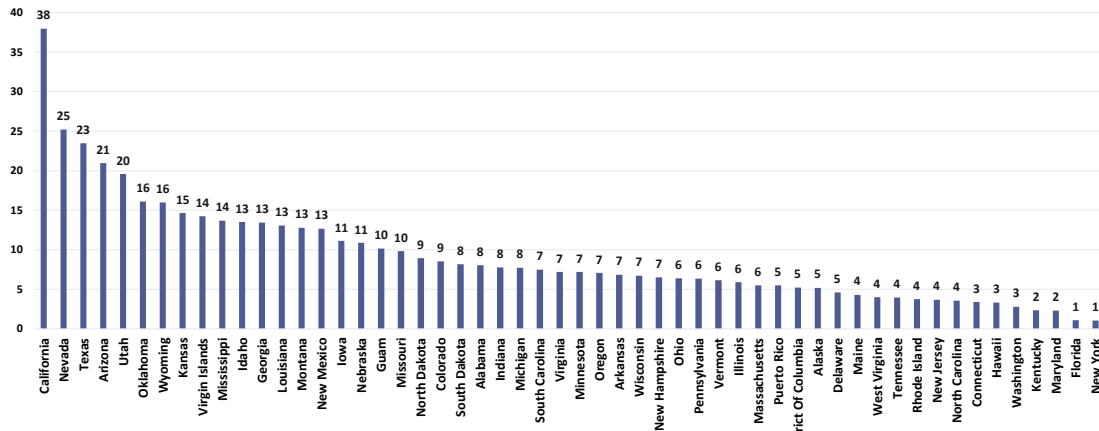
Source: CMS Quality, Certification and Oversight Reports: <https://qcor.cms.gov>

Terminated Providers by State 2023 to Date 2024

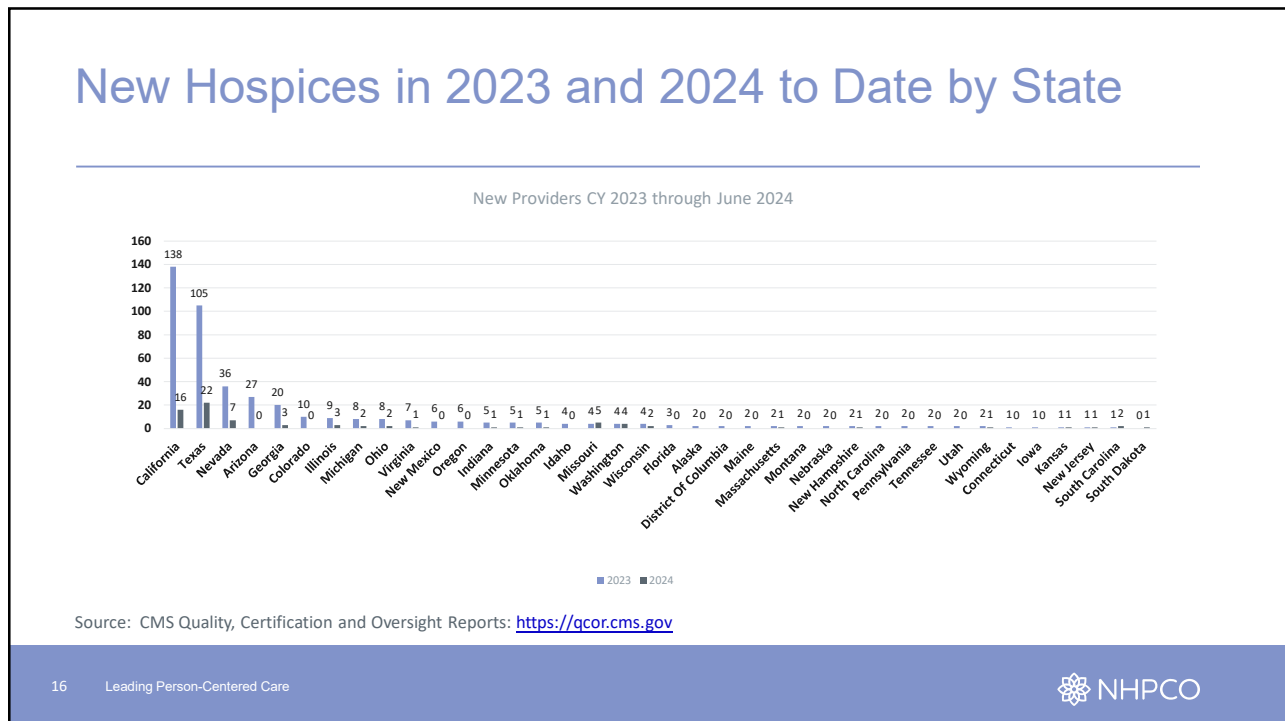
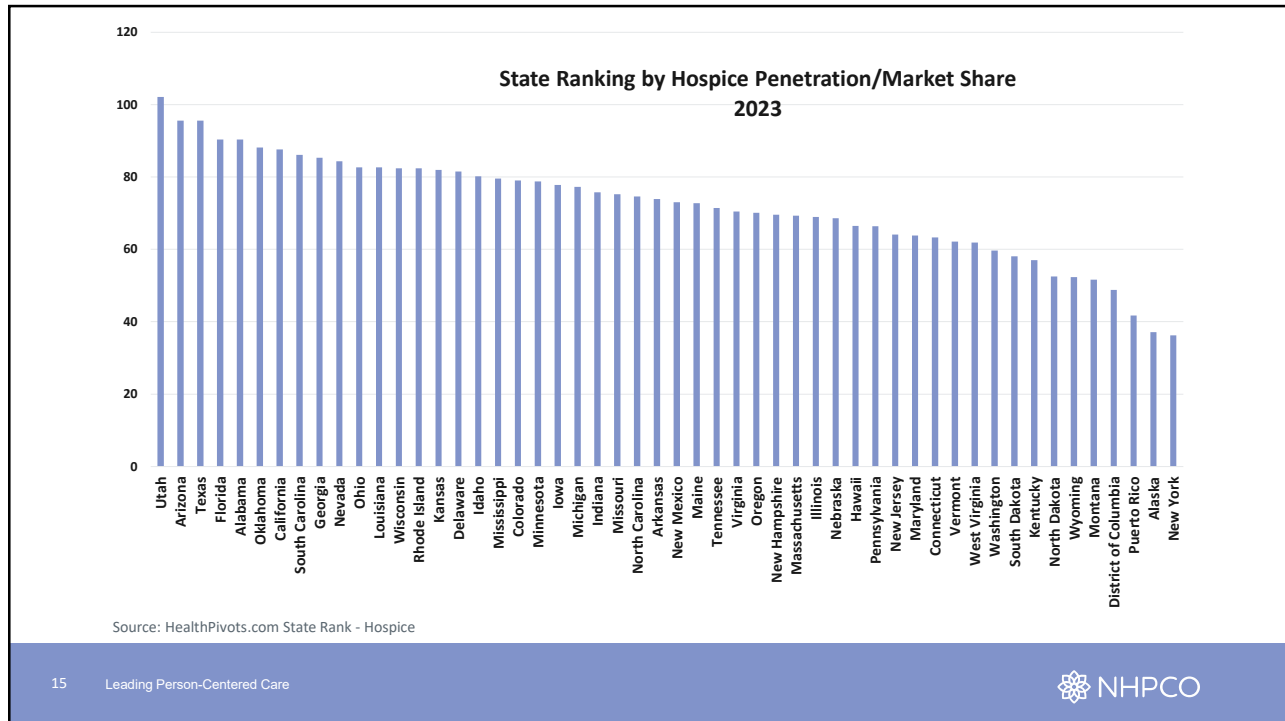


Source: CMS Quality, Certification and Oversight Reports: <https://qcor.cms.gov>

Hospices per 100,000 Medicare Beneficiaries Enrolled January 2024



Source: <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/mcradvpartdenrolldata/monthly/monthly-enrollment-state-2024-01> and cms.qcor.gov



Data Tells the Story

New* Providers and Suppliers							Total Hospices 12.31.2023
CY	2018	2019	2020	2021	2022	2023	
California	126	140	192	610	521	138	2,589
Arizona	8	17	20	41	80	27	308
Texas	70	76	70	127	116	105	1,097
Nevada	5	4	15	14	36	36	149

Source: CMS Quality, Certification and Oversight Reports: <https://qcor.cms.gov>

Provisional Period of Enhanced Oversight

Provisional Period of Enhanced Oversight

Announced: July 13, 2023

Why: Numerous reports of hospice fraud, waste and abuse

Enrolled hospice increases: Serious concerns about market oversaturation

States:

- California
- Arizona
- Texas
- Nevada

Source: <https://www.cms.gov/files/document/mln7867599-period-enhanced-oversight-new-hospices-arizona-california-nevada-texas.pdf>

Includes:

- **Newly enrolling** in the Medicare Program (starting July 13, 2023)
- Submitting a **change of ownership (CHOW)** that meets all the regulatory requirements under 42 CFR 489.18
- Undergoing a 100% ownership change that doesn't fall under 42 CFR 489.18

How long:

- Determined for the individual hospice, from 1 month to twelve months

What Is It?

- **Who:** Newly enrolling hospices
- **Where:**
 - Arizona
 - California
 - Nevada
 - Texas
- **What:** Provisional period of enhanced oversight
- **Why:** Numerous reports of hospice fraud, waste, and abuse
- **When:** In 2022, the number of enrolled hospices increased significantly in these states, raising serious concerns about market oversaturation

Impacted Hospice Providers

- Providers who have received final approval for **Medicare enrollment on or after 7/13/2023**.
- Providers who have started the enrollment or certification process before 7/13/2023 but **have not received a final approval letter** from their Medicare Administrative Contractor (MAC).
- Providers who have received approval on a **change of ownership (CHOW)** request on or after 7/13/2023.
- **Reactivating** after being in a deactivated status
- If your agency is placed in a PPEO:
 - Length of time on PPEO is added to their enrollment approval/change letter
 - The letter is sent to the contact person email address on file.

How Will A Hospice Be Notified?

- CMS will mail a letter to the correspondence address on file in PECOS.
- **Includes:**
 - Effective date of the enhanced oversight period
 - Duration of the enhanced oversight period
- **Start of Period of Enhanced Oversight:**
 - The period of enhanced oversight started July 13, 2023
- **Medical review:**
 - May be prepayment review of all claims
 - If you don't respond to our requests, we may deny claims or revoke your Medicare enrollment

Enhanced Oversight: Start Date & Length of Time

- Each hospice will have an individual effective date—on or after July 13, 2023—in their final approval letter related to their recent enrollment application.
- The period of enhanced oversight can be 30 days – 1 year.

Reports from GAO, DOJ Medicare Fraud Strike Force and Senior Medicare Patrol

GAO Report on Hospice Statutory Provisions

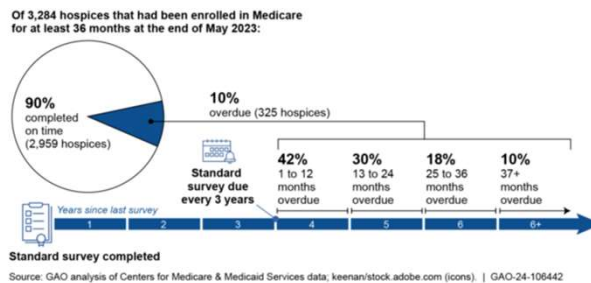
Issued on May 8, 2024

[CMS Needs to Fully Implement Statutory Provisions and Prioritize Certain Overdue Surveys](#)

Findings:

- CMS falling short on ensuring survey consistency
- CMS way behind on surveys
- Concerns with survey data transparency
- CMS way behind on enforcement actions

NOTE: QCOR reports that 3,882 hospices (54.6%) had not had a survey in more than 37 months, as of August 4, 2024. Survey information may not be accurate due to data migration issues.



The Problem of Hospice Fraud

Los Angeles Times

End-of-life care has boomed in California. So has fraud targeting older Americans

- “Since 2010, the number of providers in Los Angeles County has skyrocketed from 100 to 618.”
- “North Hollywood is home to 35 hospices, while Glendale has 60, Burbank has 61 and Van Nuys 63.”
- “By comparison, New York state and Florida both have fewer than 50.”
- “With a population of 103,000, Burbank has a per capita rate of hospices that is **nearly 40 times the national average**, according to The Times’ analysis.”
- “The San Fernando Valley has the highest concentration of hospices in the nation.”

As reported in a presentation by the Department of Justice (DOJ) Medicare Fraud Strike Force, September 2023

Typical Hospice Fraud Scenario

As reported in a presentation by the Department of Justice (DOJ) Medicare Fraud Strike Force, September 2023

Kickbacks to recruiters for patient referrals

Recruiters **enticing** patients with “free” hospice care, cash, groceries, or DME (hospital beds, scooters, etc.)

Not telling patients they are signing up for hospice (e.g., telling patients or family members the forms are for home health)

Staff **falsely diagnosing** patients with conditions they do not have and falsifying medical records

Doctor **falsely certifying** patients as terminally ill

Doctor serving as “**Medical Director**” for multiple hospices, sometimes forging signatures of physicians or upcoding claims

Identifying Hospice Fraud in Hospice Claims Data

As reported in a presentation by the Department of Justice (DOJ) Medicare Fraud Strike Force, September 2023

- Discharge/death rates
- Compare to nationwide live discharge rate of 17.4%
- Length of stay
- Attending physicians
- Geographic area (e.g., far away from hospice)
- Benes have same/close address(es) (e.g., same complex, building)
- Married couples (same last names)
- Same admit/discharge date for multiple beneficiaries
- Cycling patients (home health → hospice → home health → repeat)

Identifying Hospice Fraud Interviews

- Interviewing beneficiaries/relatives *
- Interviewing PCPs
- Recruiters & kickback payments
- **Former employees & other inside witnesses are key**
- Undercover/consensual human sources

As reported in a presentation by the Department of Justice (DOJ) Medicare Fraud Strike Force, September 2023

Common Hospice Complaints



Family or Beneficiary Solicited In-Person



Contacted by Telemedicine Provider or Co-Conspirator Physician



Prescribed Medically Unnecessary Hospice



Minimal or No Services Provided



Medicare Billed by Hospice Agency

As reported by Senior Medicare Patrol, September 2023 Resources at <https://smpresource.org/>

Senior Medicare Patrol Broad Categories of Hospice Complaints

Senior Medicare Patrol

- Available in every state
- Receives grants from the Administration for Community Living (ACL)
- Recruits retired professionals and other older adults and community members
- Mission is to prevent, recognize and report health care fraud, errors and abuse
- Help to educate Medicare and Medicaid beneficiaries on healthcare fraud issues
- Provides resources to beneficiaries to scrutinize their medical statements
- Beneficiaries can report fraud to
 - OIG hotline
 - 1-800-Medicare
 - Senior Medicare Patrol – who can refer the complaint to the appropriate entity

Hospice Complaints Reported to Senior Medicare Patrol

#5 in Medicare complaints

- **Inflated Levels of Care**
- **Misrepresented Services**
- **Unqualified, Unlicensed, or Unsupervised Care Providers**
- **Billing for Services Not Rendered**
- **Enrollment Schemes**
 - Hospice Criteria Not Met
 - Groceries, Housekeeping, Transportation
 - Enrollment/Disenrollment
- **Medically Unnecessary Services**
- **Harm, Abuse or Neglect**
- **Theft of Pharmaceuticals and/or Identity Theft**

As reported by Senior Medicare Patrol, September 2023 Resources at <https://smpresource.org/>

Hospice Anti-Fraud Checklist Page 1

Senior Medicare Patrol
1-31-24

Source: <https://smpresource.org/medicare-fraud/fraud-schemes/hospice-fraud/>

Step 1: What is Hospice Care?
Hospice is a program of care and support for people who are terminally ill. The focus of hospice is on comfort and quality of life (palliative care) rather than on curing illnesses. It includes pain control, symptom management, and counseling for beneficiaries and their families in an effort to make the last days of a beneficiary's life as comfortable as possible. The following information is being provided to assist patients (and their families) in evaluating the appropriate hospice care - and to prevent fraud, waste, and abuse:

Step 2: Do I Qualify for Medicare-covered Hospice Services?

- ⚠️ Do you have Medicare Part A (Hospital Insurance) or are in a Medicare Advantage plan?
- ⚠️ Has your doctor determined that you are terminally ill and have six months or less to live if the illness runs its normal course?
- ⚠️ Are you ready to focus on comfort and quality of life (palliative care) rather than on curing your illness?
 - You sign an election statement when you choose hospice care (palliative care) over other Medicare-covered treatments (curative care) for terminal illness. You can revoke the election if needed.

Step 3: What Types of Hospice Services do I Need?
All Medicare-certified hospice agencies are expected to make certain services available. Depending on your illness or condition, the hospice team creates a plan of care that can include some or all of these services:

Available Hospice Services	
<ul style="list-style-type: none"> • Nursing care • Social worker services • Doctor/Physician assistant services • Dietary counseling • Speech/language pathology services (like to help with swallowing) 	<ul style="list-style-type: none"> • Hospice aide and homemaker services • Medical equipment and supplies • Prescription drugs for symptom control or pain relief • Physical and occupational therapy • Grief and loss counseling

Hospice Anti-Fraud Checklist

Page 2

Senior Medicare Patrol
1-31-24

Source: <https://smpresource.org/medicare-fraud/fraud-schemes/hospice-fraud/>

Step 4: What Level of Care Should I Receive?

Medicare's hospice benefit focuses on providing services in the comfort of the patient's home, unless care is needed at an inpatient facility. Depending on the services needed and the unique situation, hospices can provide services at different "levels." All Medicare-certified hospices are required to make the four levels of hospice care available depending on patient and caregiver needs.

Routine home care	Continuous home care	General inpatient care	Respite care
<ul style="list-style-type: none"> Most common level of care. Patient is generally stable and the patient's symptoms, like pain or nausea and vomiting, are adequately controlled. Usually provided in the home. 	<ul style="list-style-type: none"> Crisis-like level of care for short-term management of out-of-control pain and/or symptoms. Usually provided in the home. 	<ul style="list-style-type: none"> Crisis-like level of care for short-term management of out-of-control pain and/or symptoms. Usually provided in an inpatient setting at a hospital or skilled nursing facility. 	<ul style="list-style-type: none"> Provides temporary relief for a caregiver. Others take care of the loved one. This is tied to caregiver needs and not patient symptoms. Usually provided in an inpatient facility for up to five days.

Step 5: How Can I Compare Options?

(If hospice care is needed, compare different hospices to make the most informed choice)

The quality of patient care that hospices provide to patients and families can vary. Hospice Compare (www.Medicare.gov/hospicecompare) reports information on hospices across the nation and allows patients, family members, and health care providers to get a snapshot of the quality of care each hospice provides. You can compare hospices based on a national survey that rates family members' experiences with hospice care or on important indicators of quality, like the percentage of patients checked for pain or who are asked about their preferences for life-sustaining treatment.

Questions to Ask	Option 1	Option 2	Option 3
Does the hospice accept my insurance (Medicare, Medicaid, other)?			
Are there any services I'm receiving now that the hospice can't provide?			
How long has the hospice been serving patients in my community?			
Is the hospice a not-for-profit or for-profit organization?			
In addition to my residence, where does the hospice provide its services?			
How is hospice care provided when my caregiver(s) need a break?			
Will the hospice provide a hospital bed and other medical equipment I might need?			
Is the hospice accredited by a national health care accrediting organization such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO)?			
Are the hospice physician(s), registered nurses, social workers, and chaplains certified in palliative care?			

Supported by a grant (No. 90MPRC0001) from the Administration for Community Living (ACL), U.S. Department of Health and Human Services (DHHS).

Hospice Anti-Fraud Checklist

Page 3

Senior Medicare Patrol
1-31-24

Source: <https://smpresource.org/medicare-fraud/fraud-schemes/hospice-fraud/>



Do I Qualify for Hospice Services?

- ⚠ Did your doctor determine that you are terminally ill?
- ⚠ Did your doctor determine that you have less than six months to live?
- ⚠ Did you choose to stop curative care services and instead change to palliative care, which helps with comfort measures only?

What Type of Hospice Care Can I Receive?

Be vigilant about reviewing bills and statements such as Medicare Summary Notices (MSN), and be informed about the levels and types of services that are being billed.

Routine Care (Billing codes to identify on the MSN: Q5001-Q5010 with code 0651)

Routine care is when the hospice is paid by Medicare for the routine home care rate each day the patient is under the care of hospice.

- ⚠ Routine care does not include receiving gifts like groceries.
- ⚠ Routine care does not include someone coming to clean your house.
- ⚠ Routine care is still hospice care. It means you have elected to stop trying to cure an illness and instead are choosing to receive comfort measures only.

Continuous Care (Billing codes to identify on the MSN: Q5001-Q5003, Q5009-Q5010 with code 0652)

Continuous home care is to be provided only during periods of crisis to keep the beneficiary at home. A period of crisis is a period of time when the beneficiary requires a higher level of care for at least eight hours in a 24-hour period (midnight to midnight) to achieve pain management or the management of acute medical symptoms.

- ⚠ The care does not have to be "continuous" to qualify but must total eight hours or more of care within the 24-hour period.
- ⚠ The care can be provided by an RN, LPN, and home health aide. However, more than 50 percent of the total care provided must be provided by a nurse.

Questions	Report Suspected Fraud	Available Resources
State Health Insurance Assistance Program (SHIP) www.shipcenter.org 877-839-2675	Senior Medicare Patrol (SMP) www.smpresource.org 877-808-2468	CMS Hospice Comparison Tool: www.medicare.gov/hospicecompare

Supported by a grant (No. 90MPRC0001) from the Administration for Community Living (ACL), U.S. Department of Health and Human Services (DHHS).

Senior Medicare Patrol Hospice Scam Alert

SMP
WARNING
HOSPICE SCAMS

Assisted living facility and nursing home residents are being targeted for hospice services even though they don't qualify because their life expectancy exceeds six months.

Medicare will not cover or approve curative care like cancer treatment or lifesaving surgery for those on hospice.

SMP
Senior Medicare Patrol
Preventing Medicare Fraud

SMPRESOURCE.ORG
1.877.808.2468
SUPPORTED BY GRANT # 90MPC0002 FROM ACL

Senior Medicare Patrol – Stopping Hospice Fraud

WHAT YOU CAN DO TO STOP HOSPICE FRAUD

- Be sure **your** doctor has assessed your condition.
- Be sure **your** doctor has certified that you are terminally ill and expected to live six months or less if the disease runs its normal course.
- Never accept gifts in return for hospice services or “too good to be true” offers.
- Report quality-of-care complaints to your local SMP and the Beneficiary and Family Centered Care-Quality Improvement Organization (BFCC-QIO).

SMP
Senior Medicare Patrol
Preventing Medicare Fraud

SMPRESOURCE.ORG
SUPPORTED BY GRANT # 90MPC0002 FROM ACL

877.808.2468

Source: <https://smpresource.org/medicare-fraud/fraud-schemes/hospice-fraud/>

Hospice Enforcement Remedies

37 Leading Person-Centered Care



Specific Hospice Enforcement Remedies



- Civil money penalties
- Suspension of payment for all new admissions
- Temporary management
- Directed plan of correction
- Directed in-service training

38 Leading Person-Centered Care



Guidance for Surveyors for Hospice and HH Enforcement Remedies

- State Operations Manual (SOM) [Chapter 10](#)
Informal Dispute Resolution (IDR) and Enforcement Procedures for Home Health Agencies and Hospice Programs.
- Memorandum issued May 3, 2024
- <https://www.cms.gov/files/document/qso-24-11-hha-hospice.pdf>
- Guidance to State Agencies on recommending and imposing hospice enforcement remedies
- Implementation of hospice IDR procedures that were finalized in the calendar year (CY) 2024 Home Health Prospective Payment System final rule.

Guidance for Surveyors in Selecting an Enforcement Remedy

Available Sanction/Remedies	Factors to Consider for Selection
For All Sanctions/Remedies	<ul style="list-style-type: none"> • The extent to which the deficiencies pose Immediate Jeopardy (IJ) to patient health and safety. • The nature, incidence, manner, degree, and duration of the deficiencies or noncompliance. • The presence of repeat deficiencies, the hospice program's overall compliance history and any history of repeat deficiencies at either the parent hospice program or any of its multiple locations. • The extent to which the deficiencies are directly related to a failure to provide quality patient care. • The extent to which the hospice program is part of a larger organization with performance problems. • An indication of any system-wide failure to provide quality care.

Guidance for Surveyors in Selecting an Enforcement Remedy

Available Sanction/Remedies	Factors to Consider for Selection
Civil Monetary Penalty (CMP)	<p>When repeat deficiencies exist.</p> <ul style="list-style-type: none"> • Upper range of CMPs for IJ situations. • Middle range of CMPs for noncompliance that is directly related to poor quality patient care outcomes (non-IJ). • Lower range of CMPs for noncompliance that is related predominately to structure or process-oriented conditions.
Suspension of payment for all new admissions (SPNA)	When condition-level deficiencies relate to poor patient care outcomes

Guidance for Surveyors in Selecting an Enforcement Remedy

Available Sanction/Remedies	Factors to Consider for Selection
Temporary Management	<ul style="list-style-type: none"> • When failure to comply with the CoPs is directly related to management limitations, or • When current management oversight is likely to impair the facility's ability to return to full compliance, or • When needed, based on the above situations, to oversee orderly involuntary termination/closure and safe transfer of patients to another local HHA or hospice.
Directed Plan of Correction (DPOC)	<ul style="list-style-type: none"> • When the HHA or hospice program has deficiencies that warrant direction for the provider to take specific actions, or • When the HHA or hospice program fails to develop an acceptable plan of correction for condition-level deficiencies.
Directed In-Service Training	<ul style="list-style-type: none"> • When education is likely to correct the deficiencies and help the HHA or hospice program achieve substantial compliance.

CMP Ranges

Range	Description of Deficiency	Civil Monetary Penalty – Updated for 2024
Upper range	For deficiency that poses IJ to patient health and safety	\$9,455 to \$11,124 per day of condition level non-compliance
Middle range	For repeat and/or a condition-level deficiency that did not pose IJ but is directly related to poor quality patient care outcomes	\$1,616 to \$9,455 per day of noncompliance with the CoPs
Lower range	For repeated and/or condition-level deficiencies that did not constitute IJ and were deficiencies in structures or processes that did not directly relate to poor quality patient care	\$556 to \$4,450 per day of noncompliance

Source: Civil Monetary Penalties Adjusted for Inflation. 45 CFR 102.3 – Table 1 § 102.3 Updated August 8, 2024

Compliance is the foundation – but not the end...

- Knowing regulations and risk areas
- Track regulatory changes and new interpretations
- Track new areas of scrutiny and new audits
- Determine what steps your hospice should take to address issues

Resources

- [OIG Compliance Guidance for Hospices](#)
- [California State Auditor's Report](#)
- [Inflation adjustments for CMPs](#)
- [OIG](#)
- [MLN7867599](#)



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