Introduction to Hospice Compliance

Judi Lund Person, MPH, CHC
Vice President, Regulatory and Compliance

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Getting Started

- Culture of compliance
  - Commitment from leadership
  - Compliance is a team – not just one person
- Know the laws and regulations
  - Not just hospice
  - Federal, state, local
- Have policies, procedures and tools in place
- Have resources at your fingertips
  - Compliance Guides
  - Audit tools
  - Helpful websites
- Proactive planning for areas of scrutiny

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Hospice Conditions of Participation and Other Hospice Regulations

- Is that all there is?
- What the surveyors use?
  - Medicare hospice regulations – Subparts C and D
  - State Operations Manual – Appendix M – Hospice – Interpretive Guidelines
- What else is there?
  - Subpart A – Statutory basis and Definitions
  - Subpart B – Eligibility, Election and Duration of Benefits
  - Subpart E – Reserved for future use
  - Subpart F – Covered Services
  - Subpart G – Payment for Hospice Care
  - Subpart H – Coinsurance
- Special modules on the Medicare hospice regulations

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Seven Fundamental Elements of Effective Compliance Program

1. Implementing written policies, procedures and standards of conduct
2. Designating a compliance officer and compliance committee
3. Conducting effective training and education
4. Developing effective lines of communication
5. Conducting internal monitoring and auditing
6. Enforcing standards through well-publicized disciplinary guidelines
7. Responding promptly to detected offenses and undertaking corrective action

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Five Practical Tips for Creating a Culture of Compliance

1. Make compliance plans a priority now
2. Know your fraud and abuse risk areas
3. Manage your financial relationships
4. Just because your competitor is doing something doesn't mean you can or should. Call 1-800-HHS-TIPS to report suspect practices
5. When in doubt, ask for help.

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What's the Hospice Focus?

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Resources from the OIG

Important OIG Guide on Hospice Risk Areas

- Compliance Guidance for Hospices (OIG, 1999)

Note the date – still applicable today

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OIG Guidance for Hospices – Some Risk Areas

Among the 27 risk areas in the OIG Guidance for Hospices are the following:

1. Uninformed consent to elect the Medicare Hospice Benefit
2. Admitting patients to hospice care who are not terminally ill
3. Arrangement with another health care provider who a hospice knows is submitting claims for services already covered by the Medicare Hospice Benefit
4. Falsified medical records or plans of care
5. Insufficient oversight of patients, in particular those patients receiving more than six consecutive months of hospice care

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OIG Guidance for Hospices – Some Risk Areas

6. Hospice incentives to actual or potential referral sources (e.g., physicians, nursing homes, hospitals, patients, etc.) that may violate the antikickback statute or other similar Federal or State statute or regulation
7. Billing for a higher level of care than was necessary
8. Knowingly billing for inadequate or substandard care
9. Pressure on a patient to revoke the Medicare Hospice Benefit when the patient is still eligible for and desires care, but the care has become too expensive for the hospice to deliver
10. High-pressure marketing of hospice care to ineligible beneficiaries
11. Improper patient solicitation activities, such as "patient charting;'
12. Sales commissions based upon length of stay in hospice

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OIG Reports on Hospice

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Hospice is an OIG Priority

OIG Goal:
- Promoting quality, safety, and value

HHS Top Management Challenge:
- Protecting the health and safety of vulnerable populations

Continuing to uncover issues:
- Medicare payments to Medicare Part A and Part B outside the benefit
- Questions about hospice eligibility
- Time between nursing visits > 14 days
- Quality/adequacy of services
- Cases of patient harm
- Consumer information
- Billing/payment
- Fraud schemes

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OIG reviewed data for over 4,500 hospices that participate in Medicare and found that:

NONE of the 12 hospices faced serious consequences from CMS for the patient harm cases described in our findings.

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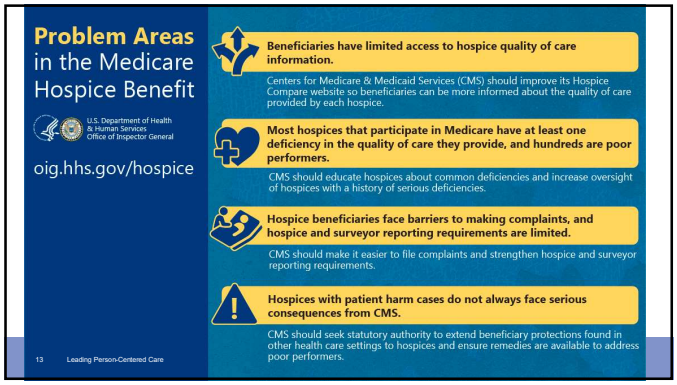

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2019 OIG Reports on Hospice Quality and Patient Harm Formed Basis for New Hospice Program Integrity Law

Hospice Deficiencies Pose Risks to Medicare Beneficiaries
- OEI-02-17-00020
- July 2019

Safeguards Must Be Strengthened to Protect Medicare Beneficiaries from Harm
- OEI-02-17-00021
- July 2019

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Characteristics of Poor Performers

- 313 hospice providers identified as poor performers
- 88% had a history of other violations
- 67% were for-profit, similar to hospices nation-wide
- 40 hospices had a history of serious deficiencies
- NHPCO clarification with the OIG…
  - At least one condition level deficiency **or** one substantiated severe complaint in 2016
  - Both state-surveyed and accrediting organizations
  - Accrediting organization survey results are not public

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OIG Recommendations to CMS

1. Expand the deficiency data that accrediting organizations report to CMS and use these data to strengthen its oversight of hospices.
   - CMS agreed
2. Take the steps necessary to seek statutory authority to include information from accrediting organizations on Hospice Compare.
   - CMS partially agreed
3. Include on Hospice Compare the survey reports from State agencies.
   - CMS did not agree because they cannot release comparable survey results for accrediting organizations

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OIG Recommendations to CMS

4. Include on Hospice Compare the survey reports from accrediting organizations, once authority is obtained.
   - CMS partially agreed if the results from state survey agencies and accrediting organizations can be comparable
5. Educate hospices about common deficiencies and those that pose particular risks to beneficiaries
   - CMS agreed
6. Increase oversight of hospices with a history of serious deficiencies.
   - CMS agreed

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OIG Report on Supervision of Hospice Aides

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What the OIG Found

- Registered nurses **did not always visit the beneficiary's home at least once every 14 days**
  - OIG identified 189,000 "high risk pairs"
  - Estimated 99,000 instances where RN did not make the required supervisory visits at least once every 14 days
- Registered nurses did not document the visits in accordance with Federal requirements
  - Estimated 5,000 instances where supervisory visits were not documented

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Hospice Program Integrity and Scrutiny

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Scrutiny is not only with the OIG…

- **Medicare Administrative Contractors (MAC)**
  - Postpayment medical review
  - Targeted Probe and Educate (TPE)
  - Focus areas (depending on MAC)
    - GIP stay > 5 days
    - Long length of stay >180 days
- **Supplemental Medical Review Contractors (SMRC)**
  - Focus on GIP stays
- **General Accountability Office (GAO)**
  - Drug disposal in the home
  - How do for profit and not for profit hospices compare? Report issued in November 2019
  - New report being developed now (2022) on hospice fraud and abuse
- **Comprehensive Error Rate Testing (CERT)**
  - Improper payments
  - Payment error rate for 2021 of 7.8% ($1.7 billion)
  - Insufficient documentation
    - Certification document did not include narrative information that sufficiently supported that the beneficiary had a life expectancy of less than 6 months
    - Certification document did not include the certification date span
  - Incorrect coding
- **Unified Program Integrity Contractor (UPIC)**
- **Federal OIG Audits**
  - Hospice Provider Compliance Audits
  - Nationwide report on hospice eligibility
  - Data brief on Medicare spending outside the benefit

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How is my hospice doing?

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PEPPER Details

- Target area added for Q4FY20 Hospice Program for Evaluating Payment Patterns Electronic Report (PEPPER)
- Released April 2021
- Q421 is expected to be released in April 2022
- https://pepper.cbrpepper.org/Training-Resources/Hospices
- Check the PEPPER retrieval map for download rates in your state

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Q4FY2020 Hospice PEPPER Target Areas

Target areas for Q4FY2020

- Live Discharges Not Terminally Ill
- Live Discharges – Revocations
- Live Discharges LOS 61 – 179 Days
- Long Length of Stay
- Continuous Home Care Provided in an Assisted Living Facility
- Routine Home Care Provided in an Assisted Living Facility
- Routine Home Care Provided in a Nursing Facility
- Routine Home Care Provided in a Skilled Nursing Facility
- Claims with Single Diagnosis Coded
- No General Inpatient Care or Continuous Home Care
- Long General Inpatient Care Stays
- Average Part D Claims NEW

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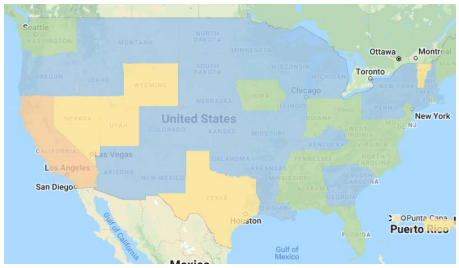
Hospice PEPPER National Download Rate: 63%



Percent of hospices that accessed PEPPER in the state: 80-100% 60-79% 40-59% 20-39% 0-19%

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What Can PEPPER Help You Do?

- Comparative data for 3 years can:
  - Identify whether the hospice's target area percentiles changed significantly from one year to the next
  - Are there:
    - Change in admitting practices
    - Staff turnover
    - Change in medical staff
    - Change in billing staff
- Use PEPPER data to:
  - Compare billing statistics with national, jurisdiction and state percentiles
  - Most recent three fiscal years

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Canary in the Coal Mine

- A heads up for issues ahead
- Early warning system for your hospice

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Compliance is the foundation – but not the end…

- Knowing regulations and risk areas
- Track regulatory changes and new interpretations
- Track new areas of scrutiny
- Determine when to hire a lawyer
- Determine how your hospice can change…

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Hospice Quality and the Compliance/Quality Connection

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Person-Centered Care

- Patient-and family-centered care encourages the active collaboration and shared decision-making between patients, families, and providers to design and manage a customized and comprehensive care plan.
- Hospice care is/has been the model for patient centered care in the healthcare continuum for many years.
- In 2001, the Institute of Medicine defined patient/person-centered care as one characteristic of quality.
- Implementation of a person-centered care model is not enough…. It needs to be adopted into the organizational culture.

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CMS Roadmap to Quality Improvement

- Vision for America: **Patient-centered, high quality care** delivered efficiently.
- Strategies for implementation
  - Work through partnerships
  - Measure quality and report comparative results
  - Value-Based Purchasing: improve quality and avoid unnecessary costs
  - Encourage adoption of effective health information technology
  - Promote innovation and the evidence base for effective use of technology

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Paying for Quality of Care

- Pay for Performance (value-based payment) includes payment models that attach financial incentives/disincentives to provider performance.
- Pay for Performance is part of the overall national strategy to transition healthcare to a value-based payment model.
- Reimbursement is tied to metric-driven outcomes, proven best practices, and patient satisfaction, which aligns payment with value and quality.

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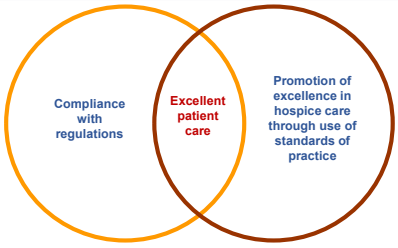
Regulatory Compliance/Quality Connection



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Hospice Quality Reporting Program (HQRP)

- CMS Compliance requirement for all hospice providers
  - Submission of Hospice Item Set data
  - Submission of Consumer Assessment of Healthcare Providers and Systems (CAHPS®) hospice survey data
- Hospice providers that fail to comply with the quality data submissions requirements will have their market basket update (also known as the Annual Payment Update, or APU) reduced by 2%
- In 2024, the APU reduction will be increased to 4%
- **HQRP is currently "pay-for-reporting"**

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§418.58 Condition of Participation: Quality Assessment and Performance Improvement

- The hospice must develop, implement, and maintain an effective, ongoing, hospice-wide data-driven quality assessment and performance improvement program.
- The hospice's governing body must ensure that the program: reflects the complexity of its organization and services; involves all hospice services (including those services furnished under contract or arrangement); focuses on indicators related to improved palliative outcomes; and takes actions to demonstrate improvement in hospice performance.
- The hospice must maintain documentary evidence of its quality assessment and performance improvement program and be able to demonstrate its operation to CMS.

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Compliance Quality Relationship

Practice - Practice drives outcomes and outcomes drive performance improvement in practice

Quality - Standards of practice drive care expectations above and beyond regulatory compliance

Compliance - Regulatory compliance is the minimum requirement and supports development of standards of care and quality care provision

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Thank you!

Contact Info
Judi Lund Person, MPH, CHC
Vice President, Regulatory and Compliance
jlundperson@nhpco.org

Please continue the conversation in the Discussion Forum of this Module or send questions to:

HCCP Questions: hccp@nhpco.org
HQCP Questions: hqcp@nhpco.org

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