FYI:

Part One: The Office of the Inspector General (OIG) Report: Hospice Deficiencies Pose Risks to Medicare Beneficiaries

HOSPICE FUNDAMENTALS SUBSCRIBER EMAILS -- July 2019

The Least You Need to Know: *This month, the OIG released a report stating that survey deficiencies indicate that a large number of hospices are performing in a manner that poses risk to patients and families. The OIG again calls upon the Centers for Medicare & Medicaid Services (CMS) to strengthen the survey process. They make additional recommendations pertaining to increased transparency and oversight. This report is the first of a two-part series; information on the second part, "Safeguards Must Be Taken to Protect Medicare Hospice Beneficiaries from Harm", is coming in the next Hospice Fundamentals FYI.*

Additional Information:

The OIG reviewed State and accreditation survey data for hospices from 2012 through 2016, and they are not happy. The predominant concern is the number of hospices with survey deficiencies; 87% had a condition or standard-level deficiency during this 5-year period. A subset of these hospices, called "poor performers" by the OIG, had at least one condition-level deficiency or severe complaint, and often a history of serious issues. 20% of hospices had a condition-level deficiency during the 5-year period. A dismaying 33% of hospices had complaints filed against them, and almost half of those were severe. One third of those were substantiated.

The results vary from state to state and from year to year, but most hospices with deficiencies had more than one - see deficiencies on page 2.

About The OIG

The first OIG was established by Congress in 1976 under the Department of Health and Human Services, to fight waste, fraud and abuse in Medicare, Medicaid and other Health and Human Services programs. They perform audits and investigations, and make policy recommendations.

In addition to reports like the one released this week; the OIG publishes a Work Plan that outlines audits and evaluations that are underway or being planned during the fiscal year and beyond. The public-facing OIG Work Plan website is updated monthly. For every OIG Work Plan Report since 1996, and more about the OIG, go to:

https://www.oig.hhs.gov/reports-and-publications/workplan/index.asp

Hospice has had the attention of the OIG before, and the following items are already part of the OIG work plan:

- Medicare Payments Made Outside of the Hospice Benefit
- Duplicate Drug Claims for Hospice Beneficiaries
- Trends in Hospice Deficiencies and Complaints
- Hospice Home Care – Frequency of Nurse On-Site Visits to Assess Quality of Care and Services
- Review of Hospices' Compliance with Medicare Requirements
- Medicare Payments for Chronic Care Management
- Protecting Medicare Hospice Beneficiaries from Harm

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Common Deficiencies from The Report

The most common deficiencies were in these areas:

Hospice aides: inadequate training, care planning and aide supervision

Patient assessment: failure to include key content like medication side effects and pain history

Staff screening: deficits in verification of appropriate licensure and credentialing, and failure to perform criminal background and abuse and neglect background checks

Plan of care: not following plan of care, including visit frequency, failure to individualize plan of care, failure to update the plan of care

Quality of care: failure to treat wounds and pain and other problems appropriately, resulting in discomfort to patients

Coordination of care: failure to notify physicians of changes, poor coordination with facilities, hospitals, including the absence of required contracts. This deficit was also identified in the 2020 Wage Index, and is the basis for the proposed changes to the hospice election statement. Check out Hospice Fundamentals FYI 19.8 in the archives for more information.

Additionally, billing for hospice care at a higher level of care than necessary and other fraudulent activities continue to plague the hospice industry:

- Enrolling ineligible patients
- Altering medical records
- Falsifying medical records
- Billing for services not provided

Access the full report here: https://www.oig.hhs.gov/oei/reports/oei-02-17-00020.pdf

To balance the tone of the OIG report:

In April 2015, the IMPACT Act mandated that all Medicare certified hospices be surveyed every three years, for at least the next ten years. Before then, surveys had typically been conducted only every 6 or 7 years due to a lack of resources. By looking at data from 2012-2016, the OIG has selected a sample of hospices not accustomed to being surveyed, and perhaps being surveyed for the first time in a very long time! We at Hospice Fundamentals would like to believe that the increased survey frequency over the past 4 years has helped all hospices do much better.

The report highlights the fact that the highest percentage of "poor performers" were for-profit hospices; 67%. That's the headline. What gets less attention is fine print: that non-profit hospices account for 64% of all hospices! So, for-profits are not performing worse than their not-for-profit hospices sisters. The distribution of "poor performers" simply mirrors the industry distribution of tax-filing status. Hospices of every status have work to do!

Poor Performers

To earn entry into this group, the hospice had to have had at least one condition-level deficiency or severe complaint between 2012 and 2016

- 18% of hospices were found to be in this category
- In 2016, these hospices together billed Medicare $1.6 billion
- 88% of these hospices had a history of other violations
- 67% were for-profit hospices
- Texas and California had the highest number of poor performers, followed by Missouri and South Carolina

OIG Recommendations to CMS:

1. Expand the deficiency data that accrediting organizations report to CMS in order to strengthen oversight

2. Include information from accrediting organizations on Hospice Compare.

3. Include State survey reports on Hospice Compare

4. Include accreditation survey reports on Hospice Compare

5. Educate hospices on the common and most serious deficiencies

6. Increase oversight of hospices with a history of serious survey deficiencies; the poor performers

CMS concurred with all but the third of these recommendations, because while CMS may share results from State surveys, it is not permitted to share information from accrediting organizations at this time.

Condition and Standard-Level Deficiencies

Condition-level:

Surveyors cite a **condition-level deficiency** when a hospice violates one or more standards and the hospice's capacity to furnish adequate care is substantially limited or adversely affects the health and safety of patients. Condition-level deficiencies are the most serious type of deficiency.

Standard-level:

Surveyors cite a **standard-level deficiency** when the hospice violates a standard within a condition of participation. This violation does not yet reach the level of substantially limiting the hospice's capacity to furnish adequate care or of adversely affecting the health and safety of patients.

Resources from the HF Archive

Survey Readiness Tool
https://acevedoconsulting.egnyte.com/dl/SAs2HfTFrM/

Clinical Record Review Audit Tool
https://acevedoconsulting.egnyte.com/dl/mkQGTkfBFn/

The Surveyors are Coming—Finally!
https://acevedoconsulting.egnyte.com/dl/67nPVU0P0D/

Care Planning: Problems, Goals and Interventions - Handouts / Webinar

You Survived the Survey, Now What?
Handouts / Webinar

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Actions of a Prudent Hospice™

ONE. Review your state survey and complaint history to determine whether your hospice is a "poor performer," or could be one now (as defined by the OIG above).

TWO. Review deficiencies in your most recent surveys and take a close look at whether or not your plan of correction and resulting changes have been sustained.

THREE. Make sure to conduct a mock survey at least annually, with focused attention on the problem prone areas identified in this report. Consider a review by someone outside your own hospice, as we are by definition blind to our own blind spots! Use the Survey Readiness Tool provided as a starting point.

FOUR. Confirm that you have a process to ensure Hospice Aide Supervisory Visits occur (and are documented) every 14 days. What can your EMR do to support this? Alerts? Provide a report? Use the power of your EMR.

FIVE. Evaluate your process for updating the comprehensive assessment. Can staff explain the process? Do you know how well you are following your plan of care? Are the visit frequencies met?

SIX. Check your plan of care goals. Are they measureable?

SEVEN. Evaluate your complaint (customer concern) process in identifying, reporting, and addressing concerns.