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Successes and Challenges in Medicare Home Health and Hospice Programs

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Objective

This session will examine the successes, challenges, and vulnerabilities in Medicare's home health and hospice benefits. Session topics include current payment systems, coverage rules, and public awareness and education efforts within each program. The unique needs and challenges of home health and hospice programs in rural communities will also be discussed. The session will additionally include an overview of common fraud schemes, emerging fraud trends, and significant enforcement action.

Medicare and Home Health

- Medicare Home Health (HH) providers bring a wide array of skilled services directly to a patient's residence to meet the needs of Medicare beneficiaries who are homebound under the Original Medicare Program.

Home Health Five Conditions

To be Eligible for HH Care Services, These Five Conditions Must be Met:

- Must be homebound – see handout
- Must need skilled care on a part-time or intermittent basis
- Must be under the care of a doctor
  - Receiving services under a plan of care (POC)
- Have a face-to-face (F2F) encounter with a Medicare enrolled provider/doctor
  - Prior to start of care (90 days) or within 30 days after start of care (SOC)
- Home Health Agency (HHA) must be Medicare-approved

Home Health Plan of Care

- A plan of care (POC) is developed by the doctor, the HHA, and the Medicare patient. It must be reviewed on or before every 60 days.

Home Health Payment

- Under Original Medicare, Medicare pays the Medicare-certified HHA one payment for covered services during a 60-day period. This 60-day period is called an “episode of care”.
- People with Medicare pay nothing for covered home health care services and 20% of the Medicare-approved amount for durable medical equipment (DME).

Home Health and DME

- The Medicare Durable Medical Equipment (DME) benefit **will not** consider coverage of routine and nonroutine medical supplies (diabetic test strips, catheters, tracheostomy care kits, ostomy supplies, etc.) while a patient is receiving home health care because these items are considered part of the HHAs consolidated billing role.

Home Health Signature Requirements

- Medicare requires a legible identifier for services provided/ordered - this may be handwritten or electronic
- If a signature is missing, the order is invalid
- Stamped signatures and signature dates are not acceptable

Home Health Top Denials

- The medical documentation submitted did not show that the therapy services were reasonable and necessary and at a level of complexity which requires the skills of a therapist.
- Physician certification missing or invalid. (the statement itself)
- The physician certification was invalid since the required face-to-face encounter was missing/incomplete/untimely. (denial centered around F2F documentation)

Jimmo Settlement

- *Jimmo v Sebelius*, a federal class action suit settled in October 2012, required CMS to clarify that:
  - No "Improvement Standard" is to be applied in determining Medicare coverage for maintenance claims when skilled care is required.
  - A beneficiary's lack of restoration potential cannot in itself serve as the basis for coverage denials
  - CMS has never supported the use of an "Improvement Standard" rule-of-thumb to determine if skilled care is required to prevent or slow deterioration in a patient's condition. Coverage depends not on the beneficiary's restoration potential, but on whether s/he needs skilled care

NGS RuralServ

- NGS has initiatives in place to improve access and simplify processes for the providers and beneficiaries in rural areas. Some providers face added challenges based on their specialty and the type of services they provide, particularly:
    - Critical Access Hospitals (CAHs)
    - Federally Qualified Health Centers (FQHCs)
    - Rural Health Clinics (RHCs)
    - Home Health and Hospice (HH+H) providers
    - Ambulance Suppliers
- We want to hear from you – Play our Medicare BLAST

Medicare and Hospice

- Medicare's hospice benefit covers palliative and support services for beneficiaries who are terminally ill with a life expectancy of six months or less if the illness runs its normal course.
- In 2017, nearly 1.5 million beneficiaries (including more than half of decedents) received hospice services from 4,488 providers; Medicare's expenditures totaled about $17.9 billion.

Medicare and Hospice

- Hospice serves terminally ill beneficiaries who decide to forgo curative treatment for the terminal illness and instead receive palliative care.
- It aims to make the beneficiary as physically and emotionally comfortable as possible and allow the beneficiary to remain in a home environment.
- An interdisciplinary approach to treatment that includes nursing care, medical social services (services based on the patient's psychosocial assessment and the patient's and family's needs), hospice aide services, medical supplies, and physician services.

Hospice Coverage Rules

- Beneficiary entitled to Medicare Part A
- Certified as terminally ill with life expectancy of 6 months or less
- Certification "shall be based on the clinical judgment of the hospice medical director or physician member of the interdisciplinary group (IDG) and the individual's attending physician, if he/she has one…."
- Recertification at day 90, 180, 240, etc.
  - Face to face encounter at day 180

Four Levels of Care

- Routine home care: most common type of hospice care
  - In FY 2017, Medicare paid $190.55 per day for days 1-60 of routine home care; $149.82 per day after day 60.
- General inpatient care: pain control or symptom management that can't be managed at home
  - In FY 2017, Medicare paid hospices $734.94 per day
- Continuous home care: allowed only during brief periods of crisis and only as needed to maintain the person at home
  - FY 2017, Medicare paid hospices $964.63 per day, based on an hourly rate of $40.19 per hour.
- Inpatient respite care: short-term care provided when needed to relieve caregiver
  - In FY 2017, Medicare paid $170.97 per day

Beneficiary Awareness Issues

- Implications of hospice election; election forms vary
- Confusion about “hospice homes” and hospice inpatient facilities
- No appeal procedures for care denials

Home Health Fraud

- Increase in criminal enterprise involvement
  - Shift from home health to hospice response to enforcement efforts
  - Rise in compartmentalized scheme structure
- Involvement of patient co-conspirators
  - And/or involvement of family members
- Social targeting (often of immigrants & ethnic groups)
  - Referrals from interpreters & lawyers
- Significant increase in Personal Care Attendant (PCA) exclusions
  - Abuse, neglect, and embezzlement by caregivers
- **Emerging Trend** – watch for potential increase in home dialysis fraud
  - Potential program changes $114 billion ESRD/kidney disease industry

Home Health Enforcement

- Jan 2019 – Ann Nwoko Shepherd
  - Owner/operator of Southwest Total Medical dba Amex Medical Clinic
  - Sold medical orders and other HH documents signed by Dr. John Ramirez, MD to HH agencies in Houston area; and billed for medical services provided by an unlicensed provider
  - Sentenced to 360 months (30 years) in prison, and ordered to pay over $21 million in restitution and forfeiture

- May 2019 – Egondo "Kate" Koko
  - Owner/operator of Circuit Wide HH Services, and recruiter for four HH agencies in Houston area
  - Paid illegal kickbacks/bribes to MDs to certify medically unnecessary patients
  - $20 million scheme involving money laundering under the bank account of a Nigerian national
  - Sentenced to 188 months (15.6 years) in prison, and ordered to pay over $13 million in restitution and forfeiture

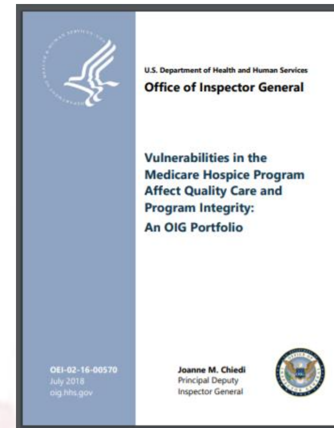
Hospice Fraud

- Early or false diagnosis of terminal illness
  - Patient or family involvement in the fraud scheme
- Lucrative Medical Director contracts and kickbacks
- Continuous care in alleged crisis situation
  - Overmedicated patients
- Unqualified providers and facilities
  - Potential concerns of unauthorized sale of organs/body parts
- Door-to-door solicitation by sham religious entities
  - Convincing brochures touting “new” hospice benefit
  - Adult daycare, homemaker, or housekeeping services
- **Emerging trend** – hospice telemarketing

Hospice Enforcement

- Aug 2015 – Jada Nicole Antoine
  - Worked at eight DFW hospice companies and treated over 240 patients
  - Antoine provided pain assessments for patients who were mentally ill, comatose, and otherwise unresponsive
  - Stole an RN's driver's license, SSN card, and other ID to seek employment (no clinical qualifications)
  - Sentenced to 48 months in prison/$233,000 in restitution

- Oct 2017 – Chemed Corp and Vitas Hospice Services
  - Vitas is subsidiary of Chemed, and largest for-profit health chain
  - Ordered to pay $75 million in FCA settlement for ineligible patients and inflated levels of care (including continuous)



Resources

- Medicare Benefit Policy Manual, chapters 7 and 9
- NGS HH/H Jurisdiction 6 Website
- SMP Resource Center, www.smpresource.org
- SHIP TA Center, www.shiptacenter.org

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