



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



AUG 29 2013

TO: Marilyn Tavenner
Administrator
Centers for Medicare & Medicaid Services

/S/

FROM: Stuart Wright
Deputy Inspector General
for Evaluation and Inspections

SUBJECT: Recommendation Followup Memorandum Report: *Frequency of Medicare Recertification Surveys for Hospices Is Unimproved*, OEI-06-13-00130

This memorandum report follows up on an unimplemented recommendation regarding the frequency of hospice recertification surveys conducted by State survey agencies to ensure compliance with Medicare conditions of participation (CoPs). To assess hospice compliance, the Centers for Medicare & Medicaid Services (CMS) contracts with State survey agencies to conduct onsite surveys of hospices. In the 2007 Office of Inspector General (OIG) report *Medicare Hospices: Certification and Centers for Medicare & Medicaid Services Oversight*, we found that the most recent recertification survey for 14 percent of State-surveyed hospices had occurred more than 6 years before our index date of July 5, 2005, with the length of time between the most recent survey and the index date averaging 9 years.¹ Further, when surveys did occur, 46 percent of the surveyed hospices received citations for health care deficiencies, with the most frequently cited deficiencies related to care planning and quality issues.

We recommended that CMS seek statutory or regulatory timeframes for the frequency of hospice recertification surveys by State survey agencies and suggested a timeframe of 3 years. CMS did not concur with the recommendation, indicating that conducting more frequent surveys would require congressional action to allocate additional resources. CMS policy sets targets for the frequency of hospice recertification surveys by State survey agencies. These targets vary over time based on available resources and priorities. To determine whether the frequency of hospice recertification surveys had changed since our prior report, we compared current survey frequencies to our prior findings.

¹ Office of Inspector General (OIG), *Medicare Hospices: Certification and Centers for Medicare & Medicaid Services (CMS) Oversight* (OEI-06-05-00260), April 2007.

SUMMARY

We found that the frequency of recertification surveys had not improved since 2005. As of the index date of February 28, 2013, 17 percent of State-surveyed hospices had not been recertified within the preceding 6 years, with some hospices experiencing longer intervals since their most recent survey. This finding confirms that the frequency for recertification surveys has not improved since 2005, when 14 percent of hospices had not been surveyed in 6 years. We also found that in 12 States, more than 25 percent of hospices had not been recertified within the last 6 years. These findings (1) suggest that CMS's use of fluctuating annual targets does not ensure timely recertification surveys of all hospices and (2) raise concerns about whether CMS and contracted State survey agencies can ensure that hospices comply with Medicare CoPs and quality-of-care requirements for hospices. Therefore, we reiterate the recommendation that CMS set specific timeframes for the frequency of hospice recertification surveys.

BACKGROUND

The goals of hospice care are to help terminally ill patients live comfortably with minimal disruption and to support patients' families and other caregivers throughout the dying process.² Generally, hospices provide services to patients and their families in their homes; in a hospital, skilled nursing facility, or other nursing facility; or in a freestanding inpatient hospice facility. In 2011, Medicare paid for 84 percent of all hospice services provided nationally.³

Recent Growth of Hospice

Between 2005 and 2011, Medicare payments to hospices increased from \$8.2 billion to approximately \$13.8 billion.⁴ The number of hospices certified for Medicare increased by 43 percent, from 2,537 in 2005 to 3,632 in 2011.⁵ In the same period, the number of Medicare beneficiaries receiving hospice services increased from 871,249 to over 1.2 million.^{6,7}

CMS Oversight of Hospice

Medicare Certification. State survey agencies, contracted by CMS and following CMS's survey protocol and guidelines, conduct surveys of hospices at the time of initial certification, for recertification, and in response to complaints. As an alternative to initial certification or recertification surveys by State survey agencies, hospice providers may seek to have these surveys conducted by an accrediting organization with CMS-granted "deeming" authority.^{8,9} Accrediting organizations use their own survey protocols and

² CMS, *Brief Summaries of Medicare & Medicaid, Title XVIII and Title XIX of the Social Security Act*, p. 9, November 2, 2011.

³ *Ibid.*, p. 10.

⁴ Medicare Payment Advisory Commission (MedPAC), *Report to the Congress: Medicare Payment Policy*, p. 261, March 2013. Accessed at http://www.medpac.gov/chapters/mar13_ch12.pdf on June 17, 2013.

⁵ CMS, *CMS Financial Report Fiscal Year 2012*, Pub. No. 954940, p. 147, November 15, 2012.

⁶ CMS, *Medicare Hospice Data*. Accessed at http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Medicare_Hospice_Data.html on August 20, 2013.

⁷ MedPAC, loc. cit.

⁸ Social Security Act, § 1865(a)(1); 42 U.S.C. 1395bb(a)(1).

include standards that ensure compliance with Medicare’s CoPs. According to staff of the three accreditation organizations, their policies require that they conduct accreditation surveys every 3 years for accredited hospices, which are subsequently deemed by CMS as meeting Medicare requirements.

CMS does not have a legislative or regulatory standard for the frequency of hospice recertification surveys. Instead, CMS policy establishes annual targets for survey frequency based on available resources that year.¹⁰ For example, in 2005 CMS directed State survey agencies to conduct onsite surveys of individual hospices at least every 6 years, which changed to 8 years in 2006; in 2013, the target is 6.5 years.¹¹ Additionally, for 2013, CMS directed State survey agencies to achieve a Statewide average of conducting surveys at least once every 6 years across all State-surveyed hospices. In comparison, the recertification intervals for certain other types of Medicare providers are set by Federal statute or regulation. For example, nursing homes and home health agencies are required to be recertified every 15 months and every 36 months, respectively.¹²

Additional Quality Oversight. The Patient Protection and Affordable Care Act (ACA) authorized CMS to collect additional data in an effort to ensure the quality of care provided by hospices to beneficiaries and to address potential concerns.¹³ Beginning in 2012, CMS required hospices to submit data on two quality measures: a structural measure and a pain measure.¹⁴ For FY 2014 and each subsequent year, the ACA mandates a reduction in payments for hospices that do not comply with the reporting requirements.¹⁵

The reporting requirements from 2012 will soon be replaced by new ones. On August 7, 2013, CMS issued a final rule that further enhanced its quality oversight in two ways. First, the final rule changes the requirements for the hospice quality-reporting program by discontinuing the currently reported measures and—beginning July 1, 2014—implementing a Hospice Item Set with seven measures endorsed by the National Quality

⁹ CMS has deemed three accrediting organization—the Accreditation Commission for Health Care, Inc.; the Community Health Accreditation Program; and The Joint Commission—as having standards that meet or exceed Medicare hospice survey certification requirements.

¹⁰ These fluctuating targets are identified in CMS’s annual Mission and Priority Document. CMS, Survey and Certification Group, Center for Clinical Standards and Quality, *Quality Assurance for the Medicare & Medicaid Programs, FY [Fiscal Year] 2013 MPD, Survey and Certification*, November 21, 2012.

¹¹ CMS, Survey and Certification Group, Center for Clinical Standards and Quality, *Prudent Action for the FY 2012 Medicare Survey & Certification (S&C) Budget*, S&C 12-12-ALL, December 9, 2011.

¹² Social Security Act, § 1919(g)(2)(A)(iii)(I), 42 U.S.C. § 1396r(g)(2)(A)(iii)(I), *Requirements for Nursing Facilities*, and 42 CFR 488.308(a), *Survey Frequency, Basic Period*; Social Security Act, § 1891(c)(2)(A), 42 U.S.C. § 1395bbb(c)(2)(A), *CoPs for Home Health Agencies*, and 42 CFR 488.730(a), *Survey Frequency, Basic Period*.

¹³ ACA, P.L. 111-148 § 3004(c)(2) (codified at 42 U.S.C. § 1395f(i)(5)).

¹⁴ CMS, *Technical User’s Guide for Hospice Quality Reporting Data Entry and Submission, Version 1.5, January 1–April 1, 2013*. Accessed at <http://www.QTSO.com/hospicetrain.html> on April 30, 2013. The “structural measure” includes hospice-selected care topics for which the hospice has at least one quality indicator in its Quality Assessment and Performance Improvement Program. The “pain measure” includes “the percentage of patients who report being uncomfortable because of pain at the initial assessment [...] who report pain was brought to a comfortable level within 48 hours.”

¹⁵ ACA, § 3004(c)(2) (codified at 42 U.S.C. § 1395f(i)(5)).

Forum. Second, effective January 1, 2015, CMS will implement the hospice Experience of Care Survey to gather feedback from hospice patients and family members regarding their experiences and satisfaction with hospice care.¹⁶

Related Reports

In addition to the 2007 hospice study that reported long periods of time between hospice recertification surveys, recent OIG and media reports have raised concerns about aspects of hospice care. OIG reports have included concerns about hospices that rely heavily on beneficiaries who reside in nursing facilities and the high percentage of hospice claims for such beneficiaries that did not meet requirements for Medicare hospice coverage.¹⁷ Recent media reports indicate that some hospices may bill Medicare inappropriately for services provided to patients who do not meet requirements for hospice coverage.¹⁸

METHODOLOGY

To determine survey frequency, we analyzed all hospice survey data maintained in CMS's Certification and Survey Provider Enhanced Reporting (CASPER) system as of the index date of February 28, 2013, the date OIG received the CASPER data. We also obtained Medicare payment data for each hospice from CMS's National Claims History File for 2011, the most recent year for which we had complete claims data at the time of analysis.

From CASPER, we identified those hospices that State survey agencies had certified on behalf of Medicare, excluding those hospices surveyed by the three accreditation associations. We then used the National Claims History File to identify hospices that received Medicare payments for hospice services provided during 2011. Using these criteria, we examined the study population of 2,483 hospices across 54 States and Territories, hereafter referred to as State-surveyed hospices.

We determined the certification survey frequency for each State-surveyed hospice by calculating the time between the date of the most recent certification survey (either initial certification or recertification) and the index date, February 28, 2013. In keeping with the prior report, we used only the dates for certification surveys, not complaint surveys. We determined the proportion of hospices—both nationally and by State—that had not been surveyed within the 6 years preceding the index date and compared those results to our prior findings.

¹⁶ 78 Fed. Reg. 48234–48281 (August 7, 2013). Accessed at <https://federalregister.gov/a/2013-18838> on August 7, 2013.

¹⁷ Recent hospice reports by OIG include *Medicare Hospice Care for Beneficiaries in Nursing Facilities: Compliance With Medicare Coverage Requirements* (OEI-02-06-00221), *Medicare Hospices that Focus on Nursing Facility Residents* (OEI-02-10-00070), and *Medicare Hospice: Use of General Inpatient Care* (OEI-02-10-00490).

¹⁸ Kaiser Health News, *Slowly dying patients, an audit and a hospice's undoing*, January 16, 2013. Accessed at <http://www.kaiserhealthnews.org/stories/2013/january/16/san-diego-hospice.aspx> on June 10, 2013.

Limitations

As stated, we used 2011 Medicare claims data to identify the hospices for analysis. As a result, it is possible that our analysis included some hospices that left the Medicare program after 2011. We believe that these limitations have minimal effect on the report's main objective—to assess whether survey frequency has improved since 2005—chiefly because the prior study and findings had similar limitations based on data availability at the time of each set of analyses.

As in the prior report, we did not verify with State survey agencies the dates maintained in CASPER.

Standards

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

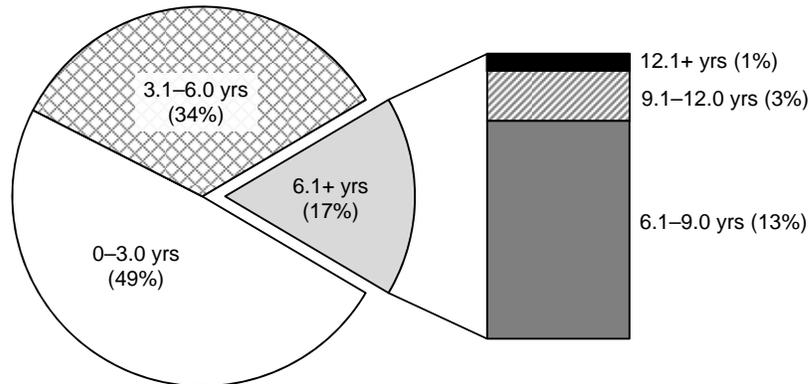
RESULTS

The frequency of hospice recertification surveys has not improved since 2005, with 17 percent of State-surveyed hospices not having been recertified within the last 6 years

We found that 17 percent of State-surveyed hospices (416 of 2,483) had not received a recertification survey within the 6 years preceding the index date of February 28, 2013. These results are similar to our prior findings, where 14 percent of hospices had not been recertified within 6 years. Among the 416 hospices not recertified within the preceding 6 years, the length of time between the most recent survey and the index date averaged 8.4 years and ranged as high as 22 years. These 416 hospices provided services to 121,868 Medicare beneficiaries in 2011 and received almost \$1.4 billion in Medicare payments.

The remaining 83 percent of State-surveyed hospices (2,067 of 2,483) had been recertified within the preceding 6 years. Of these, 49 percent (1,212 of 2,483) had been recertified within the preceding 3 years, which is the survey frequency standard set by accrediting organizations for hospices. The remaining 34 percent (855 of 2,483) had been recertified between 3 and 6 years before the index date. (See Figure 1.)

Figure 1: Hospice Recertification Survey Intervals, 2013



Source: OIG analysis of CMS-provided data on survey frequency, February 28, 2013.

In 12 States, more than one-quarter of State-surveyed hospices had not been recertified within the preceding 6 years

More than 25 percent of the State-surveyed hospices in 12 States did not receive a recertification survey within the 6 years preceding the index date.¹⁹ (See Table 1.) Among these hospices, the average length of time between the most recent survey and the index date was 8.8 years. For 3 of these 12 States, the proportion of hospices that had not received a recertification survey within the preceding 6 years was over 50 percent. The 334 hospices that did not receive recertification surveys within the preceding 6 years in these 12 States provided services to nearly 100,000 Medicare beneficiaries and received more than \$1.1 billion in Medicare payments in 2011. (See Appendix A for a listing of all States and their survey frequencies.)

Table 1: States with More than 25 Percent of Hospices with Survey Cycles of More Than 6 Years*

State	Number of hospices in State	Number of hospices in State that did not receive a survey in the preceding 6 years	Percentage of hospices in State that did not receive a survey in the preceding 6 years
Oklahoma	109	80	73.4%
Idaho	29	20	69.0%
California	123	66	53.7%
Washington	21	10	47.6%
Louisiana	112	51	45.5%
Nevada	11	5	45.5%
Nebraska	29	13	44.8%
Iowa	63	26	41.3%
North Carolina	44	18	40.9%
Kansas	52	16	30.8%
New Jersey	33	9	27.3%
Missouri	76	20	26.3%
Total	702	334	

Source: OIG analysis of CMS-provided data on survey frequency, February 28, 2013.

*This analysis did not include the 9 States and Territories that each had fewer than 10 hospices.

¹⁹ We did not include in this analysis the 9 States and Territories that each had fewer than 10 hospices.

CONCLUSION

These findings illustrate that CMS's use of fluctuating annual targets does not ensure timely recertification surveys of all hospices and raises concerns about whether CMS and contracted State survey agencies can adequately oversee hospice compliance with Medicare CoPs and the quality-of-care requirements for hospices. Our research also indicates that hospices are often out of compliance; the 2007 report found that almost half of hospices were cited with deficiencies when surveyed. Further, more recent OIG reports identified quality-of-care concerns regarding hospice care provided in nursing homes.

We reiterate the recommendation that CMS set specific timeframes for the frequency of hospice recertification surveys. This should be accomplished by seeking legislation or promulgating regulations. Embedding in regulation a standard for survey frequency would elevate State responsibility to meet such a standard, and therefore better ensure that hospices are surveyed more timely. CMS could consider setting this survey frequency standard at 3 years, to match the 3-year interval used by accrediting organizations (as approved by CMS); however, given resource limitations, setting a mandatory frequency—even for an interval of more than 3 years—could help to ensure improvement in survey frequency and avoid lengthy intervals between surveys for individual hospices. Although we understand that the new quality-reporting requirements established by CMS have the potential for improving the quality of care for hospice patients, we will not know the outcomes of these processes for a few years. Once the requirements are fully implemented, available data should provide CMS with information to identify those hospices that appear more problematic and thus should be the focus of further review by State agencies.

This report is being issued directly in final form because it contains no new recommendations. If you have comments or questions about this report, please provide them within 60 days. Please refer to report number OEI-06-13-00130 in all correspondence.

APPENDIX A

States' Hospice Certification Survey Frequencies

State	Number of hospices in State	Number of hospices in State that did not receive a survey in the preceding 6 years	Average survey frequency of hospices in State that did not receive a survey in the preceding 6 years	Percentage of hospices in State that did not receive a survey in the preceding 6 years
Alabama	95	0	0	0.0%
Alaska	2	0	0	0.0%
Arizona	43	0	0	0.0%
Arkansas	50	9	6.3	18.0%
California	123	66	13.1	53.7%
Colorado	36	1	6.3	2.8%
Connecticut	24	1	6.7	4.2%
Delaware	4	0	0	0.0%
District of Columbia	3	0	0	0.0%
Florida	23	5	6.7	21.7%
Georgia	131	0	0	0.0%
Guam	2	1	6.1	50.0%
Hawaii	7	2	6.7	28.6%
Idaho	29	20	7.5	69.0%
Illinois	69	0	0	0.0%
Indiana	64	0	0	0.0%
Iowa	63	24	7.7	38.1%
Kansas	52	16	7.0	30.8%
Kentucky	15	0	0	0.0%
Louisiana	112	51	7.7	45.5%
Maine	8	0	0	0.0%
Maryland	18	1	6.2	5.6%
Massachusetts	55	3	6.1	5.5%
Michigan	42	5	6.3	11.9%
Minnesota	52	11	6.6	21.2%
Mississippi	91	8	6.2	8.8%
Missouri	76	20	6.7	26.3%
Montana	26	0	0	0.0%
Nebraska	29	13	7.4	44.8%
Nevada	11	5	7.8	45.5%
New Hampshire	19	0	0	0.0%
New Jersey	33	9	6.7	27.3%
New Mexico	29	5	7.5	17.2%
New York	38	0	0	0.0%
North Carolina	44	18	7.4	40.9%
North Dakota	13	1	6.8	7.7%
Ohio	70	0	0	0.0%
Oklahoma	109	80	8.8	73.4%
Oregon	42	4	6.3	9.5%
Pennsylvania	147	0	0	0.0%
Puerto Rico	34	2	6.5	5.9%
Rhode Island	1	0	0	0.0%
South Carolina	72	0	0	0.0%
South Dakota	13	0	0	0.0%
Tennessee	35	2	6.5	5.7%
Texas	194	5	6.4	2.6%
Utah	61	15	6.9	24.6%
Vermont	5	0	0	0.0%
Virgin Islands	3	0	0	0.0%
Virginia	59	1	6.0	1.7%
Washington	21	9	6.8	42.9%
West Virginia	18	0	0	0.0%
Wisconsin	49	0	0	0.0%
Wyoming	19	0	0	0.0%
Totals	2,483	416		

Source: OIG analysis of CMS-provided data on survey frequency, February 28, 2013.