

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICARE HOSPICES:
CERTIFICATION AND
CENTERS FOR
MEDICARE & MEDICAID SERVICES
OVERSIGHT**



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OBJECTIVE

To assess, for Medicare hospices certified by State agencies:

1. the timeliness and results of hospice certification surveys performed by State agencies, and
2. the extent of the Centers for Medicare & Medicaid Services (CMS) oversight of the Medicare hospice program.

BACKGROUND

Medicare Part A covers hospice care provided to terminally ill patients. In recent years, this Medicare benefit has grown in terms of patients served, expenditures, and number of hospices.

Organizations that provide hospice care must be certified by State agencies as meeting minimum participation standards prescribed by CMS. CMS uses Federal comparative surveys and annual performance reviews to evaluate State agencies' survey and certification operations. Certified hospices must undergo recertifications; however, neither law nor regulation specifies the frequency of recertification. Instead, CMS notifies States of the certification frequency for hospices through its annual budget request policy memorandum to the State agencies. For fiscal year (FY) 2005, CMS scheduled hospice certification surveys for every 6 years, but for FY 2006, CMS changed the frequency to every 8 years on average. This change was the result of budget reductions.

Whether 6 years or 8 years, the frequency of hospice certification is far different from the certification frequencies required for nursing homes, hospitals, and home health agencies. While the priority for hospice certification may be lower, CMS did direct State agencies, for FY 2006 surveys, to target 5 percent of the hospices most at risk for having quality problems. Using the results of certification surveys and complaint investigations, CMS has the authority to apply only one enforcement remedy—termination of poorly performing hospices from Medicare.

The report findings are based primarily on analysis of data from CMS's Online Survey Certification and Reporting system. We analyzed these data for 2,537 hospices that were certified by State agencies and were Medicare providers as of July 5, 2005. We also interviewed staff at CMS headquarters and regional offices, State agencies, and professional organizations knowledgeable about hospice issues.

FINDINGS

Eighty-six percent of hospices were certified within 6 years, as required, while 14 percent averaged 3 years past due. Hospices that were 3 years past due for certification had not been surveyed for 9 years—3 years longer than the CMS standard at the time of our review. Two CMS regions accounted for 56 percent of the past-due hospice certifications: Region V (33 percent) and Region IX (23 percent). Only 24 percent of all certified Medicare hospices are located in these two regions.

Applying an 8-year certification frequency to our hospice data decreased the percentage of past-due certifications from 14 percent to 9 percent. However, because the FY 2006 standard is an average rather than a defined interval, it is possible that a State agency could certify some hospices less often than every 8 years and still meet the requirement.

Health deficiencies were cited for 46 percent of hospices surveyed and for 26 percent of hospices investigated for complaints; many deficiencies related to patient care. The most frequent health deficiencies cited during certification surveys and complaint investigations centered on patient care planning and quality. These deficiencies indicated that written care plans either were not prepared or lacked important elements, or that measures to ensure quality patient care were insufficient. Fifteen percent of hospices surveyed between July 2002 and July 2005 received another citation for the same deficiency cited during a previous survey. Of the hospices with deficiencies cited during complaint investigations, 49 percent were also cited for the same deficiencies during certification surveys over the same period.

CMS and State agencies rarely use methods other than certification surveys and complaint investigations to monitor or enforce hospice performance. CMS rarely includes hospices in Federal comparative surveys or annual State performance reviews. Further, both CMS and State agencies infrequently analyze existing hospice performance data. Finally, hospice deficiency data from certification surveys do not include ratings for scope (how many patients are affected) and severity (extent to which patients' safety or health is affected), and individual patient assessment data for hospices are not available. For all these reasons, targeting at-risk hospices, as CMS required for FY 2006, may be difficult for State agencies. CMS has not provided State agencies any direct guidance or specific criteria to identify the at-risk hospices. From July

2002 to July 2005, CMS terminated one hospice from Medicare, and few State agencies exercised their own enforcement measures.

RECOMMENDATIONS

To improve oversight of the Medicare hospice program, we recommend that CMS:

Provide guidance to State agencies and CMS regional offices regarding analysis of existing data and identification of at-risk hospices.

CMS should provide written guidance and/or training that specifies key performance indicators or analysis techniques for hospice data. CMS should also include in its written guidance and/or training how States should identify, using analysis of available data, which hospices are at risk for quality problems. Instituting scope and severity ratings similar to those used for nursing facility deficiency data could provide another method for identifying at-risk hospices. Alternatively, CMS could develop a standard set of indicators for hospice performance, complete data analysis centrally, and ensure that resulting reports are routinely provided to CMS regional office and State agency staffs.

Include hospices in Federal comparative surveys and annual State performance reviews. These surveys and reviews allow CMS to ensure that State agencies meet CMS's performance requirements and to understand overall State agency operations.

Seek regulatory or statutory changes to establish specific requirements for the frequency of hospice certification. Section 1861(dd)(2)(G) of the Social Security Act allows the Secretary to promulgate other regulatory requirements for hospices. CMS should seek a regulatory change that would specify a fixed certification frequency for Medicare hospices with commensurate funding for staffing and implementation. In lieu of a regulatory change, CMS could pursue a statutory change and related funding. Such regulatory or statutory and related budgetary changes could help to ensure that CMS maintains its certification schedules for hospices.

CMS should also seek to increase the frequency of hospice certifications as part of the regulatory or statutory change. The accrediting organizations, the Joint Commission for the Accreditation of Healthcare Organizations and the Community Health Accreditation Program, have set an industry standard of certification every 3 years for hospices. For

CMS, surveys of hospices are the primary method for gaining information about hospice performance in caring for patients.

Seek legislation to establish additional enforcement remedies for poor hospice performance. Currently, CMS's only enforcement remedy against poorly performing hospices is termination of the hospice from the Medicare program. Our results showed that termination is rarely imposed. Less severe remedies could be effective for addressing performance problems that do not merit termination. A potential array of enforcement measures could include directed plans of correction, directed in-service training, denials of payment for new admissions, civil monetary penalties, and imposition of temporary management.

AGENCY COMMENTS

In its comments on the draft report, CMS concurred with the recommendation to provide greater guidance concerning analysis of existing data and identification of at-risk hospices. To this end, CMS reports exploring and implementing methods to become more efficient in targeting its limited resources toward providers most in need of closer oversight. CMS also concurred with the recommendation to include hospices in annual State performance reviews. However, CMS did not concur with greater inclusion of hospices in Federal comparative surveys, citing budget limitations. Additionally, CMS did not concur with the recommendation that it make a regulatory change to establish frequency requirements for hospice certification. CMS stated that, given resource issues, a statutory change, necessitating congressional action, is more appropriate. Finally, CMS is still considering the last recommendation: to pursue new enforcement remedies for poor hospice performance.

OFFICE OF INSPECTOR GENERAL RESPONSE

We continue to recommend that CMS include hospices in the Federal comparative surveys and set a frequency requirement for hospice certification. We acknowledge that this frequency requirement can be set by a statutory change. Consequently, we changed the recommendation that was included in the draft report to include the option of seeking the requirement through either a statutory change or a regulatory change. We look forward to CMS's comments on this final report addressing its consideration of establishing additional enforcement remedies for poor hospice performers.