

Mitigating Risks in Hospice Care

Hospice care involves providing palliative measures to terminally ill patients to enhance their comfort and relieve their pain. This care is provided in patients' homes as well as in acute care hospitals, nursing facilities, assisted living facilities, and freestanding hospice facilities.

Organizations that provide hospice care must adhere to various federal and state regulations as well as manage any risks associated with providing care to hospice patients.

Hospice became a Medicare benefit in 1983.¹ Congress directed federal regulatory agencies to implement strategies for hospice oversight, quality improvement, and payment reform

under the authority of various statutes.² The Consolidated Appropriations Act of 2021 contained many modifications to improve hospice care. Even with this oversight, the Office of Inspector General (OIG) of the U.S. Department of Health and Human Services (HHS) has identified quality issues through audits and evaluations; these issues can affect patient care and increase liability risks.³

To optimize the care for patients and avoid potential liability exposure, organizations that provide hospice care should consider these strategies on contracts, communication, staffing, risk assessment, and opioid policies.⁴

1

Be aware of, and ensure compliance with, federal and state laws and regulations related to hospice care. Develop a thorough compliance plan that specifies ethical conduct and addresses key areas of risk. Involve the organization's board of directors in compliance risk mitigation efforts.

2

Ensure that the organization's policies, procedures, and training materials reflect current requirements of the Centers for Medicare & Medicaid Services' (CMS') Conditions of Participation (CoPs).

3

Establish a policy for conducting criminal background checks that aligns with Medicare CoPs and federal and state laws. Confirm that a process is in place to ensure compliance with the most stringent requirements.

4

Perform risk assessments informed and guided by CMS' most frequently cited deficiencies and quality-measure reports and major areas of risk identified by HHS OIG.

5

Create plans and identify strategies to address common safety issues in hospice care, such as patient falls, patient handling, staff safety, and medication safety.

6

Develop and implement a quality improvement program, and make sure results are routinely reported to organizational leaders and stakeholders.

7

Use CMS guidance for surveyors to prepare organizational staff for survey inspections, and be ready to create corrective action plans for any deficiencies cited during surveys.

8

Verify that contracts are in place between Medicare-certified hospice providers and long-term care facilities that contract with them. Review contracts for hospice services to ensure they are CMS-compliant.

9

Devise easy-to-use methods for patients and families to provide feedback and submit complaints to the organization.

10

Identify and implement applicable best practices to improve communication with patients and families/caregivers. Offer training to hospice nurses to ensure they can provide clear, accurate, and culturally competent communication, particularly with grieving caregivers.

11

Secure adequate staffing to ensure that patients receive skilled ample visits during their final days of life.

12

Educate hospice staff about federal and state laws regarding opioid disposal. Create a policy that delineates safe administration, management, and disposal of all pain medications. Develop protocols to prevent drug diversion, and education and train staff on these protocols.

Endnotes

¹ National Hospice and Palliative Care Organization. (n.d.). *Medicare hospice benefit*. Retrieved from www.nhpco.org/hospice-care-overview/medicare-hospice-benefit-info/

² U.S. Department of Health and Human Services. (1983, December 16). *Medicare program; hospice care*. Retrieved from www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Downloads/1983-Final-Rule.pdf

³ U.S. Department of Health and Human Services Office of Inspector General. (2023, March 28 [Last Updated]). *Hospice*. Retrieved from <https://oig.hhs.gov/reports-and-publications/featured-topics/hospice/>

⁴ Information in these tips were derived from these sources: Ibid.; ECRI. (2021, August 12). Hospice care. *Health Systems Risk Management*. Retrieved from www.ecri.org/components/HRC/Pages/SpecClin6.aspx

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