

July 2018 OIG Report reveals problems with Hospice care and billing

By Jeffrey J. Downey, attorney

Representing victims of elder neglect, abuse and exploitation

Serving clients in Virginia, Maryland and the District of Columbia

On the web at Jeffdowney.com; Phone 703-564-7318,

As a nursing home attorney and advocate, I try to keep up on OIG reports involving our long term care system. The OIG has traditionally been a non-partisan, government entity with significant data analysis abilities.

The [attached report](#) looks at Hospice care and problems with both the level of care and billing for services. Hospice care, sometimes referred to as palliative care, typically involves the care for individuals at the end of life, who have decided to forgo any medical care beyond comfort measures. The program has expanded rapidly in the last decade.

Just in 2016 alone, Medicare paid out \$16.7 billion to about 1.4 million Medicare beneficiaries receiving hospice care. Payments to Hospice facilities has increased over 80 percent from 2006 to 2016, and the number of Hospice centers across the country has increased from around 3,000 to nearly 4,400 over that same 10-year period.

Where there are opportunities to take advantage of significant Medicare revenues, it's not uncommon to see providers pushing the envelope by billing for care that does not qualify for reimbursement. The report cited improper payments from \$400,000 to over \$1 million for services not meeting Medicare Requirements. The report noted that in 2012 alone, one-third of inpatient care billed by hospices, nearly \$270 million was inappropriately billed. Broken down to individuals, that over \$670 per day instead of \$151 per day, the level of care designed to relieve caregivers.

In some cases, Medicare sometimes paid twice for the same service, sometimes billing for care beyond the death of the Medicare beneficiary. This occurred in my home state of New York one month beyond the date of death to the tune of nearly \$1.3 million.

Equally troubling, the report explains how Hospice does not always provide the services that beneficiaries require and sometimes provides poor quality care. With patients that are at end of life, or who suffer from dementia, it much easier to get away with substandard care. Unless families are closing monitoring such care, an adverse outcome can easily be attributed to the decedent's terminal condition. In the meantime, beneficiaries without advocates are experiencing unnecessary pain and suffering.

The Patient Protection and Affordable Care Act required Medicare hospice payment reform no later than October 2013, and some changes have been implemented. The rate amount of home routine care was increased for the first sixty days, while decreasing the amount after that. With

that possibility, hospices may target prospective residents receiving Medicare that are likely to have long lengths of stay.

This is a critical issue in my view. Our elderly population is growing rapidly and needs to be respected and protected. This needs the attention of Congress to force for-profit hospice facilities to see the big picture, and that means enforcement at both the state and federal level. This current administration has slashed budgeting for enforcement and has been slow to intervene in alleged cases involving Hospice Medicare fraud.

The Centers for Medicare and Medicaid Services, better known as CMS, launched a website which allows the public to make informed decisions about hospice care. However, the OIG-HHS report found the data lacking, noting information is provided not by survey data from CMS but from the hospices themselves.

For more information on this issue, please review the [attached report](#), or call my office for a free consultation. Thank you.

Jeffrey J. Downey, attorney
The Law Office of Jeffrey J. Downey
8270 Greensboro Drive, Suite 810
McLean, VA 22102
Representing victims of elder neglect, abuse and exploitation
Serving clients in Virginia, Maryland and the District of Columbia
On the web at Jeffdowney.com;
Phone 703-564-7318, 703-564-7336