



EDUCATIONAL RESOURCES

Diving into Hospice Regulatory Reviews



ACHCU IS A BRAND OF ACCREDITATION COMMISSION *for* HEALTH CARE



Welcome

- Laurie Newlun MSN, RN, CHC, CHPC
- Senior Manager, Compliance and Regulatory
- SimiTree Healthcare Consulting

Who are the peepers?

- MAC's Medicare Administrative Contractors
- Medicaid Reviewers
- CERT Auditors Comprehensive Error Rate Testing
- SMRC Supplemental Medical Review Contractors
- UPIC Unified Program Integrity Contractors
- OIG Office of the Inspector General
- RAC Recovery Audit Contractors

Who are the MAC's

- MAC: Medicare Administrative Contractors

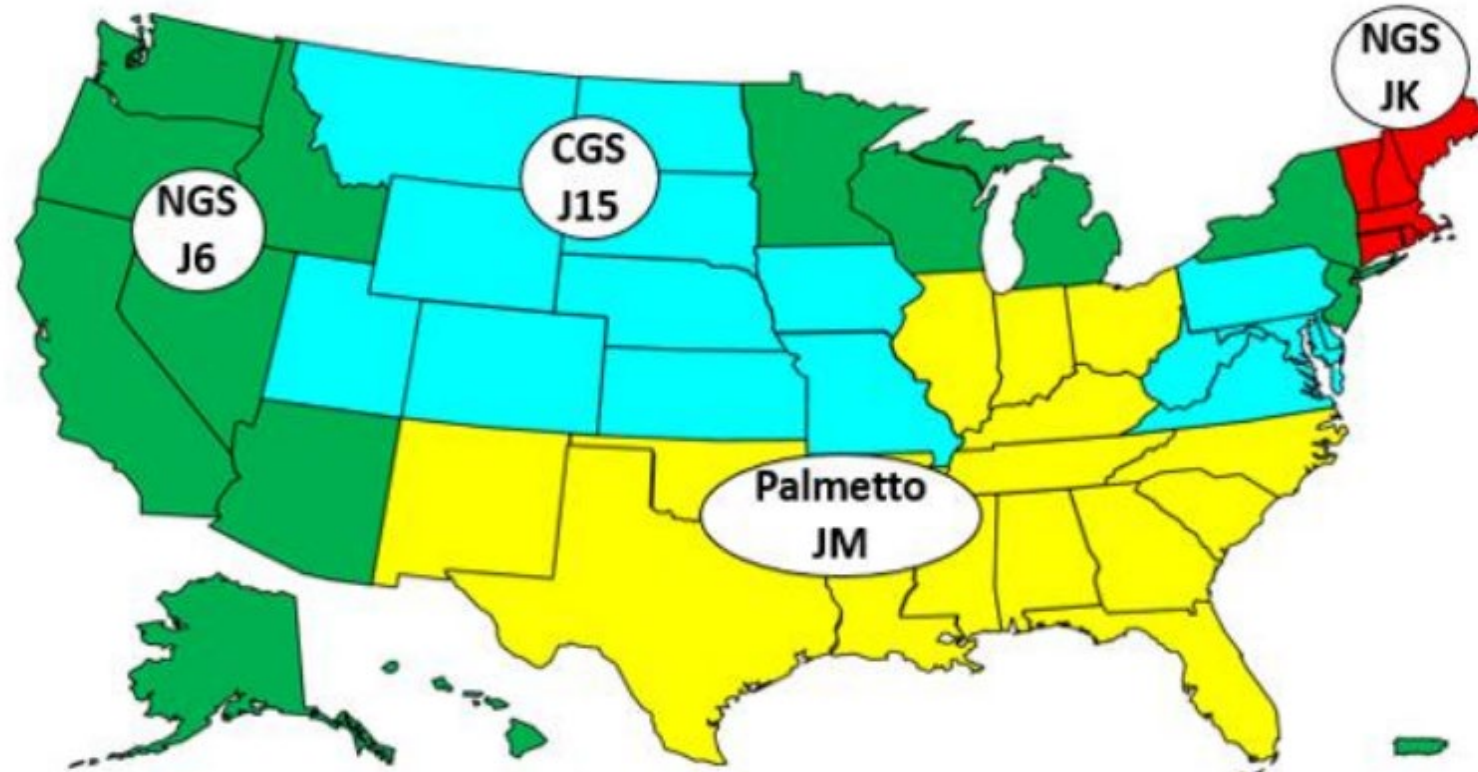
- Palmetto
- CGS
- NGS

Jurisdiction and areas of emphasis:

- MAC: Medicare Administrative Contractors
- Palmetto
- CGS
- NGS

Jurisdiction and areas of emphasis:

- MAC: Medicare Administrative Contractors



MAC Audits.

- SFP: Special Focus Program
- PPEO: Hospice Provisional Period Enhanced Oversight
- TPE: Targeted Probe and Educate

Special Focus Program

- SFP: Special Focus Program- on hold
- 2021 Consolidated Appropriations Act

- Designed to monitor poor performers
- Purpose to improve performance

Special Focus Program

- SFP: Special Focus Program- on hold
- 2021 Consolidated Appropriations Act
- Consolidated Appropriations Act, 2021, amended the Social Security Act, §§ 1822(b), 1865(a), and 1865(b) to require the development and implementation of new enforcement remedies for noncompliant hospice programs.

Special Focus Program

- “(1) IN GENERAL.—The Secretary shall conduct a special focus program for enforcement of requirements for hospice programs that the Secretary has identified as having substantially failed to meet applicable requirements of this Act.
- “(2) PERIODIC SURVEYS.—Under such special focus program, the Secretary shall conduct surveys of each hospice program in the special focus program not less than once every 6 months.” (c)

Special Focus Program

- “(c) ENFORCEMENT.— “(1) SITUATIONS INVOLVING IMMEDIATE JEOPARDY.—If the Secretary determines on the basis of a standard survey or otherwise that a hospice program that is certified for participation under this title is no longer in compliance with the requirements specified in section 1861(dd) and determines that the deficiencies involved immediately jeopardize the health and safety of the individuals to whom the program furnishes items and services, the Secretary shall take immediate action to ensure the removal of the jeopardy and correction of the deficiencies or terminate the certification of the program, and may provide, in addition, for 1 or more of the other remedies described in paragraph (5)(B).

Special Focus Program.

- “(2) SITUATIONS NOT INVOLVING IMMEDIATE JEOPARDY.— If the Secretary determines on the basis of a standard survey or otherwise that a hospice program that is certified for participation under this title is no longer in compliance with the requirements specified in section 1861(dd) and determines that the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the program furnishes items and services, the Secretary may (for a period not to exceed 6 months) impose remedies developed pursuant to paragraph (5)(A), in lieu of terminating the certification of the program. If, after such a period of remedies, the program is still no longer in compliance with such requirements, the Secretary shall terminate the certification of the program.

Special Focus Program

- (3) PENALTY FOR PREVIOUS NONCOMPLIANCE.—If the Secretary determines that a hospice program that is certified for participation under this title is in compliance with the requirements specified in section 1861(dd) but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under paragraph (5)(B)(i) for the Termination. Time period.

Special Focus Program

- (4) OPTION TO CONTINUE PAYMENTS FOR NONCOMPLIANT HOSPICE PROGRAMS.—The Secretary may continue payments under this title with respect to a hospice program not in compliance with the requirements specified in section 1861(dd) over a period of not longer than 6 months, if— “(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the program with such requirements than to terminate the certification of the program;

Special Focus Program

- “(B) the program has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action; and “(C) the program agrees to repay to the Federal Government payments received under this title during such period if the corrective action is not taken in accordance with the approved plan and timetable. The Secretary shall establish guidelines for approval of corrective actions requested by hospice programs under this paragraph.

Special Focus Program

- “(5) REMEDIES.— “(A) DEVELOPMENT.— “(i) IN GENERAL.—Not later than October 1, 2022, the Secretary shall develop and implement— “(I) a range of remedies to apply to hospice programs under the conditions described in paragraphs (1) through (4); and “(II) appropriate procedures for appealing determinations relating to the imposition of such remedies. Remedies developed pursuant to the preceding sentence shall include the remedies specified in subparagraph.

Special Focus Program

- (B). “(ii) CONDITIONS OF IMPOSITION OF REMEDIES.— Not later than October 1, 2022, the Secretary shall develop and implement specific procedures with respect to the conditions under which each of the remedies developed under clause (i) is to be applied, including the amount of any fines and the severity of each of these remedies. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

Special Focus Program

- (B) SPECIFIED REMEDIES.—The remedies specified in this subparagraph are the following: “(i) Civil money penalties in an amount not to exceed \$10,000 for each day of noncompliance by a hospice program with the requirements specified in section 1861(dd). “(ii) Suspension of all or part of the payments to which a hospice program would otherwise be entitled under this title with respect to items and services furnished by a hospice program on or after the date on which the Secretary determines that remedies Determination.

Special Focus Program

- (iii) The appointment of temporary management to oversee the operation of the hospice program and to protect and assure the health and safety of the individuals under the care of the program while improvements are made in order to bring the program into compliance with all such requirements.

Special Focus Program

- “(C) PROCEDURES.— “(i) CIVIL MONEY PENALTIES.— (b) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). “(II) RETENTION OF AMOUNTS FOR HOSPICE PROGRAM IMPROVEMENTS.— The Secretary may provide that any portion of civil money penalties collected under this subsection may be used to support activities that benefit individuals receiving hospice care, including education and training programs to ensure hospice program compliance with the requirements of section 1861(dd). “(ii).—

Special Focus Program

- (ii) SUSPENSION OF PAYMENT.—A finding to suspend payment under subparagraph (B)(ii) shall terminate when the Secretary finds that the program is in substantial compliance with all requirements of section 1861(dd). “(iii) TEMPORARY MANAGEMENT.—The temporary management under subparagraph (B)(iii) shall not be terminated until the Secretary has determined that the program has the management capability to ensure continued compliance with all the requirements referred to in such subparagraph.

Special Focus Program

- “(D) RELATIONSHIP TO OTHER REMEDIES.—The remedies developed under subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.”

PPEO: Provisional Period of Enhanced Oversight

- Specific to states of enhanced high risk:
 - Texas
 - California
 - Nevada
 - Arizona
- These are states where the number of hospices has significantly increased.

PPEO: Provisional Period of Enhanced Oversight

- All these states with newly enrolled hospices should anticipate being on prepayment review for at least a year.
- It also will slow down payments and will significantly increase the administrative burden for new hospices.
- A poor showing while on prepayment review could result in the revocation of a hospice's enrollment in the Medicare program
- Goal of the program is to reduce fraud, waste, abuse

PPEO: Provisional Period of Enhanced Oversight

- As a part of this process: MLN7867599 June 2024
- Those reviewed will be:
 - Newly enrolling in the Medicare Program (starting July 13, 2023)
 - Submitting a change of ownership (CHOW) that meets all the regulatory requirements under 42 CFR 489.18
 - Undergoing a 100% ownership change that doesn't fall under 42 CFR 489.18

PPEO: Provisional Period of Enhanced Oversight

- Type of Oversight:
 - The provisional period of enhanced oversight includes medical review such as prepayment review
 - Will last one year and can continue after this period
 - Varied dates of implementation
 - Hospices seeking reactivation, can expect a closer review by CMS on claim submissions from between 30 days to one year, effective when the provider submits its first claim.

PPEO: Provisional Period of Enhanced Oversight

- How does this review process work:

Difference between PPEO and TPE

- PPEO (Targeted Probe and Educate):
 - Focuses on specific providers/suppliers that bill a particular line or service
- Targeted Probe and Educate (TPE):
 - Expanded to include Hospice and focuses on specific areas with the greatest risk of inappropriate program payment.

TPE: Targeted Probe and Educate

- Begins with an Additional Development Request (ADR) for additional medical documentation to support proper payment.
- Claims are selected based upon specific approved guidelines.
- Goals: to help providers improve through increased review in specific established and approved areas.
- Identify and prevent inappropriate payments.
- Educate providers
- Appropriate payment for services
- MAC's work with providers to quickly facilitate improvement.

TPE: Targeted Probe and Educate

- Medical Review could be completed by :
 - MACs, Zone Program Integrity Contractors (ZPICs), Supplemental Medical Review Contractors.
 - Contractors identify suspected improper billing through error rates, claim data analysis and evaluation of other information (e.g., complaints). When completed medical reviews will generate ADRs.

TPE: Targeted Probe and Educate

- The MACs through a review of data submitted are able to identify:
 - Providers and suppliers that have high claim error rates or unusual billing practices
- Items and services which reflect a high national error rates and are a financial risk to Medicare establish the areas of concentration for TPE rounds.
- The TPE process encompasses three potential rounds dependent upon the providers outcome in each round of review.

TPE: Targeted Probe and Educate

- Most common areas of claim errors:
 - The signature of the certifying physician was not included
 - Encounter notes did not support all elements of eligibility
 - Documentation does not meet medical necessity
 - Missing or incomplete initial certifications or re-certifications

TPE: Targeted Probe and Educate

- Hospice areas at high risk for improper payment:
 - Live discharges revocations
 - Live discharges for lack of terminal illness
 - Routine home care in nursing facilities or assisted living
 - Live discharges
 - Single diagnosis code claims
 - Long length of stay greater than 180 days
 - No GIP or CHC

CERT Review

- Comprehensive Error Rate Testing:
 - A review to determine improper payments made by the MAC
 - Small sample size

CERT Review

- Most common areas of error:
 - Physician certification/recertification
 - Improper election forms
 - Physician certification signatures and dating
 - Face to face documentation

SMRC: Supplemental Medical Review Contractors

- Current approved auditor Noridian
- Areas of focus are based upon CMS findings of improper payment

SMRC: Supplemental Medical Review Contractors

- Most recent and current areas of focus:
- GIP level of care:
- Terminality
- Certification errors lack of support

SMRC: Supplemental Medical Review Contractors

- While not frequent providers may be suspended or revoked from participating in Medicare services based upon poor findings

UPIIC: Unified Program Integrity Contractors

- Many of the items reviewed by both the UPIIC and OIG are similar or duplicative.

UPIIC: Unified Program Integrity Contractors

- Purpose of the UPIIC is to detect and prevent fraud, waste and abuse.
- This level of review comes with an assumption of fraudulent activity.
- Law enforcement referral

UPIC: Unified Program Integrity Contractors

- Most common areas of review:
 - Deficiencies based upon eligibility
 - Consent
 - Level of Care
 - Medical necessity
 - Certification deficiencies

UPIC: Unified Program Integrity Contractors

Most common areas of review:

- These include review of eligibility, medical necessity, documentation and billing requirements and may cross over into COP requirements.

Law Enforcement Oversight: OIG

- Based upon OIG referral or findings improper payment based upon documentation and information found during additional documentation requests the OIG has focused on improper payment related to:
 - Lack of documentation to support claims
 - GIP/CHC/Respite level of care

Law Enforcement Oversight: OIG

- Based upon the per-diem nature of hospice reimbursement a lack of proper documentation may result in full repayment.

Recap

- Who looks?
- What are they looking for?
- How do they look?
- When will they be looking?



EDUCATIONAL RESOURCES

Thank you



ACHCU IS A BRAND OF ACCREDITATION COMMISSION *for* HEALTH CARE

