

## Compliance Today – June 2018

### Federal guidance for hospice providers: A year in review

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Forewarned is forearmed. Federal agencies share a number of reports and information that allow hospices to better understand trends in compliance activity and to anticipate future areas of focus. In a recent webinar for HCCA, I reviewed the guidance and activities from federal agencies during 2017 that might be of interest to home health and hospice providers.<sup>[1]</sup> In this article, I plan to summarize the key takeaways for hospice organizations without going through the sordid details of individual fraud and abuse cases, CIAs, and all the applicable OIG Work Plan items.

### Regulatory resources

Historically, hospices might await the annual release of the HHS OIG Work Plan to ascertain new areas of focus and anticipate future regulatory or investigative actions. In 2017, the OIG replaced its annual report with a website<sup>[2]</sup> that has three sections: Recently Added, Active Work Plans Items, and Archived Items, and these are updated on a monthly basis. So, hospices now have 12 times a year to check on OIG Work Plan changes. But the Work Plan itself is only one of many sources of guidance and activity that help hospices discern the future of government compliance efforts. The OIG also publishes regularly scheduled reports as well as ad hoc reports on topics of interest.

The OIG issues a strategic plan every five years (the current plan covers 2014 to 2018),<sup>[3]</sup> an annual Compendium of Unimplemented Recommendations (Compendium),<sup>[4]</sup> and semi-annual Reports to Congress.<sup>[5]</sup> The OIG also publishes annual reports on the top management challenges facing HHS<sup>[6]</sup> and Medicaid Fraud Units.<sup>[7]</sup> Each of these helps to show the evolution of the OIG's focus over time. For example, the Compendium has carried an item on "Implementing a Hospital Transfer Payment Policy for Early Discharge to Hospice" since 2013. In the 2018 Bipartisan Budget Act, signed into law in February, that policy will become effective for hospice beginning in FY 2019.

The OIG also issues topical reports on an ad hoc basis, usually related to completed items from the annual Work Plan. The OIG also provides access to corporate integrity agreements (CIAs),<sup>[8]</sup> which have been negotiated with agencies that have made compliance settlements. The requirements imposed by a CIA are often viewed as indicators of practices that, if modelled, would place an agency in a better position if they are ever the subject of a government investigation.

The Department of Justice (DOJ) releases information on cases related to fraud and abuse.<sup>[9]</sup> CMS benchmarks hospices on measures that it considers to be potential indicators of fraud and abuse in its Program for Evaluating Payment Patterns Electronic Reports (PEPPER reports).<sup>[10]</sup> The Government Accounting Office (GAO) also reviews the implementation of its compliance guidelines across federal agencies, and in 2017 recommended that CMS increase fraud-awareness training for its own employees.<sup>[11]</sup>

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