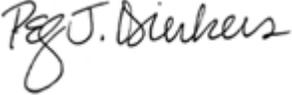


	<b>MEDICAL ASSISTANCE BULLETIN</b> <b>COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE</b>	
	<b>SUBJECT</b>  BPI Retrospective Review of Hospice Services	<b>BY</b>    <b>Peg J. Dierkers, Ph.D.</b> Deputy Secretary for Medical Assistance Programs
<b>NUMBER:</b>	01-02-04, 17-02-02, 37-02-01	
<b>ISSUE DATE:</b>	February 21, 2002	
<b>EFFECTIVE DATE:</b>	January 01, 2001	

**PURPOSE:**

During the calendar years 1999 and 2000, the Bureau of Program Integrity (BPI) reviewed a substantial number of hospice medical records maintained by hospice providers participating in the Medical Assistance (MA) Program. The purpose of the reviews was to determine whether hospice providers were in compliance with applicable MA regulations and program standards. While these reviews demonstrated that hospice providers are generally providing quality care to MA recipients, they also identified a wide range of violations of MA regulations.

As a result of these findings, BPI believed it was necessary to issue this bulletin in order to:

1. Inform hospice providers of MA findings identified through the retrospective review of hospice services.
2. Remind hospice providers to review and evaluate their medical record keeping and billing practices in accordance with 42 CFR § 456, 55 Pa. Code § 1101 (General Provisions), 55 Pa. Code § 1130 (Hospice Services), MA Bulletins, and the Hospice Services Handbook.
3. Alert hospice providers of areas identified for improvement to service delivery and for the purpose of providing educational services to employees/volunteers.
4. Provide hospice providers with information to ensure compliance with MA regulations.

**SCOPE:**

This bulletin applies to all hospice providers and physicians enrolled in the MA Fee for Service Program and Managed Care Organizations (MCO).

**BACKGROUND:**

The MA Hospice Program was implemented on January 1, 1989. Hospice is a model for quality, compassionate care at the end of life and emphasizes pain and symptom management, as well as psychosocial/spiritual support. A team of professionals and volunteers provide care for the emotional, social and spiritual needs of the patient and family. Program requirements for MA hospice providers are specified in 42 CFR § 456, 55 Pa. Code § 1101 (General Provisions), 55 Pa. Code § 1130 (Hospice Services), MA Bulletins, and the Hospice Services Handbook.

The Department of Public Welfare (Department) is mandated under the Social Security Act to implement a Statewide Surveillance and Utilization Control Program for all services rendered to MA recipients, including hospice services. In compliance with these federal requirements, the Office of Medical Assistance Programs, BPI performs retrospective reviews to evaluate compliance with MA regulations. In the hospice setting, these retrospective reviews include reviews of complete medical records, bereavement counseling records (and other related records), MA hospice forms, payment invoices, itemized bills, and an evaluation of billing and record keeping practices. In order to perform retrospective review, BPI may request that records be sent to their office, or the records may be reviewed on-site. Records selected for review are often first identified through the use of the Department's computerized Surveillance and Utilization Review Subsystem, which is utilized, as well as other sources, to identify suspicious or unusual claims billed by an MA provider.

If the retrospective review reveals violations of MA regulations, the Department will request a corrective action plan (CAP)

and/or apply appropriate sanctions, which may include restitution from the hospice provider.

#### **DISCUSSION:**

The MA violations identified during the BPI reviews may be grouped into three general categories: general regulatory non-compliance issues, record keeping violations, and less frequently, quality of care concerns. These categories are outlined below:

#### **General Regulatory Non-Compliance Issues:**

**1) Inadequate management and oversight of subcontracted services resulting in improper billing.** A substantial number of hospice providers did not pay other providers (e.g. pharmacy, durable medical equipment, etc.) for hospice-related services that are included in the hospice payment. Instead, the hospice-related services were improperly billed directly by the provider to the Department, which resulted in duplicate payments. In addition, hospice providers billed for services not rendered or billed for the incorrect level of service.

**2) MA 372 Certification of Terminal Illness Form not completed per MA Regulations.** Over half of the medical records maintained by hospice providers did not contain properly completed MA 372 forms. For example, the forms often had missing, incomplete, or misrepresented dates. In addition, the MA 372 forms often lacked signatures of both the attending physician and the Medical Director. Finally, hospice providers often used Medicare certification forms or other self-created documents instead of the Department's MA 372 form.

**3) Inappropriate hospice services.** A small number of recipients served by hospice providers did not meet the National Hospice and Palliative Care Organization's (NHPCO) guidelines. In addition, in some instances, the medical record demonstrated that the recipient and/or their family were not ready to accept the hospice philosophy of care.

**4) Election of Hospice Form (MA 373) not completed per MA Regulations or missing.** Some hospice providers did not maintain Election of Hospice Forms in the medical record.

**5) Inappropriate revocation of hospice care.** A few hospice providers inappropriately revoked their provision of hospice care to a recipient. In some instances, hospice providers revoked treatment for those recipients that sought emergency room care for symptom management purposes (e.g. pain control). Pursuant to the regulations, only a recipient may seek revocation of hospice services.

**6) Closed Formularies.** Two hospice providers utilized closed formularies, without an exception process. Instead of reimbursing pharmacies for all hospice-related prescriptions, these hospices refused to reimburse the pharmacy for prescriptions not included on the formulary's list of covered drugs.

#### **Record Keeping Issues:**

**1) Incomplete medical records.** All of the hospice medical records reviewed by BPI were incomplete. The medical records lacked documentation of history and physical examinations, results of studies, summaries of previous hospitalizations, attending physician progress notes, and/or updated/completed plans of care.

**2) Misrepresented dates.** Fifteen medical records maintained by a hospice provider included documents with altered dates/times on physician orders, progress notes, and Certification of Terminal Illness Forms.

#### **Quality of Care Issues:**

BPI reviews indicated that hospice providers generally provided quality services to MA patients. Isolated problems however, were identified. For example, some medical records indicated inadequate pain management, inadequate nursing care/assistance when needed and requested, and failure to initiate continuous care when it was required. In addition, some hospice providers did not offer/provide adequate bereavement counseling. Moreover, the reviews found that hospice providers had improperly relinquished the provision of core hospice services and professional management responsibilities to skilled nursing facility staff.

#### **PROCEDURE:**

As a result of reviews and subsequent meetings with hospice provider representatives and other interested parties, BPI has identified the following procedures to help providers comply with MA regulations and avoid possible sanctions and penalties:

- Hospice billing personnel should be aware of billing requirements and services compensable under the MA Program. These instructions are found in the aforementioned regulations, MA Bulletins, and Hospice Services Handbook. In addition, hospice-billing personnel should be aware of the plan of care of the patient, the services that have not been billed, and should ensure that they receive all hospice-related bills for services provided by hospice.

- Hospice providers should provide appropriate training to billing staff and request training from the Department when needed.
- Hospice providers should ensure that procedures are in place to reconcile payments received from the MA Program.
- Hospice providers should review their hospice medical records, related records, billing records and, where necessary, implement corrective measures to ensure compliance with MA Regulations.
- Hospice providers should regularly review the appropriateness of Interdisciplinary Group services and level of services being provided, the patient's admission to hospice, the patient's length of stay delays and specific treatment modalities.
- Hospice providers should ensure that all physicians and other contracted providers responsible for the care and treatment of MA recipients are not precluded from participation in the MA Program.
- A patient's medical record should contain complete documentation to support the certification made by the attending physician and the hospice provider's Medical Director. The medical condition and status should be sufficiently reviewed during Interdisciplinary Group meetings, and the clinical progression of the patient's disease and medical condition should be properly documented.
- Hospice providers should create oversight mechanisms to ensure that the terminal illness of a patient is verified and that the specific factors qualifying the patient as terminally ill are properly documented. Before a patient is admitted for hospice services, the hospice provider's Medical Director and attending physician should thoroughly review and certify the admitting diagnosis and prognosis.
- The patient or representative should be informed of the determination of the patient's life limiting condition and be aware that the goal of hospice is directed toward the relief of symptoms, rather than the cure of the underlying disease.
- Hospice providers should provide services in the most cost-effective manner and intensify their quality management and utilization review activities to ensure that quality medically necessary services are delivered.
- Hospice providers should ensure that all personnel rendering care to MA recipients review and comply with Chapter 1101, General Provisions; Chapter 1130, Hospice Services Regulations and applicable MA Bulletins.

**DEPARTMENT SANCTIONS:**

Department procedures remain in effect to deny payment to providers for hospice services that are not in compliance with MA Regulations. The Department also may recoup monies, perform prepayment review of all invoices and records and apply other administrative sanctions when necessary, including preclusion from participation in the MA Program.

Hospice providers that continue to have violations after having received written notification by the Department are subject to additional administrative sanctions.

**MA PROVIDER SELF-AUDIT PROTOCOL**

Hospice providers are encouraged to develop compliance plans and to voluntarily come forward and disclose overpayments or inappropriate payments. To this end, the Department recommends that all providers, including hospice providers, conduct periodic self-audits to identify instances where services reimbursed by the MA Program are not in compliance with Program requirements. The MA Provider Self-Audit Protocol provides a formal mechanism for voluntary disclosures and can be accessed on-line at [www.dpw.state.pa.us/omap/omapfab.asp](http://www.dpw.state.pa.us/omap/omapfab.asp).

**COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:**

DPW, Bureau of Program Integrity  
 Division of Program and Provider Compliance  
 (717) 772-4602

Visit the Office of Medical Assistance Programs website at [www.dpw.state.pa.us/omap](http://www.dpw.state.pa.us/omap).