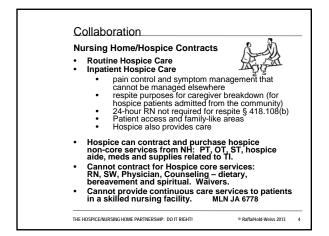


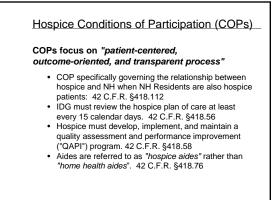
Barriers		
NH Resident or Legal Representative Must Elect Hospice Care.		
Election of hospice care for terminal illness (TI) in lieu of skilled services nursing home care for TI, complicated by elderly patient's multiple chronic conditions that make it difficult to identify if treatments are, in fact curative.		
When Medicare beneficiary who resides in NH elects hospice, there is no reimbursement for room and board unless the beneficiary is also Medicaid recipient.		
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Collaboration

- Contracts usually include mirror-image indemnification provisions so each is responsible for their own negligent acts or omissions – usually do not shift responsibility to other party.
- With more resources available to Hospice Residents, should be less risk of complaints or survey deficiencies, <u>but</u> problem can arise if respective responsibilities are not clear and each thinks the other was responsible. Coordination of care between NH and Hospice important.
- Hospice has professional responsibility for management of hospice care. Hospice Interpretive Guidelines.

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Hospice Conditions of Participation (COPs)

"Initial Assessment": defined as "evaluation of the patient's physical, psychosocial and emotional status related to the terminal illness and related conditions to determine the patient's immediate care and support needs." 42 C.F.R. §418.3

 RN must complete an initial assessment within 48 hours after election of hospice care. 42 C.F.R. §418.54(a)

"Comprehensive Assessment": defined as a "thorough evaluation of the patient's physical, psychosocial, emotional, and spiritual status related to the terminal illness and related conditions." 42 C.F.R. § 418.3

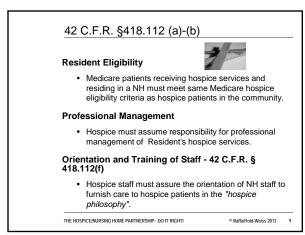
 The hospice's interdisciplinary group ("IDG") must complete the comprehensive assessment within 5 calendar days after election. 42 C.F.R. §418,54(b). THE HOSPICHNIESING HOME PARTNERSHIP: DOIT RIGHT @ Raffabidus Hoss 2013

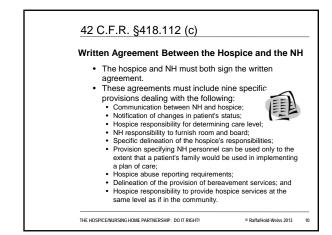
42 C.F.R. §418.112: COP for Hospices that Provide Care to SNF Residents COP delineates Hospice responsibility for SNF Resident receiving hospice services: Resident eligibility Professional management Written agreement Hospice plan of care Coordination of services Orientation and training of staff

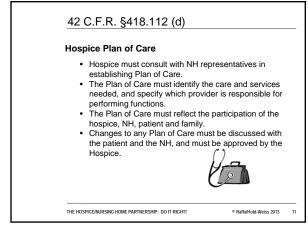
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42 C.F.R. §418.112 (e)

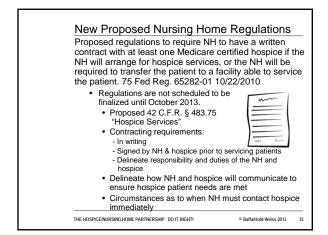
Coordination of Services

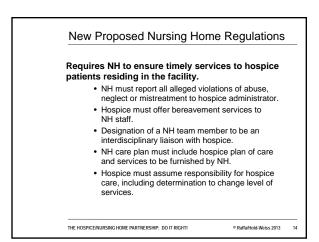
- Hospice must designate an IDG member to coordinate NH Resident's overall hospice care.
- Hospice must ensure that the IDG communicates with the NH's medical director, the patient's attending physician, and any other physicians involved in the patient's care.
- Hospice must provide the NH with the following:
 each patient's plan of care, hospice election form and any advance directives, physician certification of terminal illness and medication information, physician orders; and
 - names and contact information of hospice personnel and instructions for the hospice's 24-hour on-call system.

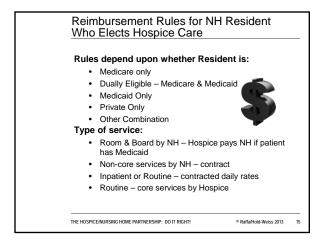
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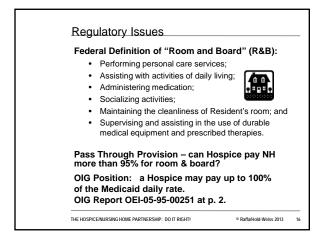
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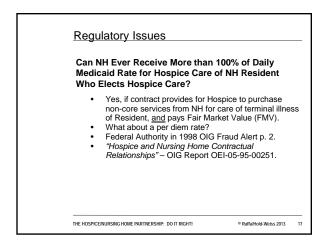
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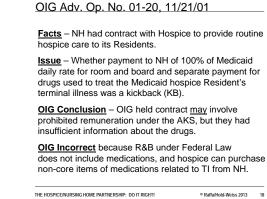




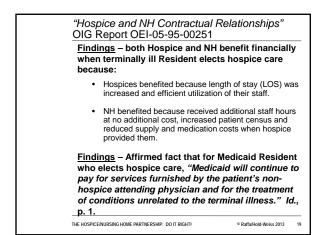








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NH Reporting Obligations Under the Hospice COPs: 42 C.F.R. 418.52(b)(4)

1. Immediate reporting to Hospice Administrator of any alleged violations involving mistreatment, neglect or verbal, mental, sexual and physical abuse, including, injuries of unknown sources, and misappropriation of patient property by anyone furnishing services on behalf of the Hospice.

2. Immediate notification to Hospice by NH if:

- a) there is a change in patient's mental, social or emotional status
- b) clinical complications appear suggesting a need to alter the Plan of Care
- c) a need to transfer the patient from the Skilled Nursing
- Facility arises. d) a hospice patient dies.

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Hospice Abuse Reporting Obligations for Patients in a Nursing Home Section 1150B of the Social Security Act requires reporting of any reasonable suspicion of crimes committed against a resident of a nursing home S&C: 11-30-NH, Issued June 17, 2011 and revised August 12, 2011, provides further information regarding the reporting requirements http://www.cms.gov/SurveycertificationgenInfo/ downloads/SCLetter11_30.pdf Requires a hospice that provides hospice services in a nursing home to report a reasonable suspicion of a crime leading to serious bodily injury within 2 hours, and any other reasonable suspicion of a crime within 24 hours, to at least one law enforcement agency with jurisdiction THE HOSPICE/NURSING HOME PARTNERSHIP: DO IT RIGHT!

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OIG Concerns • Both parties have to provide the services for which they are responsible, and being paid by Medicare. No payments or in-kind services are given in . return for referrals.

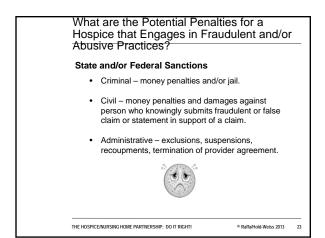
- Problem-solving mechanisms built into contract: .
 - Case conferences between Hospice and NH Participation in Hospice IDG as requested a)
 - b)

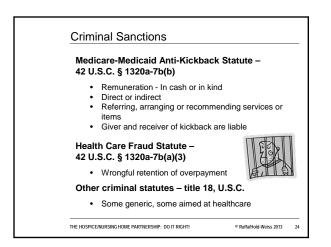
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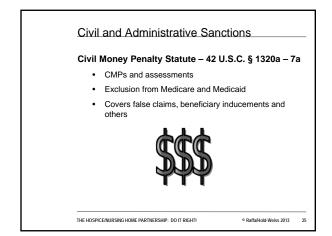
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Appointment of Liaisons Hospice 24-Hour On-Call System c) d)

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The Civil False Claims Act 31 U.S.C. § 3729 Fraud Enforcement and Recovery Act of 2009 (FERA) – effective May 20, 2009 – amended the FCA. False or fraudulent claim for government payment exists regardless of whether the claim was presented to the government for payment.

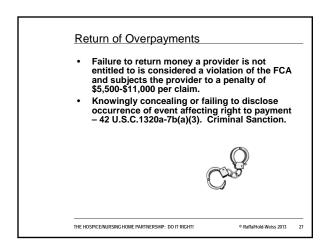
- Actual knowledge, deliberate ignorance, or reckless disregard used to be intent requirement. Amended to eliminate the intent requirement: "require no proof of specific intent to defraud."
- Sufficient that the false record or statement <u>may</u> be "material to a false or fraudulent claim."
- Penalty from \$5,500 to \$11,000 per claim, plus treble damages.

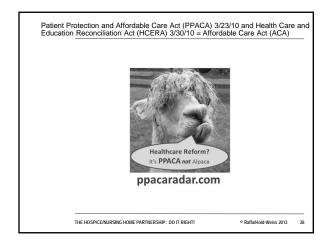
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- Other penalties include criminal prosecution, exclusions, costs and attorneys fees.
- Qui tam provisions whistleblower.

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Return of Overpayments • § 6402 defines overpayment as

9 6402 defines overpayment as "any funds that a person receives or retains under Medicare or Medicaid to which the person after applicable reconciliation is not entitled"



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- Person includes provider of services, Medicaid managed care organization, Medicare Advantage Plan and Prescription Drug Plan.
- Report and return the overpayment to Medicare or Medicaid within 60 days after overpayment is identified or date any corresponding cost report is due.
- corresponding cost report is due.
 State Medicaid programs have the same requirements.

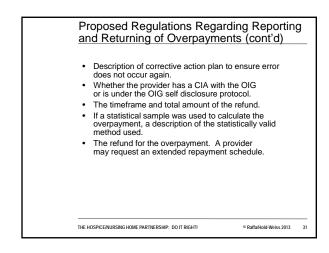
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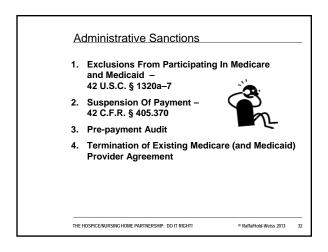
Proposed Regulations Regarding Reporting and Returning of Overpayments Proposed Rule Published 2/16/12 in the Federal Register: http://federalregister.gov/a/2012-03642

- If an overpayment is identified, provider has 60 days from the date the overpayment is identified to return the money
- Time period is 10 years
- Must use the self-reported overpayment refund process as set forth by the $\ensuremath{\mathsf{MAC}}$
- Written report with providers name, tax ID#, how issue was discovered, reason for the overpayment, claim #, DOS, Medicare claim control #, NPI.

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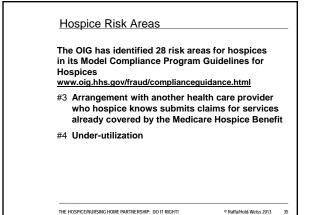


- OIG Hospice/Nursing Home Issues 1. 1998 OIG Special Fraud Alert – "Fraud and
- 1. 1998 OIG Special Fraud Alert "Fraud and Abuses In Nursing Home Arrangements With Hospice"
- 2. Medicare Advisory Bulletin on Hospice Benefits 11/2/05
- 3. "Special Advisory Bulletin Regarding Provision of Gifts and Other Inducements to Medicare Beneficiaries," 8/30/02
- 4. OIG Advisory Opinions 00-03; 00-07; 01-19; 03-04; 08-07
- 5. Medicare Hospice Care For Beneficiaries in Nursing Facilities: Compliance with Medicare Coverage Requirements, 2009



Medicare Hospices that Focus on	OEI-02-10-00070	7
Nursing Facility Residents		
Questionable Physician Hospice Billing	OEI-02-06-00224	9
Hospice NF Medicare Coverage Rules	OEI-02-06-00221	9
Hospice Services to NF Residents	OEI-02-06-00223	9
Hospice Beneficiaries Use of Respite Care	OEI-02-06-00222	3
Beneficiaries in NH vs. Other Setting	OEI-02-06-00220	1
Hospice Beneficiaries Services and Eligibility	OEI-04-93-00270	4
Hospice and NH Contractual Relationships	OEI-05-95-00251	1
Validity of Medicare Hospice Enrollments	A-05-96-00023	1
Hospice Patients in Nursing Homes	OEI-05-95-00250	9



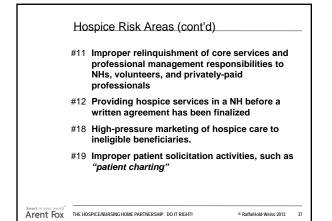


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Hospice Risk Areas (cont'd)

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- #9 Hospice incentives to actual or potential referral sources (e.g., physicians, nursing homes, hospitals, patients,) that may violate AKS or other similar Federal or State statute or regulation, including improper arrangements with NHs
- #10: Overlap in the services that a NH provides, which results in insufficient care provided by a hospice to a NH resident.
- Ex.: If NH is billing Part D prescription benefit for drugs related to TI.



OIG 2011 Hospice Work Plan

Hospice utilization in the nursing facility.

- OIG will be reviewing the characteristics of nursing facilities with high hospice utilization. OIG will also be reviewing the business relationships, as well as marketing practices and materials of hospices with high nursing facility utilization.
- OIG will be reviewing appropriateness of hospice inpatient claims.
- OIG will review services provided by hospices and nursing facilities to hospice patients residing in the nursing facilities. Reviews will include services provided by hospice aides, coordination of care, services to be provided by each entity, and payment arrangement.
- OIG will be reviewing appropriateness of Medicare Part D payments with respect to coverage of drugs under the Part A benefit as well as duplicate payments.

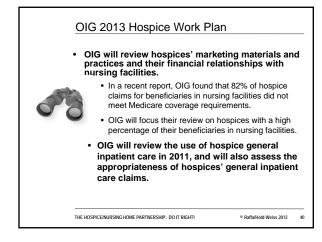
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OIG 2012 Hospice Work Plan

- OIG will review claims for inpatient stays where the beneficiary was transferred to hospice care – OIG will review the relationship (financial or common ownership) between the acute care hospitals and hospices
- OIG will review hospice marketing materials and practices and financial relationships between hospices and nursing facilities
- OIG will review the appropriateness of the use of GIP
 OIG will review drug claims under Part D
- OIG will review Medicaid payments to determine if the hospice services complied with the federal reimbursement requirements

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OIG 2013 Hospice Work Plan (cont'd.)

 OIG will review hospital discharges to hospice facilities – focusing on hospital DRG payments.
 OIG will review Medicaid payments to determine compliance with Federal reimbursement requirements.

Will There Be a New Hospice NH Benefit?

- End of Life Palliative Care Benefit for Nursing Home Residents with Chronic or Life Threatening Illness Regardless of Prognosis, *i.e.*, Dementia – recommended by Dr. Diane E. Meier, Betty Lim and Melissa S.A. Carlson
- Huskamp/Stevenson Proposal

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- Medicare Payment Advisory Commission (Med PAC) and OIG Concerns
- OIG report OEI-02-10-0070 suggests reducing Medicare payments for hospices providing services to nursing facility residents

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Qu	estions?
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