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Hospices penalized when patients live longer than expected

Submitted by SHNS on Tue, 03/25/2008 - 15:15. By **MICHAEL COLLINS**, Scripps Howard News Service [washington](#)

WASHINGTON -- Lois Armstrong and other hospice providers thought it was a positive move when the federal government decided a decade ago to make their services more readily available to patients dying of diseases other than cancer.

"A hurrah went up in the hospice community" at the time, Armstrong recalled.

Then something happened.

New patients started showing up at hospices with heart conditions, dementia and other illnesses that are terminal but are marked by somewhat unpredictable periods of decline. In many cases, those patients lived longer than expected.

Too long, according to the federal government.

Now, hundreds of hospices across the country are getting letters from the government demanding that they refund millions of Medicare dollars paid to them to care for patients who are taking too long to die.

For Armstrong and others who provide end-of-life care, it is inconceivable that hospices could be penalized financially when their patients fail to die on the government's schedule.

"That would have never occurred to me that we could get into a vision of health care that is this cynical," said Armstrong, president of Sojourn Care, a hospice in northeastern Oklahoma.

Armstrong and her business partner, David Daucher, are heading the National Alliance for Hospice Access, a nonprofit coalition of independent hospices that is lobbying for a three-year moratorium on the Medicare collections.

The group persuaded a handful of lawmakers earlier this month to file identical bills in the House and the Senate that would halt the repayments for three years and authorize a comprehensive study of Medicare hospice benefits.

The number of hospices that have been asked to pay back Medicare has risen sharply over just the past few years.

Some 100 hospices in 15 states were asked to repay \$100 million for services provided in 2004. Those figures doubled the following year, when 250 hospices were notified that they would have to pay back more than \$200 million for services provided in 2005, according to the alliance.

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The government is in the process of calculating figures for 2006, but Armstrong's group estimates that 400 hospices in 31 states will end up owing Medicare around \$300 million for services provided that year.

The repayment notices arrive a year or two after the money already has been spent on things like salaries, medicines and other supplies, forcing hospices to come up with another way to repay the government or face the prospect of financial ruin.

"We can tell you of hospices that have sold all of their personal assets" to repay the government, Daucher said. Others have taken out long-term loans; a couple have filed for bankruptcy, he said.

The problem lies in the way the government reimburses hospices for the services they provide.

Medicare pays a daily rate to hospices to care for dying patients in their homes, hospitals or long-term-care facilities. Patients must meet Medicare's eligibility standards and be certified by a doctor as having six months or less to live.

Hospices provide nurses, medication, equipment and social workers to eligible patients, as well as bereavement counseling for family members.

The Medicare benefits that each hospice can receive are capped at a rate set by the government every year on a per-patient basis. The per-patient cap was \$21,410 in 2007.

Medicare multiplies the cap by the number of patients admitted in a particular year, and that figure becomes the hospice's Medicare allowance for that year. Hospices that have exceeded their annual allowance are told they must repay the government.

Few hospices exceeded the cap before Congress changed the rules in 1998. Until then, most hospice patients had cancer and received hospice care for a relatively short period of time.

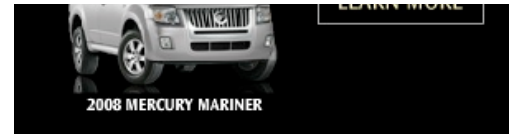
The changes in 1998 removed the limit on the number of days that a patient could receive Medicare coverage for hospice care, making it possible for terminally ill patients with other diseases to take advantage of those services. But Congress failed to raise or eliminate the cap.

The net effect was that more patients ended up receiving hospice benefits for longer periods of time, causing many hospices to exceed their yearly Medicare allowance.

The government's Centers for Medicare and Medicaid Services says the cap is necessary to control hospice costs and that its intent is to make sure that hospice payments don't exceed what Medicare would have spent if the patient had been treated in a traditional setting. Only a small percentage of providers -- 9.1 percent in 2005 -- exceed the cap, the agency said.

But Armstrong said the Medicare program's demands have created a fiscal and moral quandary for hospice providers: Either withhold hospice care from certain patients, or exceed the Medicare allowance and face financial peril.

"Unless the hospice is willing to pick and choose which dying person gets hospice care, there is no solution for the hospice provider," she said. "If you offer hospice care to all of the medically eligible, terminally ill in your community, eventually you are going to hit your cap."



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Deverise Ohre, executive director of Hospice of the Big Country in Abilene, Texas, fears it's just a matter of time before her hospice exceeds its Medicare allowance. The hospice hasn't been hit so far, but with more than a third of its patients dying of something other than cancer, "if the trend continues, I expect this could happen to us," she said.

Ohre has talked to other hospices that already are dealing with the problem and understands the anguish it can cause, not just for the caregivers but also for the patients and the families they serve.

"There are going to be hospices that will have to close their doors," Ohre said. "That's it, bottom line. It's either not accept these patients that deserve end-of-life care. Or it's go bankrupt. That what it's going to boil down to."

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