HOME HEALTH UNITED – HOSPICE POSITION STATEMENT

Legal and Ethical Hospice Procedures and Policies: Position Paper of Home Health United

POSITION
It is important that Hospice providers adhere to industry regulations to avoid fines and sanctions. Home Health United, as a provider of hospice care, is committed to bringing you the best quality of care and adhering to the Centers for Medicare and Medicaid Services (CMS) rules and regulations. Home Health United supports the following positions:

- Health care professionals will appropriately assess patients for hospice eligibility, adhering to Hospice federal regulations and only admitting qualified patients to hospice.

- Kickbacks will not be offered for referrals, and free services will not be offered to referral sources as an inducement.

- Incentives will not be provided to employees based upon Hospice referrals.

- Hospice marketers and Hospice health care professionals will receive education and ongoing training to ensure that they know and understand the state and federal laws relevant to the hospice industry.

BACKGROUND
Hospice is a fast-growing industry that can be a profitable venture for providers. A 2012 St. Louis Dispatch article recognizes that “Hospice patients on Medicare doubled to 1.1 million between 1998 and 2008” (1). Many organizations compete in this industry, which can lead organizations to take risks to capture business, grow revenues and increase profitability. Some providers are willing to bend eligibility rules, or induce referral sources for financial gain. What might seem harmless can actually be considered a violation of hospice regulations, which are enforced by CMS and the Office of Inspector General (OIG), and can result in federal prosecutions tied to fines and sanctions. Kaiser Health News acknowledges, “We’re facing a time of much more extraordinary focus on guidelines and regulations...why the spotlight on hospice? Because it’s a booming business, a $14 billion industry that served an estimated 1.65 million people in the United States in 2011. That’s about 45 percent of all those who died that year, the hospice association estimates” (3).

Hospice patient admission eligibility
Evidence shows some Hospice care providers bend eligibility rules, offer free extras to referrals sources and incentivize employees and referral sources to boost enrollment numbers. These hospice providers include these actions as part of their business models, viewed as necessary components to provide the best care possible and win referrals in competitive marketplaces. Consider the example of KRG Capital Partners. “KRG sold Dallas based Trinity Hospice for $75 million in 2006....the company was liquidated by the buyer...two years later, after $67 million in write-offs and government allegations of ineligible patient enrollments before the takeover”(3). A former Trinity compliance officer described their business practice “...it was clear that their philosophy was ’put everyone on hospice; don’t ask questions and build!’...they were there to make a buck” (3).
Bending eligibility rules to satisfy admission targets clearly clashes with CMS and OIG regulations. Violators (both hospice providers, as well as referral sources) can be federally prosecuted facing fines and sanctions. “The Centers for Medicare and Medicaid Services said: ‘We take seriously our responsibility to safeguard the taxpayer dollars for fraud and abuse. We are working…to ensure that the immediate needs of patients are being met, while actively monitoring billing to prevent abuse or fraud’” (4).

When providers admit ineligible patients, offer inducements for referrals and financial reward for enrollments, they are bending, or breaking, the rules. It is important that you know where your hospice providers stand on these hot-button industry issues.

Only qualified patients should be admitted to Hospice.

Medicare regulations require that 2 physicians certify that a patient is terminally ill with a prognosis of less than six months to end-of-life. Eligibility determination must be supported by the objective documentation of an end-stage diagnosis along with a pattern of decline. Admitting a hospice patient that does not meet the hospice eligibility guideline can put your facility at risk.

“In 2011, Bloomberg News reported that the growth in hospice has been fueled by enrollment bonuses to employees and kickbacks to nursing homes that refer patients. Investigators alleged that this led hospices to accept patients who weren’t eligible for the service” (4). Consider the example of Hospice Care of Kansas (HCK), who had a 2010 complaint filed in U.S. District Court, “nurses evaluating patients for hospice admissions reported to the marketing department, and felt “pressure” to admit patients who the marketers identified, whether eligible for hospice or not” (3).

These types of practices even touch our local markets. An area provider “paid the federal government $24.7 million in January 2009 to settle claims in Alabama,” then again faced a federal lawsuit in February 2011 in U.S. District Court in Madison. This suit alleged that this provider “fraudulently enrolled Madison-area patients in hospice care and charged for Medicare Services…encouraged the practice of admitting and falsely billing for unqualified patients by setting goals based on the number of new admissions and the average daily census of patients. Examples of a dozen unnamed patients are included. One person admitted as a cancer patient was free of cancer according to her medical records, the suit says. Another person, listed as having a heart disease, showed no signs or symptoms of heart disease” (1).

The above examples demonstrate that the admission of ineligible patients to hospice is a common occurrence and is a fraudulent practice.

Free services, kickbacks, inducements and the law

“Federal regulators have voiced concerns that some hospice providers are paying kickbacks or offering other financial inducements to entice nursing home directors or their staffs to refer patients to hospice” (2). Consider the actions of some of the Hospice providers analyzed in a 2011 Washington Post article: “HCK gave salespeople a budget of $500 a month to buy lunches and gifts for doctors and nursing-facility managers and staff…nursing homes have been offered diapers, wheelchairs, nutritional supplements and supplies in return for patient referrals…doctors and nursing homes looked to for referrals were given baskets of bread, candy and other goodies at holidays” (2).

Even seemingly harmless offerings like washing wheelchairs, volunteering company time to call bingo numbers and supplying free giveaways could be considered inducements for referrals. Hospice referrals should be based upon an organization’s quality of care and the best fit for a patient’s needs and desires, as defined by Stark Law, which is “designed to ensure that doctors refer patients based on who provides the best care, not based on who is paying them” (3).

Clearly, offering kickbacks and inducements is an unethical practice. Some hospice providers also look to financial incentives to motivate employees, which can be a “grey area” in motivating success.

Employees should not be incentivized based on Hospice referral numbers

Many facilities have faced lawsuits for incentivizing employees and referral sources based upon Hospice referrals. This can lead to un-ethical practices, such as, admitting patients that are not qualified. One
KS hospice company “offered a ‘summer sizzle’ promotion drive, in which it paid employees as much as $100 a head for referrals” (2). Another hospice, “VistaCare...paid enrollment bonuses to doctors, admissions directors and branch managers...also gave pizza parties, gift cards and other extras to its registered nurses and social workers for meeting admission targets…” (2). HCK serves as another example of the dangers of this practice, “When members of the medical staff wanted to discharge a patient for good health, hospice managers – whose pay was tied to enrollment – resisted...the hospice wouldn't discharge patients who obviously didn't qualify. There was a definite shift toward the bottom line…” (3). All of these examples can point to the evidence that “enrollment based incentives led to admitting patients who didn’t qualify for hospice care” (2).

REFERENCES & SOURCE QUOTES


2) Doyle, Jim. “Is hospice a better way to die?” Wisconsin State Journal. August 26, 2012:B1


Conclusion

The rules and regulations around federal hospice care, eligibility and promotion are clear. Be sure hospices you work with are specialists in end-of-life quality care and are following the rules and regulations of the industry to avoid exposure to fines and sanctions.

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