IN THIS ISSUE

Additional regulatory and compliance news is updated weekly in the NHPCO Compliance Monitor. Be sure to check it out!

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<td><strong>CMS Announces RAC Contract for DME/Home Health/Hospice</strong></td>
<td>After a two year delay, on October 31, 2016, CMS announced a Recovery Audit Contractor (RAC) contract which will focus on post-payment review of claims for durable medical equipment, prosthetics, orthotics, and services (DMEPOS), home health and hospice claims nationally. The contract was awarded to Performant Recovery, Inc. CMS states that “these awards continue the implementation of many of the Recovery Audit Program enhancements designed to reduce provider burden, enhance program oversight, and increase transparency in the program. See the CMS website for more information on the implementation of the new RACs.</td>
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<td><strong>CMS Issues Temporary Fix for CBSA Payment Error</strong></td>
<td>On Wednesday November 9, CMS issued instructions to the MACs with a fix for the FISS claims payment error where the Medicare system was incorrectly returning to providers (RTP) for claims with a date of service (DOS) on and after 10/1/2016 with a correct Core-based statistical area (CBSA) code (as per the FY2017 Hospice Wage Index listing). The claim(s) are incorrectly RTPing with reason code 36458 which states, “Hospice claim with a CBSA code in the 50XXX-99900 range is present on the claim and the date of service is 10/1/06 or after. CBSA’s in the 50XXX range are invalid for dates of service 10/1/06 and after. Standard CBSA code should be billed”. Watch for a notice from your MAC that gives instructions on the date to begin billing for claims on or after October 1, 2016.</td>
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<td><strong>CMS Home Health/Hospice/DME Open Door Forum Updates</strong></td>
<td>CMS held an Open Door Forum on Wednesday November 16, 2016 and reviewed the following information:</td>
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<td><strong>Home Health and Hospice PEPPER</strong></td>
<td>Description of the PEPPER report, provider use of report, and current 10 risk areas on the 2016 report was reviewed. The speaker confirmed that while the report could identify patterns in payment that could indicate risk, the presence of improper payment can only be validate through review of hospice the clinical record.</td>
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<td><strong>Hospice Quality Reporting Program</strong></td>
<td>New Hospice quality measures reports will be available in mid to late December 2016. Reports with facility and patient level data will be available prior to public reporting in 2017 and located in the CASPER system. Announcements will be posted on the CMS HIS webpage in the Spotlight and Announcements section.</td>
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- Public Use Files (PUF) files to be posted on data.medicare.gov – files will be available in December 2016 that compare states on a national level. An announcement will be made by CMS when available.
- Updated RO and State Coordinator list on data.medicare.gov – the list of who to contact to make corrections to hospice demographic data has been updated and is available on data.medicare.gov.
- **Hospice CAHPS Announcement:**
  - For technical assistance, contact the CAHPS Hospice Survey Project Team at hospicecahpssurvey@HCQIS.org or 1-844-472-4621
  - To communicate with CMS staff about implementation issues, send emails to hospicesurvey@cms.hhs.gov
  - CAHPS update:
    - Exemption for size – an [exemption from](#) reporting CAHPS data will be accepted until 12/31/16. The exemption form and request is only good for one year, so providers must reapply for an exemption if it is applicable. [Participation Exemption for Size Process](#).
    - Vendor authorization – provider must ensure that their CAHPS vendor must is authorized to submit data; [CAHPS vendor authorization (PDF)](#) form is on CAHPS website.

### CMS Survey & Certification News on Emergency Preparedness Rule
CMS recently posted [Memo S&C 17-05](#) (PDF), Information on the Implementation Plans for the Emergency Preparedness Regulation. The memo provides general information regarding the implementation plans for the new Emergency Preparedness Rule. The information addresses the implementation date for providers and suppliers, the development of Interpretive Guidelines (IGs), surveyor training and resources available to assist in the implementation of this regulation. Listen to NHPCO’s Podcast on the [Emergency Preparedness Regulation](#).

### CMS Posts Part D and Hospice Memo
CMS has now posted the recent Part D and hospice memorandum featured as the Top Story in last week’s [NewsBriefs](#) (read the [NHPCO Regulatory Alert](#) on the topic). Access the memo on the CMS website. It can be found on the Hospice Center page under “Coordination of Benefits”.

### CY 2017 Physician Fee Schedule Final Rule is posted by CMS
On Wednesday, November 2, 2016, CMS posted the CY2017 Physician Fee Schedule Final Rule. There are updates to payment policies, payment rates and quality provisions for services provided in CY 2017. In addition, of particular interest to palliative care providers, the final rule will improve Medicare payment for those services provided by primary care physicians for patients with multiple chronic conditions, mental and behavioral health issues, and cognitive impairment conditions. NHPCO will be analyzing this final rule in the coming days. [Read the final rule in its entirety](#) (1401 pages). [The fact sheet on the final rule](#) gives the highlights of the changes.

### Emergency Preparedness Final Rule Podcast Now Available
The final rule for Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers was finally posted in September. NHPCO’s Jennifer Kennedy and special guest, HHS NIMS Coordinator, Operations, Ted Kennedy discuss how your hospice organization can start working now to be compliant and what opportunities there are to help make implementation easier. [Listen now](#).

### HIPAA Phase II Audits Scheduled for November 2016
The OCR began Business Associate desk audits in November 2016 and on-site audits are scheduled to begin early 2017. A desk audit subject may be subject to on-site audit. OCR Desk Audit notification letters give only 10 days to respond to the audit requests, which cover the three HIPAA operating rules (Security, Privacy and Breach Notification) and require significant dated documentation to be attached.
### Issue with CBSA Codes and FY2017 Hospice Rates
Hospices have reported problems with billing in FY2017 for those counties that had a change in their CBSA or rural designation in the FY2016 hospice wage index and had a temporary CBSA code of 50xxx. This is an error with the FISS system and has been reported to CMS. NHPCO reached out to CMS to ask for a high priority fix to the issue and received the following response on Thursday November 3:

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The system fix will take a while, so we’re rushing out an instruction to the MACs to temporarily disable the edit that is causing the problem. Providers should watch their MAC website for the confirmation of when they can resubmit the claims that have been returned in error.
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In the meantime, please **DO NOT** use the CBSA codes for FY2016, but wait for the MAC notification that the temporary fix is in place.

### Nursing Home Rule
The new [Requirements of Participation for Nursing Homes](https://www.federalregister.gov/documents/2016/10/21/2016-24614/requirements-of-participation-for-nursing-homes) represent the greatest change in practice and care delivery since OBRA ’87. The Requirements for Participation, over 700 pages, were released October 2016. The changes are of such magnitude that implementation will be phased in over a three year period with the effective date of the final rule November 28, 2016. Subsequent phase-in dates are November 2017 and November 2019. CMS is developing a new survey process that will go into effect in November 2017. NHPCO has created a [Regulatory Alert on the final rule](https://www.nhpcogov.org/Regulatory-Alerts) and its implications for hospice.

### Office of Inspector General General Work Plan Released
On Thursday November 10, 2016, the HHS Office of Inspector General (OIG) released their [FY2017 Work Plan](https://www.oig.hhs.gov/oei/reports/2016/oigfy2017workplan.pdf). As in previous years, the work plan includes several hospice issues: Medicare Hospice Benefit Vulnerabilities and Recommendations for Improvement: A Portfolio, Review of Hospices’ Compliance with Medicare Requirements, and Hospice Home Care – Frequency of Nurse On-Site Visits to Assess Quality of Care and Services. In addition, there will be a review of the Medicare Chronic Care Management program to ensure that payments for CCM services were paid in accordance with Medicare requirements. See the [summary of the hospice items in the OIG FY2017 Work Plan](https://www.nhpcogov.org/Regulatory-Alerts).

### Revised and New Resources from NHPCO
The following resources have been updated on the Regulatory and Compliance webpages

- The 2016-2017 [“Compliance Watch List”](https://www.nhpcogov.org/Compliance-Calendars) has replaced the Compliance Calendar and will be updated as new requirements are posted.
- The [“Managing Medicare Hospice Respite Care”](https://www.nhpcogov.org/Compliance-Guides) compliance Guide is updated.

### Share Your PEPPER Story
The PEPPER Team at TMF Health Quality Institute is seeking "success stories" related to provider use of PEPPER. If you feel your organization has benefitted from using PEPPER, please take a few minutes to [share your experience with us](https://www.tmfhq.org/pepper).

### Update on Part D Payment Responsibility for Drugs for Beneficiaries Enrolled in Medicare Hospice
CMS published a memo on November 15 with [analysis of Part D utilization](https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts规/onfypartd_analysis.pdf) for Medicare beneficiaries after the hospice election. CMS reported that there was a 75 percent drop in medications paid by Part D after the hospice election for drugs in the four classes: analgesics, anti-nausea, laxatives, and anti-anxiety drugs. The memo outlines concerns for the notification of eligibility process, where hospices are not responsive to Part D sponsors in their requests for recoupment, and there is a lag in information on hospice enrollment to the Part D sponsor. CMS requests that hospices use page 1 of the form: “Information for Medicare Part D Plans; OMB 0938-1269” to notify Part D sponsors. In addition, CMS confirmed a rise in expenditures for Part D payment for “maintenance drugs” used by Medicare beneficiaries after the hospice election and is exploring options...
for curtailing that spending. Read NHPCO’s Regulatory Alert offering analysis of the CMS memo. NHPCO has been actively involved in discussions with CMS, with the NHPCO Regulatory Committee, the NHPP Pharmacy Section and with the NCPDP, a standard-setting organization for the pharmacy services industry on these issues and others related to Part D and hospice. Watch for more information in coming days about this collaborative work.

EDUCATION AND RESOURCES:
Alert! Check out your MAC webpage for upcoming educational programs!

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- Regulatory Alerts and Regulatory Round-Ups can be viewed in their entirety on the NHPCO Regulatory & Compliance website at [http://www.nhpco.org/regulatory](http://www.nhpco.org/regulatory).
- The past six months of *NewsBriefs* can be viewed on the *NewsBriefs* archive page, [nhpco.org/newsbriefs](http://nhpco.org/newsbriefs).
- Member inquiries about regulatory and compliance issues may be sent via email to [regulatory@nhpco.org](mailto:regulatory@nhpco.org).