

# Protecting Patients Through Accurate Implementation of CMS' Hospice Special Focus Program

H.R. 10097, The Enhancing Hospice Oversight and Transparency Act



The Centers for Medicare & Medicaid Services (CMS) must ensure that hospice oversight programs effectively protect patients by identifying underperforming providers without misclassifying high-quality care. CMS' Special Focus Program (SFP), created in response to the 2020 HOSPICE Act, aims to identify and address low-performing hospices. However, flaws in CMS' methodology and reliance on incomplete data have raised concerns – including from the original drafters of the law – about its accuracy. Missteps in the SFP risk harming patients by misidentifying providers, undermining trust, and threatening access to care.

The bipartisan Enhancing Hospice Oversight and Transparency Act (H.R. 10097), introduced by Representatives Beth Van Duyne (R-TX) and Jimmy Panetta (D-CA), provides critical reforms to protect patients while holding providers accountable.

## Key Concerns with CMS's SFP Design:

- **Incomplete Data in CMS's Algorithm:** The algorithm relies on incomplete survey data, leading to inaccuracies in provider assessments.
- **CMS Data Backlog:** The May 2024 GAO report noted significant delays in CMS' survey data processing, skewing results and risking improper closures or misclassification.
- **Overreliance on Caregiver Surveys:** Heavy weighting of Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey data penalizes hospices serving diverse and underserved communities.

## Impacts to Patients:

1. **Misidentification of Underperforming Providers:** The algorithm's reliance on imputed averages risks misidentifying providers, rewarding non-compliance, and failing to flag genuinely low performers.
2. **Threatened Access to Care:** Misclassifications risk unnecessary closures of quality providers, reducing access to essential services.
3. **Erosion of Trust:** Publicly listing flawed classifications can mislead patients and families, damaging the reputations of quality hospices.
4. **Disproportionate Impact on Underserved Communities:** Overreliance on CAHPS data disproportionately affects hospices serving diverse communities, potentially limiting access for vulnerable populations.

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## Legislative Solutions in H.R. 10097:

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H.R. 10097 addresses these challenges by ensuring accuracy and patient protection:

- 1. Ensure Accurate Assessments:** Delays SFP rollout until January 1, 2027, or until all hospices have up-to-date surveys within a 36-month timeframe, as required by law.
- 2. Enhance Data Compliance Penalties:** Increases penalties for hospices failing to submit mandatory quality data from 4% to 10%, improving reporting accuracy.
- 3. Provide Transparency for Providers:** Requires CMS to share confidential performance reviews with hospices before public listing, allowing providers to confirm the accuracy of data.

## Why This Matters:

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Hospice care is a lifeline for patients and families during their most vulnerable moments. Accurate oversight ensures that low-performing providers are held accountable while protecting access to high-quality care for Medicare beneficiaries. Immediate legislative action is necessary to safeguard patients and align CMS' implementation with Congressional intent.

### Contact

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