Changes Needed to CMS' Proposed Hospice Special Focus Program (SFP) to Ensure it Identifies Underperforming Providers

The hospice community supports the concept of a Special Focus Program (SFP) to identify hospices that are struggling with quality-of-care issues and provide them with increased oversight, surveys, and education

Unfortunately, the SFP design as finalized by CMS has major limitations that will diminish the program's effectiveness by:

- Not accurately identifying hospices at highest risk of delivering poor-quality care and those that do not report required quality data
- Wrongly identifying good hospices as poor-quality providers
- Unfairly biasing hospices that take care of large numbers of patients
- Disincentivizing the reporting of quality-of-care data

Patients' access to high-quality providers will be threatened if CMS' SFP is implemented without necessary changes

The SFP should be designed so that it focuses on hospices that pose the greatest risks to patient care. An alarming number of hospices are not compliant with the required Hospice Quality Reporting Program (HQRP), meaning they either refuse or are unable to report critical quality-of-care data to CMS. These non-compliant hospices are also much more likely to have more survey deficiencies than hospices that are compliant with HQRP. This is a major "red flag", and yet, because of how the SFP is designed, this absence of quality reporting makes it paradoxically less likely that a hospice will be put into the SFP. Instead of using an SFP design that that could wrongly identify higher-performing compliant hospices, CMS should instead re-tool the SFP so that it focuses on those

hospices that are failing to meet one of the most basic requirements of Medicare participation— reporting mandatory quality data, the kind of data that patients and families rely on to choose a hospice provider.

Therefore, we ask that Congress make the following amendments to the Special Focus Program (SFP) requirements and the Hospice Quality Reporting Program (HQRP) :

- Require that hospices eligible for the SFP include those that have been identified by CMS as noncompliant with the mandatory hospice quality reporting requirements
- Require CMS to ensure that the hospice survey data used to identify poor performing hospices is in compliance with the survey and certification requirements as required under the HOSPICE Act.
- Increase the penalty for hospices not reporting HQRP quality data from four to ten percentage points, beginning in fiscal year 2027.

Hospices that Do Not or Cannot Meet Basic Quality Reporting Requirements Raise Major Red Flags

What is the Hospice Quality Reporting Program (HQRP)?

The HQRP was established under section 1814(i)(5) of the Social Security Act. The HQRP includes data submitted by hospices through the Hospice Item Set (HIS) data collection tool, data from Medicare hospice claims, and an experience of care survey, the Hospice Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Survey. To be compliant with the HQRP, hospices must comply with both the individual requirements of the HIS and CAHPS to avoid a 4-percentage point reduction in their annual payment update (APU). CMS has repeatedly stated that the HQRP "promotes the delivery of person-centered, high quality, and safe care by hospice providers"

Why is there concern about hospices that do not meet HQRP requirements?

Reporting of quality data is fundamental to hospice operations and accountability. The data required by the HQRP is ultimately what is posted to CMS' consumer-facing Care Compare website, which members of the public use to help find and choose high-quality hospices. Simply put, HQRP data helps protect patients and families.

How many hospices are non-compliant with the HQRP?

For the FY 2024 Annual Payment Update (APU) period, there are 1,249 hospices (18%) that are non-compliant*. Of the 1,249, 76% (969) are located in the four states that CMS has acknowledged are at high-risk for hospice fraud: Arizona (41), California (655), Nevada (17), and Texas (256).

FY 2024 APU	# of Hospices	% of Hospices	FY 2021 Beneficiaries	% FY 2021 Beneficiaries	FY 2021 Payments
Compliant	4,403	63%	1,712,621	96%	$21,493,709,938
Non-Compliant	**1,249**	**18%**	**73,014**	**4%**	**$1,138,904,950**
Excluded	1,151	16%	5,316	0.3%	$111,486,783
Not in Dataset	210	3%		0%	
Grand Total	7,013	100%	1,790,951	100%	$22,744,101,671

There is a large and growing number of hospices that are not reporting quality data. Tens of thousands of patients are connected to these providers, and Medicare is sending them over a billion dollars a year. The public has no insight into the quality of care these hospices are delivering. A more effective SFP would put much greater emphasis on these hospices than those that will be identified by its faulty current design.