

Public Policy Update 2011

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State Issues

State Budget

- Was signed after solving a \$8B deficit
 - 2/3 of our legislatures have less than 2 years of experience and this budget was their first budget
 - These legislatures have varying degrees of knowledge related to healthcare, but lack specific knowledge
 - i.e. They do not know Hospice is an optional Medicaid service
 - Our seasoned legislatures are very supportive of hospice
- This General Assembly is focused on health care, second only to education
- Office of Health Transformation
 - Headed by Greg Moody
 - Purpose is to coordinate state services in healthcare
 - Meeting weekly with other department heads

State Regulatory Issues

Medical Board Rules Related to Pain Clinics

- OARRS (Ohio Automated Rx Reporting System)
 - Was established in 2006 as a tool to assist healthcare professionals in providing better treatment for patients with medical needs while quickly identifying drug seeking behaviors
 - HB93 lead to new Medical Board and Pharmacy Board Rules that state all Scheduled II, III, IV or V drugs will need to be documented in OARRS
 - MCA seeded in obtaining an exemption for hospice as hospice traditionally prescribe these types of meds for their patients

State Regulatory Issues

Chronic Pain Rules

- New rules will be drafted under the State Medical Board
- Formerly these rules were called the Intractable Pain rules
- No timeframe is set as to when they will be drafted
- MCA will monitor the progress and keep everyone informed through The Pulse

State Regulatory Issues

Hospice Medicaid Rule Review

- MCA Initiatives:
 - Would like to use the definition of palliative care in the new rules that is currently under the hospice benefit
 - Would like to see that home health and hospice can both provide services concurrently if needed
 - When the MITS system goes into effect, we could eliminate writing on the Medicaid cards
 - Hospice Medicaid Managed Care revert to be paid under the Medicaid guidelines – Hospices to should be paid at the federally mandated level
 - Rules on hold as other Medicaid initiatives take priority

State Regulatory Issues

Concurrent Pediatric Care Rule

- Has been in place for almost a year, Medicaid has said payment for hospices cannot occur until phase II of MITS
 - Some providers have been paid by Medicaid for pediatric patients seeking treatment and hospice care concurrently, but may not be consistent throughout the state
 - MCA has been unable to obtain documented cases where this is not working
 - MCA is monitoring this issue

State Regulatory Issues

OCISS (Ohio Cancer Incidence Surveillance System)

- MCA is asking that ODH amend their policy so hospice medical directors are exempt from having to complete this form upon the death of a patient
- Hospice medical directors normally do not have the information available to them to complete the form adequately and therefore either not completing the form or only completing portions of the form
- New form allows for physicians to mark they don't know this information and return the form

State Legislative Issues

MOLST Bill

- MCA would like to see a new bill come forward in the Senate first and then find a Republican House member to sponsor the bill
- Ohio Right to Life has some leadership changes and may be a little more flexible in looking at the new legislation
- Concerns from Ohio Right to Life in the past have been:
 - How to deal with an incapacitated patient who doesn't have an advance directive, making sure their rights are upheld
 - Also the issue of who can override an existing advance directive?

State Legislative Issues

- MOLST Bill
 - MOLST bill will:
 - Replace the confusing DNRCC
 - Provide immunity and portability across the state
 - Several of the larger hospital systems are piloting the MOLST form in their system, but it is not portable throughout the state
 - The hope of the pilot project is to prove the MOLST form will be acceptable practice throughout the state

State Legislative Issues

SB 83 – APN (Advance Practice Nurse) Prescriptive Authority

- The bill increases the authority of APN's who are working for a hospice
- There is language that states and APN can write the initial dose of a scheduled II narcotic when:
 - The patient has a terminal condition
 - Is under hospice care

State Legislative Issues

SB 83 – APN (Advance Practice Nurse) Prescriptive Authority

- This bill passed the Senate with site restrictions and has gone to the House
- Battle in the House is over site restrictions, whether to keep them or not
- There should be a collaborative agreement between the physician and APN which cannot be more liberal than the new law, but it can be more restrictive
- MCA supports SB 83 as written, concern is if site restrictions are removed bill will die in House

State Legislative Issues

HB 154, HB 62, and SB111 – All deal with the assault of a healthcare worker

- Originally these bills started out of the concern for healthcare workers in psychiatric units and then grew to include ER's. It is inclusive of healthcare facilities of any setting
- The bills got through the House and is now in the Senate
- MCA concerns:
 - Currently social workers and chaplains are not considered health care workers related to this bill
 - Need to see where it goes and how broad it gets – Will it be inclusive of hospice workers? Getting broader may kill the bill

State Legislative Issues

HB 284 – Authorizes a Physician Assistant to issue a DNR order and pronounce death in specific locations and circumstances

Nurse Pronouncement of Death

- MCA is investigating if it might be helpful to include language regarding a hospice registered nurse pronouncing death in the HB 284 or another bill

State Legislative Issues

HB 24: Long-term care:

- Provides notice to a long-term care facility when a Tier III or similar category sex offender/child-victim offender indicates an intent to reside in the facility or registers an address within the specified notification area.
- This may impact hospices that provide care in LTC facilities

State Issues

Nursing Facility Quality Program Impact

- Involves nursing facilities payment for quality program and how this impacts hospice providers
- It is yet to be determined if hospice patients will be included in the program and if not, the pass through payment for room and board for a hospice patient may be reduced by \$16.44

Federal Issues

SB 722 – Hospice Help Bill

- Does not have a Republican sponsor yet
- Bill would allow:
 - Nurse Practitioners, Certified Nurse Specialists or Physician Assistants would be qualified to recertify a patient after the F2F is completed.
 - Seven days for the F2F to take place if the patient is coming into a hospice in their 3rd benefit period.
 - CMS would have to do a pilot project before they make reimbursement changes to the Hospice Medicare Benefit
 - Hospices to be surveyed every 3 years for a revalidation survey (similar to home health is currently)

Federal Issues

OIG Report focused on hospice utilization in nursing facilities

- Findings:

- Medicare spending on hospice care for nursing facility residents has grown nearly 70% since 2005
- Hundreds of hospices had more than 2/3 of their beneficiaries in nursing facilities in 2009; most of these hospices were for-profit
- High-percentage hospices (the ones mentioned above) received more Medicare payments per beneficiary and served beneficiaries who spent more time in care
- High-percentage hospices typically enrolled beneficiaries whose diagnosis required less complex care and who already lived in the nursing facility

Federal Issues

OIG Report focused on hospice utilization in nursing facilities

- Recommendations:
 - Monitor hospices that depend heavily on nursing facility patients
 - Nationally in 2009, 19% of all hospices had more than ½ of their Medicare beneficiaries in nursing facilities
 - Almost 8% of all hospices had 2/3 or more of their beneficiaries in nursing facilities
 - Modify the payment system for hospice care in nursing facilities
 - OIG is concerned there is duplication of services such as aide services

Federal Issues

OIG Report focused on hospice utilization in nursing facilities

- Ohio hospice research from 2009 revealed:
 - 35 programs had 50% or more of their patients in nursing facilities
 - 16 programs had 66% or more of their patients in nursing facilities (one company has several provider numbers that fall into this category in Ohio)

Federal Issues

COP: Sec. 418.112 Hospices that provide hospice care to residents of a SNF/NF or ICF/MR

(e) Standard: Coordination of services

- Hospice provides facility with:
 - Plan of care
 - Hospice election form and advance directives
 - Certification and recertification forms
 - Contact information for hospice personnel
 - Instructions for accessing hospice 24/7
 - Patient-specific medication information
 - Physician orders

Federal Issues

COP 418.52(4)

The hospice must:

Ensure all alleged violations involving mistreatment, neglect, or verbal, mental, sexual and physical abuse, including injuries of unknown source, and misappropriation of patient property by anyone furnishing services on behalf of the hospice, are reported immediately by hospice employees and contracted staff to the hospice administrator

Immediately investigate all alleged violations involving anyone furnishing services on behalf of the hospice and immediately take action to prevent further potential violations while the alleged violation is being verified

Federal Issues

COP 418.52(4)

The hospice must:

Take appropriate corrective action in accordance with state law if the alleged violation is verified by the hospice administrator or an outside body having jurisdiction, such as the State survey agency or local law enforcement agency

Ensure that verified violations are reported to State and local bodies having jurisdiction (including to the State survey and certification agency) within 5 working days of becoming aware of the violation

Federal Issues

Ohio Department of Health has developed the Self Reported Violation Report From

- To be used if the following violations occur
 - Physical abuse
 - Mental abuse
 - Sexual abuse
 - Neglect
 - Verbal abuse
 - Misappropriation of patient property
 - Injury of unknown source

Federal Issues

Ohio Department of Health has developed the Self Reported Violation Report Form

- Can be found on the Member's Only MCA website under resources
- There is also a "tip sheet" explaining how to complete the form

Federal Issues

MedPAC Recommendations for 2012 Work Plan

- Acute-care hospital inpatient transfers to inpatient hospice care (New)
- Hospice marketing practices and financial relationships with nursing facilities (New)
- Medicare hospice general inpatient
- Duplicate drug claims for hospice beneficiaries
- Medicaid hospice services – Compliance with reimbursement requirements

Federal Issues

Reimbursement predictions

- There are 2 cuts to hospice reimbursement
 - Market Basket Index – Current and ongoing
 - Productivity Cut – Began Oct 1, 2011
 - *If the super committee fails to act – a 2% cut across the board for hospice providers will occur*
- CMS continues to look at the U-shaped curve for hospice reimbursement with higher payments occurring at the beginning and end of the benefit and lower payments in the middle
- OIG is suggesting a 3% cut to hospice routine home care payment for patients residing in nursing facilities

Federal Issues

Hospice Quality Reporting

- History
 - This was an initiative from Health Care Reform
 - Most other healthcare providers (Nursing Facilities, Hospitals, Home Health and Physicians) are required to do some type of quality reporting
 - Hospice quality reporting will eventually be displayed publicly so consumers can compare hospice providers

Federal Issues

Hospice Quality Reporting

NQF (National Quality Forum) Call for Measures

- May 2011
- Palliative Care & End of Life Steering Committee
- Foci:
 - Psychosocial needs
 - Care transitions
 - Patient- and family-centered care
 - Patient & family experiences of care

Federal Issues

Hospice Quality Reporting

- 22 measures submitted to NQF
- Currently, fourteen measures remain
- Public comment period ends November 8
- Final measures anticipated to be available to CMS by early 2012
 - wage index rule for FY 2015

Federal Issues

Hospice Quality Reporting

“Comfortable dying” measure (NQF #0209)

- Initial reporting period: October 1-December 31, 2012
- Deadline: January 31, 2012

“Structural measure”

- QAPI Program that measures at least 3 indicators of patient care
- Additional measures requested
- Voluntary reporting for period October 1-December 31, 2011; due April 1, 2013

Advocacy Efforts

- The Pulse:
 - Monthly Newsletter with the latest legislative and regulatory information included
- New MCA Lobbyist:
 - Katie Rogers – Starts with MCA on November 1, 2011
 - MCA will continue to work with the lobbying firm, Barnes and Thornburg for additional advocacy efforts
- Advocacy Links
 - There are links on the MCA website to contact your state and federal legislators

Advocacy Efforts

- Advocate for the individuals you serve
- Advocate for quality end of life care
- Advocate for the program you serve
- Advocate on behalf of hospice and palliative care programs throughout Ohio

Advocacy Efforts

- Invite your member of Congress to visit your program when at home
- Visit your member of Congress while in Columbus or Washington, DC
- Engage your board, volunteers and patient/families
- “Tell Your Story”

Advocacy Efforts

Relationship Building with Legislators

- Need to build the relationship when it is not a time of crisis – yours or theirs
- Ongoing relationship building
- Look for non-professional connections
 - Spouses
 - Staff
 - Business partners
 - Neighbors
 - Family

Advocacy Efforts

Visits Preferably in the District

- Need to schedule far in advance
 - Coordinate in district or Washington, DC
- Visits with patient and family
 - Sensitive to situation
 - Time Constraints

Words have impact

Provide clear, concise info

- Avoid jargon



Questions?