

NEWS RELEASES

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BRYAN K. NOWICKI
MADISON:
608.234.6012
BRYAN.NOWICKI@
HUSCHBLACKWELL.COM

JACOB B. HARRIS
MADISON:
608.234.6019
JACOB.HARRIS@
HUSCHBLACKWELL.COM

Husch Blackwell's Hospice Team Secures Elimination of 2% Payment Reduction Penalty

Husch Blackwell's Hospice & Palliative Care team successfully represented hospices who were facing a 2% payment reduction penalty for Fiscal Year 2022 based on alleged noncompliance with Hospice Quality Program Reporting Program (HQRP) requirements. Hospices across the country received notices in mid-July from the Centers for Medicare & Medicaid Services (CMS) alleging non-compliance with those requirements and stating that, as a result, the hospices would have their Annual Payment Update reduced by 2% beginning in October 2021. Such a reduction would result in millions in lost revenue the hospices.

Meg Pekarske, Bryan Nowicki and Jacob Harris quickly determined that the cause of non-compliance for many of these hospices resulted from a CMS-issued exemption from certain reporting requirements for the first half of 2020. This exemption was intended to provide relief to hospices that were struggling during the COVID pandemic. CMS's seemingly good intentions, however, caused hospices to technically fall out of compliance where, for example, the adverse effects of the COVID pandemic on a particular hospice's operations reached their peak in the second half of 2020.

Husch Blackwell's hospice team developed a legal strategy to appeal the notices of non-compliance. The team also identified for CMS a number of alternatives available to it that could eliminate these perverse results of its exemption. Husch Blackwell's strategy worked, as the hospices received decisions in the appeal process that reversed the imposition of the 2% payment reduction penalty.

“Overall, this is very positive,” Bryan Nowicki said. “We developed options for CMS and really put on a silver platter how CMS could correct this wrong, and CMS ended up doing right thing,” Nowicki said.

“These were providers who ran the gamut in terms of the circumstances they faced in dealing with COVID during 2020,” Harris added, “and we were pleased to see such positive results from the appeal process, which generally is not provider friendly.”