

Hospice Providers Sue HHS Over Special Focus Program

State associations & more filed a lawsuit in Texas claiming reform efforts will harm patients & providers

Source: HomeCareNews, Thursday, January 16, 2025

HOUSTON—Hospice providers and several state associations filed a lawsuit Thursday, Jan. 16, against the Department of Health and Human Services (HHS) to block the implementation of the Special Focus Program (SFP). The group, which includes state associations from Texas, Indiana, North Carolina, South Carolina and Houston Hospice, said the publication of a list of “poor performing” hospice providers “is so arbitrary and flawed that it will make it harder for patients and families to find trustworthy providers,” the lawsuit read.

“Defendants’ actions convey a false narrative that ‘Special Focus Program’ providers may be unsafe or dangerous, sowing fear among their current patients and ‘survivor’s guilt’ among family members whose loved ones passed away in the care of a listed provider,” the suit continued.

The group said the list also indicates that actual bad actors who aren’t on the list are trustworthy.

The Centers for Medicaid & Medicare Services (CMS) released the first hospices selected to be part of the SFP on Dec. 20, 2024, and has since pulled four from the list and changed the metrics on four, according to the National Alliance for Care at Home (The Alliance).

CMS recently began implementing enforcement tools mandated by the HOSPICE Act, which created the Hospice SFP. Additionally, [CMS released the first hospices selected to be part of the Hospice SFP on Dec. 20](#), which is aimed at identifying and improving poor-performing providers. However, between Dec. 20 and Jan. 8, there were four hospices pulled from the initial list and six hospices whose metrics were changed.

According to the lawsuit, this highlights there are inaccuracies CMS is aware of in its current approach. Additionally, The Alliance learned that impacted providers were offered no due process, nor offered any administrative steps to dispute errors in their scoring.

The group said in the suit they support hospice reforms. However, they said—along with other advocacy groups—the SFP is not an effective approach and could cause irreparable damage to providers and confusion for families and patients.

“CMS’ failure to heed the concerns repeatedly voiced by lawmakers, hospice leaders and other stakeholders has led to the creation and rushed rollout of a program that is disconnected from its original spirit and intent,” said Steve Landers, CEO of The Alliance. “After releasing an initial list of purportedly underperforming hospices, CMS quickly removed some providers and adjusted metrics for others within days, underscoring the hasty and flawed implementation.”

“CMS’ decision to move forward with a flawed methodology for the SFP algorithm threatens the ability of millions of older adults and other hospice beneficiaries to access quality hospice care,” said Katie Smith Sloan, president and CEO of LeadingAge. “Furthermore, the implementation of this poorly designed algorithm, which has faced widespread criticism from congressional leaders, technical experts and leaders in the hospice community, will obstruct the shared goal of improving sector quality.

The lawsuit was filed in U.S. District Court in the Southern District of Texas-Houston Division and named outgoing HHS Secretary Xavier Becerra as the defendant.