

Hospice Care / Medicare Part A: New Regulations For Admissions, Discharges.

PART 418--HOSPICE CARE

Subpart B--Eligibility, Election and Duration of Benefits

2. In Sec. 418.21, paragraph (a) is revised to read as follows:

Sec. 418.21 Duration of hospice care coverage--Election periods.

(a) Subject to the conditions set forth in this part, an individual may elect to receive hospice care during one or more of the following election periods:

- (1) An initial 90-day period;
- (2) A subsequent 90-day period; or
- (3) An unlimited number of subsequent 60-day periods.

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3. In Sec. 418.22, paragraphs (a) and (b) are revised to read as follows:

Sec. 418.22 Certification of terminal illness.

(a) Timing of certification--(1) General rule. The hospice must obtain written certification of terminal illness for each of the periods listed in Sec. 418.21(a), even if a single election continues in effect for an unlimited number of periods, as provided in Sec. 418.24(c).

(2) Basic requirement. Except as provided in paragraph (a)(3) of this section, the hospice must obtain the written certification before it submits a claim for payment.

(3) Exception. If the hospice cannot obtain the written certification within 2 calendar days, it must obtain an oral certification within 2 calendar days and the written certification before it submits a claim for payment.

(b) Content of certification. Certification will be based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness. The certification must conform to the following requirements:

On November 22, 2002 the Centers for Medicare & Medicaid Services (CMS) announced new regulations for admission to and discharge from hospices covered by Medicare Part A.

Admissions to hospice care under Medicare Part A now require a medical certification from the hospice's medical director in consultation with the patient's treating physician.

The medical certification must document the medical director's diagnosis of the terminal condition, other health conditions, whether related or unrelated to the terminal condition, and the current clinically relevant findings supporting all diagnoses.

CMS has indicated it has no concern about the source of a patient's referral to hospice care or to a particular hospice as long as the new regulations are adhered to for medical certification.

Discharge from a hospice for cause, that is, when a patient is acting out inappropriately and threatening the delivery of care, must follow procedures outlined in the new regulations.

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(1) The certification must specify that the individual's prognosis is for a life expectancy of 6 months or less if the terminal illness runs its normal course.

(2) Specific clinical findings and other documentation that support the medical prognosis must accompany the certification and must be filed in the medical record with the written certification as set forth in paragraph (d)(2) of this section.

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4. In Sec. 418.24, paragraph (c) is revised to read as follows:

Sec. 418.24 Election of hospice care.

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(c) Duration of election. An election to receive hospice care will be considered to continue through the initial election period and through the subsequent election periods without a break in care as long as the individual--

- (1) Remains in the care of a hospice;
- (2) Does not revoke the election under the provisions of Sec. 418.28; and
- (3) Is not discharged from the hospice under the provisions of Sec. 418.26.

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5. New Section. Sec. 418.25 and 418.26 are added to read as follows:

Sec. 418.25 Admission to hospice care.

(a) The hospice admits a patient only on the recommendation of the medical director in consultation with the patient's attending physician, if any.

(b) In reaching a decision to certify that the patient is terminally ill, the hospice medical director must consider at least the following information:

- (1) Diagnosis of the terminal condition of the patient.
- (2) Other health conditions, whether related or unrelated to the terminal condition.
- (3) Current clinically relevant findings supporting all diagnoses.

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Sec. 418.26 Discharge from hospice care.

(a) Reasons for discharge. A hospice may discharge a patient if--

(1) The patient moves out of the hospice's service area or transfers to another hospice;

(2) The hospice determines that the patient is no longer terminally ill; or

(3) The hospice determines, under a policy set by the hospice for the purpose of addressing discharge for cause that meets the requirements of paragraphs (a)(3)(i) through (a)(3)(iv) of this section, that the patient's behavior is disruptive, abusive, or uncooperative to the extent that delivery of care to the patient or the ability of the hospice to operate effectively is seriously impaired.

The hospice must do the following before it seeks to discharge a patient:

(i) Make a serious effort to resolve the problem(s) presented by the patient's behavior or situation.

(ii) Ascertain that the patient's proposed discharge is not due to the patient's use of necessary hospice services.

(iii) Document the problem(s) and efforts made to resolve the problem(s) and enter this documentation into its medical records.

(iv) Obtain a written physician's order from the patient's attending physician and hospice medical director concurring with discharge from hospice care.

(b) Effect of discharge. An individual, upon discharge from the hospice during a particular election period for reasons other than immediate transfer to another hospice--

(1) Is no longer covered under Medicare for hospice care;

(2) Resumes Medicare coverage of the benefits waived under Sec. 418.24(d); and

(3) May at any time elect to receive hospice care if he or she is again eligible to receive the benefit.

(c) Discharge planning. (1) The hospice must have in place a discharge planning process that takes into account the prospect that a patient's condition might stabilize or otherwise change such that the patient cannot continue to be certified as terminally ill.

(2) The discharge planning process must include planning for any necessary family counseling, patient education, or other services before the patient is discharged because he or she is no longer terminally ill.

6. In Sec. 418.28, paragraph (b)(1) is amended by adding the following sentence at the end of the paragraph.

Sec. 418.28 Revoking the election of hospice care.

* * * * *

(b) * * *

(1) * * * If a signed revocation is not obtainable by the hospice for a discharge under Sec. 418.26(a)(3), the requirement of the section may be waived.

Subpart F--Covered Services

7. In Sec. 418.202, the introductory text is republished, and a new paragraph (i) is added to read as follows:

Sec. 418.202 Covered services.

All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the coverage category of the service. The following services are covered hospice services:

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(i) Effective April 1, 1998, any other service that is specified in the patient's plan of care as reasonable and necessary for the palliation and management of the patient's terminal illness and related conditions and for which payment may otherwise be made under Medicare.

Subpart G--Payment for Hospice Care

8. Section 418.301 is amended by adding a new paragraph (c) to read as follows:

Sec. 418.301 Basic rules.

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(c) The hospice may not charge a patient for services for which the patient is entitled to have payment made under Medicare or for services for which the patient would be entitled to payment, as described in Sec. 489.21 of this chapter.

9. Section 418.302 is amended by adding a new paragraph (g) to read as follows:

Sec. 418.302 Payment procedures for hospice care.

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(g) Payment for routine home care and continuous home care is made on the basis of the geographic location where the service is provided.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare--Hospital Insurance; and Program No. 93.774, Medicare--Supplementary Medical Insurance)

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We have placed the full text of the Centers for Medicare & Medicaid Services November 22, 2002 announcement on our website at <http://www.nursinglaw.com/hospices.pdf>.

Or go to http://www.access.gpo.gov/su_docs/fedreg/a021122c.html.