

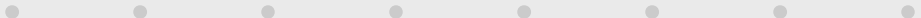
# Hospice Services for Nursing Home Residents: The Compliance Ins and Outs



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June 10, 2008



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# *The Hospice Benefit*

## ☑ Who is eligible for the Hospice benefit?

- A terminally ill beneficiary with less than 6 months to live
  - ✓ Physician certification (and recertification) required
  
- The benefit is elective
  
- The benefit may be revoked



# *The Hospice Benefit*

## ☑ What is the hospice benefit?

- Palliative care rather than therapeutic care
  - ✓ Comfort care focus
  - ✓ Still entitled to acute care
  
- Generally ninety day period
  
- Hospice services and the services of non-hospice physician



# *The Hospice Benefit*

## ☑ What is the hospice benefit? (Cont'd)

- Nursing care\*
- Social services\*
- Physician services\*
- Physical, occupational and speech therapies
- Counseling services\*
- Short-term inpatient care for pain and symptom management
- Home health aide services
- Drugs, supplies and biologics (including DME)
- Respite care



# *The Hospice Benefit*

## ☑ Where may hospice services be provided?

- At home
- At a hospice facility
- At a skilled nursing facility
- ✓ May be inpatient care or respite care



# *The Nursing Home Benefit*

## ☑ **Skilled Nursing Services in a Skilled Nursing Facility:**

- Up to 100 days of SNF services
  - ✓ 20 full paid
  - ✓ 80 with co-pay
- 3-day prior hospitalization
- Measured by “Spell of Illness”
- Custodial and maintenance care limitation



# *The Nursing Home Benefit*

## ☑ **What are the nursing home's responsibilities?**

- Provide skilled nursing services to residents in accordance with
  - ✓ Federal Medicare and Medicaid Conditions of Participation
  - ✓ State laws
  - ✓ Resident admission agreement



# *What are typical SNF Services?*

- ✓ Room. \*
- ✓ Board. \*
- ✓ Twenty-four hour Nursing Services.
- ✓ Equipment and Supplies.
- ✓ Bed Linen. \*
- ✓ Gowns or Pajamas. \*
- ✓ Laundry Service.\*
- ✓ Medicine Cabinet Supplies. \*
- ✓ Assistance/Supervision.\*
- ✓ Activities. \*
- ✓ Social Work Services.
- ✓ Audiology.
- ✓ Therapy Services.
- ✓ Lab and X-Ray.
- ✓ Podiatry.
- ✓ Medical Specialty Services.
- ✓ Prescription Drugs.
- ✓ Dental Surgery and Prosthesis.



# *The Intersection of Nursing Home and Hospice Services*

**A terminally ill individual requires skilled nursing care and requests the hospice benefit**

- Who provides what service?
- Who pays?
- What do they pay for what?
- Who is in charge?



## *Who pays? What do they pay for?*

### **Hospice is a distinct benefit!**

- Medicare benefit
- Palliative services (see slide 4)

### **The SNF benefit continues!**

- Medicare
- Medicaid
- Private pay
- LTC or other insurance
- SNF services required by law (see slide 8, for example)



## *Who Provides What Service?*

### **Hospice benefit provides**

- Palliative services (see slide 4)
- Inpatient or respite care
- *By hospice staff*

### **The SNF provides**

- Room and Board (see slide 8)
- *By SNF staff*



# *What are the Hospice's Duties?*

## ☑ **The hospice**

- Is responsible for the provision of all core services
- Assumes full responsibility for professional management of patient care
- Coordinates implementation of plan of care
- Interdisciplinary group participates in establishing coordinated care plan and updates the care plan with the SNF staff; explains each discipline's role (e.g., dietary counselor, spiritual counselor, bereavement counselor)
- Provides in a timely manner all supplies, medications and DME needed for palliation and management of terminal illness and related condition
- Financially responsible for all supplies, appliances, biologics and medications related to the terminal illness
- Provides orientation on hospice care to SNF staff and assures SNF staff understand hospice
- Determines appropriate level of care to be given (homecare, inpatient or continuous care) and makes arrangements as necessary



# *What are the SNF's Duties?*

## ☑ **The SNF**

- Provides and is financially responsible for all “room and board” items
- Conducts a significant change in condition assessment when hospice care is elected
- Assures the residents receives desired care and services necessary to attain or maintain the highest practicable physical, mental and psychosocial well-being within the limits of the disease process
- Notifies hospice when the resident experiences a change in condition (as well as the physician and family)
- Notifies hospice of new SNF staff and facilitates staff orientation by hospice



# *Who is in Charge?*

- ☑ **Written Agreement between SNF and Hospice**
- ☑ **Care Planning**
- ☑ **Clinical Protocols**
- ☑ **Education**
  - Staff
  - Resident/Patient
  - Family members



# *The Written Agreement*

## ☑ **Key terms:**

- Hospice takes full responsibility for professional management of care
- Hospice will provide the same level of services as if the patient was in a private residence
- Hospice cannot discharge the patient at its discretion, regardless of the cost of care or the patient's inability to pay
- Admission criteria are to be identical for all individuals, regardless of payment source
- What are the exact responsibilities of each provider with respect to the provision and coordination of care
  - ✓ Core services must be provided by the hospice and not be delegated
  - ✓ The SNF may provide non-core services specified in the contract, but the hospice must assume overall professional management responsibility
  - ✓ The SNF will provide "room and board" services
- Hospice must include the resident's attending physician in care planning



# *The Written Agreement*

## ☑ **Key terms (continued):**

- How will services be coordinated?
  - ✓ SNF must have physician order for care
  - ✓ Which party is responsible for administration and controlling medications
- Patient confidentiality will be maintained, with cross access to hospice record and SNF record
- All information relevant to patient's care must be shared
- Identify which party will have which original record, and which will have a copy
- Identify mechanism for prompt communication of general information (e.g., physician orders) between the parties
- Identify who will complete which portions of the MDS
- Specify bedhold policy
  
- Billing/payment/collection responsibilities of each party



# *The Written Agreement*

## ☑ **Key terms (continued):**

- May the hospice use contract employees to provide core services?
- May a nursing home employee be employed by the hospice?
- Employee payroll issues
- Employee orientation and training requirements
- Billing/payment/collection responsibilities of each party



# *Clinical Protocols*

## ☑ Clinical Protocols

**Effective coordination of care assure the patients' needs and regulatory requirements are met**

**Established protocols that define the coordination are essential to ensure consistent quality**



# *Clinical Protocols*

## ☑ **Clinical Protocols (continued)**

- The admission process
- Physician orders
  - ✓ On admission
  - ✓ Standing orders
- Obtaining, administering and monitoring supplies and medications
- Medical records management
  - ✓ Copies of physician orders and care plan should be in both organization's records
  - ✓ Who has the original is a contract consideration



# *Clinical Protocols*

## ☑ **Clinical Protocols (continued)**

- The delivery of core services
  - ✓ What may SNF staff do?
  - ✓ What must SNF staff do?
- The delivery of non-core services
- Death events
  - ✓ Death pronouncement
  - ✓ Disposal of medications
- Quality Assurance/Performance Improvement
- Emergency care



# *Care Planning*

## ☑ Care Planning

The SNF and Hospice staff must coordinate and develop a care plan that reflects the hospice philosophy and is based on the resident's needs within the SNF living environment



# Care Planning

## ☑ Care Planning

- Use the initial Resident Assessment Instrument and the MDS
- Patient change of condition
  - ✓ The MDS contains many elements that relate to the progression of terminal illness and/or the dying process
  - ✓ Is the change an expected outcome that is part of the dying process?
  - ✓ Is the change unexpected?
  - ✓ Would the resident benefit from a full reassessment?
  - ✓ Special circumstances
    - Feeding tubes
    - Restraints



# *Education*

## ☑ Education

- Initial orientation/education
  - ✓ Introducing the hospice concept and philosophy
  - ✓ Introducing SNF obligations and requirements
    - Different orientation for different staff roles
    - Establish a trusting relationship
  - ✓ Topics to consider
    - Resident rights
    - Care planning process
    - Medication management
    - The role of the hospice team



# *Education*

## ☑ Education

- Initial orientation/education (continued)
  - ✓ Infection control
  - ✓ SNF policies
  - ✓ Comprehensive assessment process
  - ✓ Record keeping practices
  - ✓ Use of consents



# *Education*

## ☑ Education

### ➤ Ongoing education

- ✓ Provides and opportunity for feedback and dialogue
- ✓ Leads to problem identification and problem solving
- ✓ Topics to consider
  - Pain control and management
  - Infection control
  - Loss, grief and bereavement care
  - Care plan coordination
  - Review and discussion of mutual roles and responsibilities



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## *Federal Medicare/Medicaid Law*

### **☑ Criminal penalties attach for various abuses, including:**

- False statements or representations
- Solicitation or receipt of kickbacks



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## *Federal Medicare/Medicaid Law*

### **Civil Penalties attach for various abuses:**

- Repayment
- Fines and monetary damages
- Exclusion from Medicare and Medicaid



## *The Medicare/Medicaid Anti-Kickback Statute*

### ☑ **Anti-Kickback Prohibition:**

- It is illegal for anyone to knowingly and willfully solicit, receive, offer or pay any remuneration (including any kickback, bribe or rebate), directly or indirectly, overtly or covertly, in cash or in kind
  1. **in return for referring an individual to a person for the furnishing or the arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or;**
  2. **in return for purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid.**



## *The Medicare/Medicaid Anti-Fraud Statute*

### ☑ **The 42 U.S.C. 1320a-7b(a)(2) Prohibition:**

Whoever ...

1. **having knowledge of the occurrence of any event affecting**
  - (a) **his initial or continued right to such payment, or**
  - (b) **the initial or continued right to any such benefit or payment of any other individual on whose behalf he has applied for or is receiving such benefit or payment,**
2. **conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized ...**

**Shall be guilty of a felony or misdemeanor**



## *Elements of 42 U.S.C. 1320a-7b(a)(2)*

- Knowledge of an “event”
- The “event” affects the amount of payment
- Non-disclosure
- Intent to receive payment in an amount greater than that otherwise due, and
- Payment is made by Medicare, Medicaid or another source in whole or in part paid by the government



## *Practical Considerations*

- ☑ How do you collaborate and coordinate with running afoul of the statutory prohibitions?
  - Written agreement
  - Fair market value for all services sold/purchased
  - No requirement for referral
  - Non-exclusivity



# *Questions?*

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