

Face-to-Face Requirement Affecting Hospice Recertification

Legislation

- The Affordable Care Act (ACA) requires that a hospice physician or nurse practitioner (NP) must have a face-to-face encounter with every hospice patient to determine the continued eligibility of that patient prior to the 180th day recertification, and prior to each subsequent recertification. The provision is effective **January 1, 2011**
- The Medicare Payment Advisory Commission's (MedPAC) recommended that Congress enact this provision to ensure appropriate use of the benefit

Implementation Specifics

- CMS implemented the provision in the Home Health Prospective Payment System (HH PPS) Rate Update for Calendar Year (CY) 2011 final rule.
- CMS requires that prior to the beginning of the patient's 3rd benefit period, and prior to each subsequent benefit period, a hospice physician or hospice nurse practitioner (NP) must have a face-to-face encounter with the individual to determine continued eligibility of the individual for hospice care and attest that such a visit took place.
- The provision is effective for 3rd benefit periods or later periods which occur on or after January 1, 2011

Implementation Specifics:

Timing Requirement

- **Timeframe**: The face-to-face encounter must occur no more than 30 calendar days prior to the 3rd benefit period recertification, and no more than 30 calendar days prior to every subsequent recertification thereafter
- **Timeframe Exceptional Circumstances**: In cases where a hospice newly admits a patient who is in the third or later benefit period, exceptional circumstances may prevent a face-to-face encounter prior to the start of the benefit period. In such documented cases, a face to face encounter which occurs within 2 days after admission will be considered to be timely.

Implementation Specifics:

Who can perform the encounter?

- Practitioners who can perform the encounter: A hospice physician or a hospice nurse practitioner can perform the encounter
- Hospice Physician: Physician who is employed by the hospice or working under arrangement with a hospice (i.e., contracted)
- Hospice Nurse Practitioner: Must be employed by the hospice
- Hospice Employee: a person who: (1) Works for the hospice and for whom the hospice is required to issue a W-2 form on his or her behalf; (2) if the hospice is a subdivision of an agency or organization, an employee of the agency or organization who is assigned to the hospice; or (3) is a volunteer under the jurisdiction of the hospice.

Implementation Specifics:

Attestation Requirement

- Attestation Requirement: A practitioner who performs the encounter must attest in writing that he or she had a face-to-face encounter with the patient, including the date of the encounter
 - The attestation, its accompanying signature, and the date signed, must be on a separate and distinct section of, or an addendum to, the recertification form, and must be clearly titled
 - When a NP performs the encounter, the attestation must state that the clinical findings of that visit were provided to the certifying physician, for use in determining whether the patient continues to have a life expectancy of 6 months or less, should the illness run its normal course

Recertifying Physician Performed the Face-to-Face Encounter: Signature Requirements

- The recertifying physician's attestation regarding the face-to-face encounter can be included on the recertification itself or an addendum to the recertification.
- If the attestation is included on the recertification, it must be located above the physician's signature. One physician signature may suffice for the attestation, narrative and recertification.
- Where both the encounter attestation and narrative are included as an addendum to the recertification, one physician signature can suffice for both the narrative and attestation. Both the narrative and the attestation must be located above the physician signature.

Non-recertifying Practitioner Performed the Face-to-Face Encounter: Signature Requirements

- The practitioner who performed the encounter must sign the attestation. If a practitioner other than the recertifying physician (such as an NP) performed the encounter, a separate encounter attestation signature is required. The encounter attestation can be on the same page as the recertification and narrative, but must be a separate section above the signature of the practitioner who performed the encounter. The attestation can also be a signed addendum to the certification.
- Only the recertifying physician can sign the certification and physician narrative.

Electronic Signature

- Electronic signatures are permissible for all aspects of the certification:
 - Face-to-face attestation
 - Narrative
 - Certification /recertification

Face-to-Face: Billable?

- If a physician provides a medically reasonable and necessary physician service to the patient during the visit, that portion of the visit is billable.
- Hospices cannot bill for physician services provided by an NP unless the NP is the attending physician

Face-to-Face Enforcement

- Effective April 1, 2011, CMS expects hospices have fully established internal processes to comply with the face-to-face encounter requirements
- On December 23, 2010, CMS provided for a three month period of time for hospices to establish internal processes to implement this change before it expected to see appropriate attestation and documentation of the encounter.
- CMS was concerned that some hospices needed additional time to establish operational protocols necessary to comply with this new law.
- CMS expected that during the first quarter of CY 2011, hospices would establish internal processes to ensure compliance.
- Beginning with the second quarter of CY 2011, hospices should have fully established such internal processes and CMS expects appropriate documentation of the encounter.