

Part B Insider (Multispecialty) Coding Alert

Hospice: Look for Updated Hospice Attending Physician Rules

Tip: Make sure your election form includes language indicating patient choice.

If you fail to follow new requirements about documenting the attending physician for hospice patients, you could forfeit the payment for that patient and court survey deficiencies to boot.

In the 2015 final rule for hospice payment, CMS sets out two new requirements for hospices regarding attending physicians:

1. NOE content change. Hospices must include on the election statement "the patient's choice of attending physician," CMS says in the rule published in the Aug. 22 Federal Register. The NOE must identify the attending physician "in enough detail so that it is clear which physician or [Nurse Practitioner] was designated as the attending physician," but otherwise the format is up to individual hospices.

Also, "the language on the election form should include an acknowledgement by the patient (or representative) that the designated attending physician was the patient's (or representative's) choice," CMS instructs.

2. Documentation for switching attendings. "If a patient (or representative) wants to change his or her designated attending physician, he or she must follow a procedure similar to that which currently exists for changing the designated hospice," CMS adds in the rule. "Specifically, the patient (or representative) must file a signed statement with the hospice that identifies the new attending physician in enough detail so that it is clear which physician or NP was designated as the new attending physician."

Why The Change?

CMS undertook the attending physician-related regulatory revisions in response to "anecdotal reports of hospices changing a patient's attending physician when the patient moves to an inpatient setting for inpatient care, often to a nurse practitioner," the agency says in the rule.

"We have also heard reports of hospices assigning an attending physician based upon whoever is available," CMS says in the rule. "Medicare contractors noted that the NPI of the attending physician reported on claims was sometimes changing, and differed from that reported on the NOE."

Damning statistic: "Additionally, using CY 2010 and CY 2011 data, we found that 35 percent of beneficiaries had Part B claims during their hospice election from more than one physician who claimed to be their designated attending physician," CMS reveals in the rule. "The reports of hospices changing a patient's attending physician are of great concern since the statute emphasizes that the attending physician must be chosen by the patient (or his or her representative)."

Certification problem: "Some hospices are not getting the signature of the attending physician on the initial certification," CMS concludes. "If a beneficiary has designated an attending physician, that physician must sign the initial certification for Medicare to cover and pay for hospice services, unless the attending is a NP."

Hospices Protest Additional Burden

CMS finalized its provisions from the proposed rule as-is, despite numerous criticisms of the changes. For example, commenters worried that identifying the attending physician on the NOE would result in delayed admissions.

"Since identifying an attending physician at time of hospice election has been a requirement in place for over 30 years,

and has not appeared to cause any delay in admission, we do not believe that including the information that identifies the attending physician on the election form would now begin to create delays in admission to hospice care," CMS responds in the final rule.

The new requirements also discourage attending changes, which are frequently necessary, commenters said.

"We recognize that there are many legitimate reasons for a patient to change an attending physician," CMS maintains in the rule. "However, the choice of the new attending physician belongs solely to the patient (or representative), and the intent of this proposal is to further safeguard and protect that beneficiary choice."

At this time, CMS is not limiting the number of times an attending can change, nor implementing any claims edits related to the attending physician of record, experts point out. CMS isn't requiring hospices to enter the attending changes into the billing system — yet, the agency points out in the rule.

Bottom line: "A patient cannot be required or coerced to change his or her attending physician," CMS stresses.

CMS will issue an MLN Matters article on the topic to help educate physicians, and may undertake other related physician education efforts in the future, the agency says in the rule.

Some hospices thought upon reading the proposed rule, that the attending would have to change every time a patient entered General Inpatient Care, which would be very stressful for patients' families.

But CMS takes pains in the rule to point out that a patient's attending shouldn't change just because they enter GIC, points out the National Association for Home Care & Hospice in its rule analysis. If the attending isn't available, the hospice physician should fill in.

Thanks to that clarification, "we do not believe that the procedures we proposed for documenting a change in attending physician need to be revised, and are implementing the proposal without changes," CMS says.

Note: The final rule is at www.gpo.gov/fdsys/pkg/FR-2014-08-22/pdf/2014-18506.pdf. The new NOE requirements are discussed on pp. 29-32 of the PDF file.

A summary is available at www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2014-Fact-sheets-items/2014-08-04-3.html.