

## Eli's Hospice Insider

### Access: You Can't Bill If You Can't Furnish Visits, CMS Says

#### Do telehealth visits count? Maybe.

If assisted living, nursing home, and other facilities won't let you see patients, you may have to discharge them, says recently released guidance from the feds.

During the pandemic, "some hospices have dealt with exceptional challenges in serving residents of facilities," observes the **National Association for Home Care & Hospice**.

"Hospice access to patients in congregate care settings - nursing homes, assisted living, and independent living ... is an ongoing area of concern for hospice providers," notes trade group **LeadingAge**. "Hospices have expanded their use of telehealth but have still run into issues accessing patients, even for a telehealth visit," LeadingAge's **Mollie Gurian** says on the group's website.

That's why this new frequently asked question has many hospices concerned:

**Question:** Can an assisted living facility/independent living facility restrict hospice staff from caring for a hospice patient in their facility during this COVID-19 PHE?," says one FAQ in the **Centers for Medicare & Medicaid Services'** "Coronavirus Disease 2019 (COVID-19) Frequently Asked Questions (FAQs) for Non LongTerm Care Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IIDs)."

**Answer:** An update to the answer reads, in part, "If after reasonable attempts have been made and documented in the patient's record and the hospice continues to be unable to access the patient in-person, the hospice would have to discharge the patient as 'outside of the hospice's service area.'"

It's the "in-person" part of that answer that is most alarming. It suggests visits furnished via telehealth won't count.



The **Centers for Medicare & Medicaid Services** is offering regulatory flexibilities during the public health emergency, including being able to furnish visits "via a telecommunications system" (see Eli's Hospice Insider, Vol. 13, No. 5). "If it were not for the flexibility afforded in using telecommunications, hospices may not be able to serve residents of some facilities," NAHC maintains in its member newsletter.

But CMS has confirmed to NAHC that "telecommunications are acceptable and the hospice does not have to discharge the patient if in-person visits cannot be made," the trade group reports.

LeadingAge received similar assurances from CMS. "Hospices should only use discharge if the hospice has not been able to see the patient in-person or via the telecommunications waivers and has documented their reasonable attempts to make either type of visit," the trade group advises.

#### Get Familiar With Code 52

Just because you can bill for a patient with telehealth visits only doesn't mean you always should, however. "If the hospice is not able to appropriately and reasonably modify the patient's plan of care to accommodate for any access restrictions in a way that allows the patient's goals as stated on the plan of care to be met, the hospice really cannot carry out the plan of care and should consider discharging the patient from the Medicare Hospice Benefit," NAHC advises.

When you do decide to discharge a patient from a facility due to lack of access, you should use the "outside of the hospice's service area" code 52, NAHC instructs.

The code is "not frequently used so CMS will be able to use this information to track the frequency of these occurrences," says LeadingAge, formerly known as **The American Association of Homes and Services for the Aging** (AAHSA).

"It is CMS' hope that they may be able to glean information about these situations from the claims where these codes are used," NAHC adds.

It's unclear exactly how hard this clarification may hit hospices, notes NAHC's **Theresa Forster**. "Access is a widespread problem but [we] don't know how many hospices might be forced to discharge," Forster tells **Eli**. "Many hospices have expanded services to include technology in large part due to facilities limiting or prohibiting entry of hospice staff."

Even when facilities admit hospice staff, "it is frequently limited to the hospice nurse," Forster adds. "But the hospices are able to address care needs through a combination of nurse onsite visits and technology-based visits by other disciplines."

**Stats:** A recent NAHC hospice survey found "40 percent of responding hospices indicated they are able to provide only a fraction of in-person visits and 9 percent said they could not get into facilities at all to provide in-person services," Forster shares. "But these agencies may be using technology to fulfill those care needs to a large extent."

Note: The FAQs are at

[www.cms.gov/files/document/covid-faqs-non-long-term-care-facilities-and-intermediate-care-facilities-individuals-intellectual.pdf](http://www.cms.gov/files/document/covid-faqs-non-long-term-care-facilities-and-intermediate-care-facilities-individuals-intellectual.pdf).