

## Eli's Hospice Insider

### Compliance: Aide CoP Changes Should Make Hospices' Lives A Little Easier

#### Medicare is making these COVID waivers permanent.

If you've enjoyed the added flexibility around aide training and competency evaluations during the pandemic, the hospice final rule for 2022 contains good news.

"This rule makes permanent selected regulatory blanket waivers for hospice agencies during the COVID-19 public health emergency (PHE) and provides revisions to the hospice conditions of participation (CoPs)," says the Centers for Medicare & Medicaid Services in the hospice final rule for 2022 published in the Aug. 4 Federal Register.

"The utilization and application of [COVID-19] waivers pushed us to consider whether permanent changes would be beneficial to patients, providers, and professionals," CMS says in the final rule. "We identified selected waivers as appropriate candidates for formal regulatory changes."

Those waivers include:

**1. Using pseudo-patients for hospice aide training and evaluation:** "The current hospice aide competency standard regulations at § 418.76(c)(1) requires the aide to be evaluated by observing an aide's performance of the task with a patient," the final rule notes. "We are finalizing changes to permit skill competencies to be assessed by observing an aide performing the skill with either a patient or a pseudo-patient as part of a simulation."

The change "could increase the speed of performing competency testing and would allow new aides to begin serving patients more quickly while still protecting patient health and safety," CMS says. Many proposed rule commenters expressed support for the change, according to the agency.



**Important:** A pseudo-patient isn't just a dummy. "'Pseudo-patient' means a person trained to participate in a role-play situation, or a computer-based mannequin device," the rule specifies. "A pseudo-patient must be capable of responding to and interacting with the hospice aide trainee, and must demonstrate the general characteristics of the primary patient population served by the hospice in key areas such as age, frailty, functional status, cognitive status and care goals."

**2. Targeting aide competency testing.** CMS will amend "the requirement at § 418.76(h)(1)(iii) to specify that if an area of concern is verified by the hospice during the onsite visit, then the hospice must conduct, and the hospice aide must complete, a competency evaluation of the deficient skill and all related skill(s) in accordance with § 418.76(c)," the rule notes. "This change will permit the hospice to focus on the hospice aides' specific deficient and related skill(s) instead of completing another full competency evaluation."

Commenters were very supportive of this change, according to CMS. "One commenter indicated that comprehensive competency testing can take up to a full 8-hour day and a targeted approach will save time related to this requirement. Another commenter stated that completing a full competency test takes the focus away from the identified deficiency and is not effective. A third commenter stated that topic-specific evaluations will significantly reduce time and allow hospices to concentrate on the specific deficient skills with additional practice and training," the rule lists.

However, CMS bats down another suggestion to increase efficiency - having LPNs conduct aide competency testing. "Registered nurses, through their education, training, and role in provision of hospice care, are best positioned to assess the adequacy of the aide services in relationship to the needs of the patient and family to a greater degree than LPNs, or

licensed vocational nurses (LVNs)," CMS judges. "Ideally, the supervising RN is both responsible for supervision of the aide services as well as being primarily responsible for the patient's nursing care. This allows the RN to develop a complete picture of the patient and family and of the aide's services."

"These are changes NAHC has long advocated for and is pleased to see CMS finalize," the National Association for Home Care & Hospice says. "The changes align with the home health aide competency, training and evaluation requirements, making operations more efficient for those providers utilizing aides in both hospice and home health."