

Eli's Hospice Insider

Compliance: Be Ready For 5-Day NOE Deadline That Hits Oct. 1

Notices of Termination/Revocation also subject to the new time limit.

Hospices will have their work cut out for them this fall in complying with a new deadline to file Notices of Election and Termination/Revocation. But at least they'll have a little more money and a little more time to do it.

The 2015 hospice payment final rule provision that will affect hospices most significantly is the new deadline for filing Notices of Election (NOEs) and Notices of Termination/Revocation (NOTRs), industry veterans agree. Medicare will require hospices to file the notices within five days, spells out the rule issued published in the Aug. 22 Federal Register.

Consequence: "For those hospices which do not timely-file the NOE (that is, the NOE is submitted to, and accepted by, the Medicare contractor within 5 calendar days after the effective date of election), Medicare will not cover and pay for the days of hospice care from the effective date of election up to the date the NOE is submitted to, and accepted by, the Medicare contractor," the **Centers for Medicare & Medicaid Services** says in the final rule.

Note: "The date the NOE is submitted to, and accepted by, the Medicare contractor would be a covered day," CMS allows.

CMS includes a laundry list of reasons why timely NOE and NOTR filing is critical. "Prompt filing of the NOE avoids compliance problems with the statutorily mandated face-to-face requirement," CMS says in the final rule. "It also avoids creating burdensome situations for hospices when sequential billing requirements are not met. Finally, because Medicare payments for services related to the terminal illness and related conditions are waived once a hospice election is in place, it is crucial that the NOE be filed promptly to safeguard the integrity of the Medicare Trust Fund and enable smooth and efficient operation of other Medicare benefits (like Part D), and to safeguard hospice beneficiaries from inappropriate financial liability due to cost sharing and deductibles for services related to the terminal prognosis."

Thanks to the payment penalty for failing to file, this requirement could impact reimbursement significantly, points out billing expert **M. Aaron Little** with **BKD** in Springfield, Mo.

And the provision is particularly significant because its impact will be felt across the organization, notes clinical consultant **Roseanne Berry** with **R&C Healthcare Solutions** in Phoenix. The change "impacts multiple departments and processes in a hospice," Berry says.

5 Days Better Than 3

But at least CMS has loosened up the requirement somewhat. In the proposed rule, the agency suggested requiring NOE and NOTR filing within three days.

While beneficiary advocates, pharmacies, and Part D plans pushed for even shorter deadlines for filing NOEs and NOTRs in their comment letters on the proposed rule, hospices and their reps wanted longer timeframes of five to 10 days □ using business days instead of calendar days.

CMS compromised by setting the five-day deadline. "We believe these timeframes provide an appropriate balance of concerns expressed by the diverse comments received on the proposal," CMS says in the rule. "We considered the feasibility of using business days versus calendar days; however, the Medicare claims processing system cannot distinguish between calendar days and business days. Therefore, we are not able to consider counting business days for this policy."

The extra two days to file is a big relief. "Five days will be much better than three," Berry cheers. "This will be especially

helpful for Friday and weekend admissions."

Hospices also won relief from CMS on exceptions to the filing deadline (see story, p. 73).

NOE Compliance May Be A Struggle

But even with the extra two days, many hospices will be challenged to meet the five-day deadline consistently, Little believes. CMS included data in the final rule showing only 39.2 percent of NOEs were filed within five days of the effective election date. "This means that 60.8 percent of the NOEs in the survey would have been subject to a payment penalty for late-filed NOEs, unless some of those could qualify for one of the allowed exceptions," Little tells Eli. "If this survey is reflective of the average hospice's NOE population, then one could assume that a large percentage of hospices could be subject to payment penalties unless they can improve processes and speed the timely and accurate filing of NOEs."

However, hospices now will have a financial incentive to improve their filing times, points out attorney **Marie Berliner** with Joy & Young in Austin, Texas. "Given that hospices stand to lose reimbursement for late filing of NOEs, it seems likely that they will make an effort to get the information in in a timely fashion," Berliner predicts.

Parallel? "Because there is no similar penalty associated with the late filing of NOTRs, it will be interesting to see whether providers file those notices timely and what effect late filings of NOTRs will have on patients' ability to resume traditional Medicare benefits," Berliner adds.

Another hurdle: "One of the interesting challenges to this CMS requirement ... is that there is no HIPAA-compliant electronic claim format for NOEs," Little points out. "Therefore, unlike claims, NOEs cannot be electronically transmitted in batches to MACs." That means hospices must enter NOEs into the FISS/DDE system in order to be accepted for payment purposes.

"For the typical hospice, this requires a person to manually enter the NOEs into FISS/DDE, which requires personnel time, electronic access to FISS/DDE, and is prone to human error," Little observes. Some billing clearinghouse services but not many offer technology to read a data file and then enter the data into the FISS/DDE system, Little says. "But the typical hospice does not have access to this technology through its EDI or billing clearinghouse vendor."

Take These 5 Steps To Improve Your NOE Filing Time

"It will be challenging for hospices to build the processes to ensure [timely NOE filing] happens," Berry says. She offers these 5 tips to improve your NOE filing time:

1. Put tight processes in place for timely NOE filing.
2. Make sure all staff who complete admissions know and follow the new NOE filing process closely.
3. Ensure close communications between admissions and the billing staff.
4. If you outsource billing, work closely with the billing company.
5. Build backup systems for the back office or billing staff to avoid NOE filing delays when someone is off.

Note: The rule is at www.gpo.gov/fdsys/pkg/FR-2014-08-22/pdf/2014-18506.pdf<http://www.gpo.gov/fdsys/pkg/FR-2014-08-22/pdf/2014-18506.pdf>.