

Eli's Hospice Insider

Compliance: Time's Up: Face-To-Face Encounters Should Be On Your Schedule

Good news: At least you can sometimes bill for the visits.

Effective Jan. 1, 2011, hospices are taking a financial hit on their long-stay patients, thanks to the new face-to-face (FFE) encounter requirements.

But the new mandate, which requires a hospice physician or nurse practitioner to conduct a FFE with a hospice patient prior to her third and subsequent recertifications, has hit hospices' bottom line even sooner than that.

Why? Although the FFE requirement is effective Jan. 1, hospices have 30 days before the start of a patient's third benefit period to do the encounter. That means for patients whose third benefit periods start in early January, the hospice can make the FFE in December, points out consultant **Heather Wilson** with **Weatherbee Resources** in Hyannis, Mass.

Hospices submitted many comments to the **Centers for Medicare & Medicaid Services** that were critical of the proposed FFE requirement, according to the home health prospective payment system final rule published in the Nov. 17 Federal Register. In particular, hospices protested the proposed 15-day timeframe to complete the FFEs before the recert.

Good news: CMS relented on the timeframe, upping it to 30 days before the recert. "We believe this additional time will provide hospices with the flexibility they need to meet this congressional mandate, to provide adequate time for discharge planning when indicated, and to accommodate other logistical issues discussed in the public comments," the final rule says.

The change "will help considerably in the scheduling of the face-to-face encounters," agrees consultant **Roseanne Berry** with **R&C Healthcare Solutions** in Phoenix. "This allows adequate time to have an [interdisciplinary group] meeting and discuss the patient status, and complete the physician narrative and recertification statement."

Rural Areas, Long Stays Bear Brunt Of New Rule

Even with the ability to sometimes bill for FFE visits, hospices will see a major financial hit related to the new requirement, providers protest. In rural areas, it sometimes will take four hours for a physician or NP to get to a patient's home and back for just one visit. And physicians and NPs can be hard to come by in those areas.

According to CMS's data analysis, only 2.9 percent of patients that will need FFEs are in rural areas, the agency responds in the rule.

Hospices that have a higher ratio of patients in their third or later episodes will also see a lot of unreimbursed overhead due to the rule, providers told the agency in response to the proposed rule.

But according to CMS's analysis of 2007 claims data, only about 20 percent of patients will reach the third benefit period or later, the rule notes.

Hospices also complained that they will have a difficult time determining a patient's correct benefit period, based on unreliable data and limited access to the Common Working File.

Try this: In addition to querying the CWF, CMS suggested using the Health Insurance Portability and Accountability Act (HIPAA) Eligibility Transaction System (HETS), specifically the 270/ 271 transaction. And hospices should question

patients and their families or other representatives about prior hospice use, CMS advised.

Using these three tools, hospices should usually be able to determine correct benefit period information, CMS concludes. Therefore, "we do not believe that this situation [of being unable to obtain correct information] will be common or that there is a need to hold hospices harmless" if they don't have the correct benefit period information, the rule says.

FFE Challenges Lie Ahead

Hospices will face many challenges getting into compliance with FFE requirements by the deadline. A big one will be staffing up with physicians and/or NPs to make sure the required encounters are completed, Wilson expects.

Plus: "The biggest challenge will be having good processes and systems in place in such a short period of time," Berry forecasts. If you don't complete the FFE, you don't have a valid recert and you can't bill, she stresses.

"Ensuring that no patients fall through the cracks and that the current benefit period of every patient -- including new admissions -- is accurate" will be a huge obstacle to compliance, Wilson predicts. Hospices will have to make sure "there are scheduling mechanisms in place to make certain a face-to-face occurs prior to the start of the new benefit period."

Bottom line: "The improvements in the encounter requirements are valuable, but do not allay concerns that physicians/non-physician practitioners as well as their patients will not be ready for these new requirements in January," says the **National Association for Home Care & Hospice**.

Note: Listen to Roseanne Berry's Nov. 17 **Eli**-sponsored audioconference on the hospice face-to-face encounter final rule at www.audioeducator.com -- click on the "Hospice" link in the "Select Conference" box, then scroll down.

Resource: The final rule is at <http://edocket.access.gpo.gov/2010/pdf/2010-27778.pdf>. The hospice FFE section starts on p. 70427.